

State of California
AIR RESOURCES BOARD

**OZONE STATE IMPLEMENTATION PLAN FOR THE SACRAMENTO
NONATTAINMENT REGION**

Resolution 17-40

November 16, 2017

Agenda Item No.: 17-11-1

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, the Legislature in Health and Safety Code section 39602 has designated CARB as the air pollution control agency for all purposes set forth in federal law;

WHEREAS, CARB is responsible for preparing the State Implementation Plan (SIP) for attaining and maintaining the National Ambient Air Quality Standards (standards) as required by the federal Clean Air Act (the Act) (42 U.S.C. section 7401 et seq.), and to this end is directed by Health and Safety Code section 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) necessary to comply with the Act;

WHEREAS, section 39602 of the Health and Safety Code also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

WHEREAS, section 41650 of the Health and Safety Code requires CARB to adopt the nonattainment plan approved by a district as part of the SIP unless the Board finds, after a public hearing, that the plan does not meet the requirements of the Act;

WHEREAS, CARB has responsibility for ensuring that the districts meet their responsibilities under the Act, pursuant to sections 39002, 39500, 39602, and 41650 of the Health and Safety Code;

WHEREAS, CARB is authorized by section 39600 of the Health and Safety Code to do such acts as may be necessary for the proper execution of its powers and duties;

WHEREAS, sections 39515 and 39516 of the Health and Safety Code provide that any power, duty, purpose, function or jurisdiction of the Board may be delegated to the CARB Executive Officer as the Board deems appropriate;

WHEREAS, the districts have primary responsibility for controlling air pollution from non-vehicular sources and for adopting control measures, rules, and regulations to attain the standard within their boundaries, pursuant to sections 39002, 40000, 40001, 40701, 40702, and 41650 of the Health and Safety Code;

WHEREAS, on March 27, 2008, the United States Environmental Protection Agency (U.S. EPA) promulgated an 8-hour ozone standard of 75 parts per billion (ppb) (75 ppb ozone standard);

WHEREAS, effective July 20, 2012, U.S. EPA designated Sacramento Metro, consisting of Sacramento and Yolo Counties and parts of El Dorado, Placer, Solano, and Sutter Counties (Sacramento Region), as nonattainment for the 75 ppb ozone standard with a Severe classification and attainment date of July 20, 2027;

WHEREAS, the El Dorado County Air Pollution Control District, Feather River Air Quality Management District, Placer County Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, and the Yolo-Solano Unified Air Pollution Control District (Sacramento Air Districts) are the local air districts and planning agencies for the Sacramento Region;

WHEREAS, air quality modeling conducted by CARB forecasts that the Sacramento Region will be significantly below the 75 ppb ozone standard by July 20, 2027;

WHEREAS, the Section 172(a)(2)(A) of the Act requires that nonattainment areas must attain air quality standards as expeditiously as practicable;

WHEREAS, based on additional CARB air quality modeling showing attainment by July 20, 2023, the Sacramento Air Districts determined that July 20, 2025, was the most expeditious attainment date practicable for the Sacramento Region to attain the 75 ppb ozone standard;

WHEREAS, the Act requires that a Severe nonattainment area ozone SIP include an emissions inventory, modeled attainment demonstration, reasonably available control measure (RACM) evaluation, reasonable further progress (RFP) demonstration, contingency measures for RFP and attainment, vehicle miles-traveled (VMT) growth offset, and transportation conformity budgets;

WHEREAS, the Sacramento Air Districts adopted the Sacramento Regional 2008 NAAQS 8-Hour Ozone Attainment and Reasonable Further Progress Plan (Ozone Plan) to meet the Severe ozone nonattainment area planning requirements for the 75 ppb ozone standard;

WHEREAS, CARB staff has conducted a review of the Ozone Plan and concluded it meets the applicable requirements of the Act;

WHEREAS, consistent with section 172(c)(3) of the Act, the Ozone Plan includes a comprehensive, accurate, and current inventory of emissions of oxides of nitrogen (NOx) and reactive organic gases;

WHEREAS, consistent with sections 181(a) and 182(c)(2) of the Act, the Ozone Plan includes an attainment demonstration that shows attainment as expeditiously as practicable by July 20, 2025;

WHEREAS, consistent with section 172(c)(1) of the Act, the Ozone Plan demonstrates compliance with RACM;

WHEREAS, consistent with sections 172(c)(2) and 182(c)(2) of the Act, the Ozone Plan identifies emission levels that demonstrate RFP through the attainment year;

WHEREAS, consistent with section 176 of the Act, the Ozone Plan establishes transportation conformity emission budgets, developed in consultation between the Sacramento Air Districts and the regional transportation agencies, that are consistent with RFP and attainment year emission levels;

WHEREAS, consistent with the requirements of section 182(d)(1)(A) and U.S. EPA guidance issued in 2012, the Ozone Plan includes a VMT emissions offset demonstration for the 75 ppb ozone standard;

WHEREAS, a recent decision by the U.S. Court of Appeals for the Ninth Circuit, in *Bahr v. U.S. Environmental Protection Agency* (9th Cir. 2016) 836 F.3d 1218, addressed the U.S. EPA's previous interpretation of contingency measure requirements under the Act;

WHEREAS, the Ozone Plan identifies sufficient contingency measures to backstop RFP and attainment deficiencies consistent with sections 172(c)(9) and 182(c)(9) of the Act, as interpreted by U.S. EPA guidance;

WHEREAS, CARB will work with the U.S. EPA and the District to resolve any issues with the contingency measures identified in the Ozone Plan in light of *Bahr* and any revised guidance, and to submit a plan revision to U.S. EPA as appropriate;

WHEREAS, Section 110(l) of the Act and Title 40, Code of Federal Regulations (CFR), section 51.102, require that one or more public hearings, preceded by at least 30 days of notice and opportunity for public review, must be conducted before adopting and submitting any SIP revision to U.S. EPA;

WHEREAS, as required by the Act, the Ozone Plan was made available for public review at least 30 days prior to each of public hearings conducted between August 24, 2017, and October 12, 2017, by the Sacramento Air Districts where the Districts' Boards approved the Ozone Plan;

WHEREAS, the CARB Review of the Sacramento Regional 2008 NAAQS 8-Hour Ozone Attainment and Reasonable Further Progress Plan (CARB Staff Report) includes

supplemental air quality analyses to support air quality modeling results, referred to in U.S. EPA modeling guidance as a “Weight of Evidence” (WOE) analysis, which was made available for public review at least 30 days prior to the CARB public hearing;

WHEREAS, the California Environmental Quality Act (CEQA) requires that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, to meet its obligations under CEQA, the Sacramento Air Districts determined that the Ozone Plan is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) (the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment) and under California Code of Regulations, title 14, section 15308 (actions taken by a regulatory agency to assure the maintenance, restoration, enhancement, or protection of the environment) and the Ozone Plan will not result in any potentially significant adverse effects on the environment;

WHEREAS, CARB has determined that its subsequent adoption of the Districts’ Ozone Plan is a “ministerial” approval for purposes of CEQA (California Code of Regulations, title 14, §15268) because CARB’s review is limited to determining if the plan meets the requirements of the Act, and CARB lacks authority to modify or not adopt the Plan in response to environmental concerns, as described in the CARB Staff Report; and

WHEREAS, CARB has determined that adoption of the WOE is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) (the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment) and under California Code of Regulations, title 14, section 15308 (actions taken by a regulatory agency to assure the maintenance, restoration, enhancement, or protection of the environment) and the WOE will not result in any potentially significant adverse effects on the environment.

NOW, THEREFORE, BASED ON THE FOREGOING, the Board finds that:

1. The Ozone Plan meets the requirements of the Act for a Severe ozone nonattainment area;
2. The Ozone Plan includes the required air quality and emissions data, modeled attainment demonstration, RACM demonstration, RFP demonstration, contingency measures for RFP and attainment, vehicle miles-traveled growth offset, and transportation conformity budgets;
3. Ongoing implementation of CARB’s and Sacramento Air Districts’ control programs provides the emission reductions needed for meeting the 75 ppb 8-hour ozone standard by the attainment deadline;

4. CARB's review and adoption of the Ozone Plan submitted by the Sacramento Air Districts for inclusion in the California SIP is a ministerial activity for purposes of CEQA; and
5. CARB's adoption of the WOE for inclusion in the California SIP is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) and section 15308 because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment and it involves procedures for protection of the environment.

BE IT FURTHER RESOLVED that the Board hereby approves the Sacramento Regional 2008 NAAQS 8-Hour Ozone Attainment and Reasonable Further Progress Plan and the CARB Staff Report WOE as a revision to the California SIP.

BE IT FURTHER RESOLVED that the Board hereby directs the Executive Officer to submit the Ozone Plan as approved by the Sacramento Air Districts along with the CARB Staff Report WOE to U.S. EPA for inclusion in the California SIP to be effective, for purposes of federal law, upon approval by U.S. EPA.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with the Sacramento Air Districts and U.S. EPA and take appropriate action to resolve any completeness or approvability issues that may arise regarding the SIP submission.

BE IT FURTHER RESOLVED that the Board authorizes the Executive Officer to include in the SIP submittal any technical corrections, clarifications, or additions that may be necessary to secure U.S. EPA approval.

BE IT FURTHER RESOLVED that the Board hereby certifies that the Ozone Plan and CARB Staff Report WOE were adopted after notice and public hearing as required by Section 110(l) of the Act and 40 CFR section 51.102.

I hereby certify that the above is a true and correct copy of Resolution 17-40 as adopted by the California Air Resources Board.

Rana McReynolds, Clerk of the Board