

# **California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard**

## **Resolution 22-1**

January 27, 2022

Agenda Item No.: 22-1-1

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 California 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. § 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, CARB has primary responsibility for the control of air pollution from vehicular sources, including motor vehicle fuels, as specified in Health and Safety Code sections 39002, 39500, and part 5 (commencing with § 43000), and for ensuring that the districts meet their responsibilities under the Act pursuant to Health and Safety Code sections 39002, 39500, 39602, 40469, and 41650;

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

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

Whereas, Health and Safety Code sections 39515 and 39516 provide that any duty may and shall be conclusively presumed to be delegated to the Board's Executive Officer as the Board deems appropriate unless specifically reserved to the Board by affirmative vote;

Whereas, on October 26, 2015, the United States Environmental Protection Agency (U.S. EPA) promulgated an 8-hour ozone standard of 70 parts per billion (ppb) (70 ppb ozone standard) (80 Fed. Reg. 65292 (Oct. 26, 2015));

Whereas, effective August 3, 2018, U.S. EPA designated nineteen areas in California including the Coachella Valley, Sacramento Metropolitan Area, San Joaquin Valley, South Coast Air Basin, Ventura County, and West Mojave Desert as nonattainment for the 70 ppb ozone standard (83 Fed. Reg. 25776 (Aug. 3, 2018));

Whereas, effective August 3, 2018, U.S. EPA classified Sacramento Metropolitan Area as Moderate, Ventura County as Serious, Coachella Valley and West Mojave Desert as Severe, and San Joaquin Valley and South Coast Air Basin as Extreme nonattainment areas (83 Fed. Reg. 25776 (Aug. 3, 2018));

Whereas, effective November 29, 2021, U.S. EPA classified the Sacramento Metropolitan Area as a Serious nonattainment area per the request from the districts and CARB's letter to U.S. EPA dated August 3, 2020 (86 Fed. Reg. 59648 (Nov. 29, 2021));

Whereas, South Coast Air Quality Management District is the local district responsible for control of air pollution from all sources, other than emissions from motor vehicles, in Coachella Valley and South Coast Air Basin under Health and Safety Code sections 40000 and 40400, et seq., and section 60104 of title 17 of the California Code of Regulations (CCR);

Whereas, Sacramento Metropolitan Air Quality Management District, El Dorado County Air Quality Management District, Feather River Air Quality Management District, Placer County Air Pollution Control District, and Yolo-Solano Air Quality Management District are the local districts responsible for control of air pollution from all sources, other than emissions from motor vehicles, in the Sacramento Metropolitan Area under Health and Safety Code sections 40000 and 40950, et seq., and section 60106 of title 17 of the CCR;

Whereas, San Joaquin Valley Air Pollution Control District is the local district responsible for control of air pollution from all sources, other than emissions from motor vehicles, in San Joaquin Valley under Health and Safety Code sections 40000 and 40600, et seq., and section 60107 of title 17 of the CCR;

Whereas, Ventura County Air Pollution Control District is the local district responsible for control of air pollution from all sources, other than emissions from motor vehicles, in Ventura County under Health and Safety Code sections 40000, et seq., and section 60103 of title 17 of the CCR;

Whereas, Mojave Desert Air Quality Management District and Antelope Valley Air Quality Management District are the local districts responsible for control of air pollution from all sources, other than emissions from motor vehicles, in West Mojave Desert under Health and

Safety Code sections 40000, 41200, and 41300, et seq., and section 60109 of title 17 of the CCR;

Whereas, section 182, subdivision (c)(4), of the Act (42 U.S.C. § 7511a(c)(4)) requires nonattainment areas that are classified as Serious or above to implement a Clean-Fuel Vehicle Program or opt-out of the program by providing a substitute program approved by the Administrator that is equal to the emissions achieved under part C of title II of the Act;

Whereas, section 246 of the Act (42 U.S.C. § 7586) requires only those ozone nonattainment areas with a 1980 population of 250,000 or more, that are classified as Serious or above, to establish a Clean-Fuel Vehicle Program;

Whereas, in December 2018, U.S. EPA finalized the *Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan (SIP) Requirements (70 ppb Implementation Rule)* (83 Fed. Reg. 62998 (Dec. 6, 2018)), which outlined the SIP requirements for the 70 ppb ozone standard; 83 FR 62998

Whereas, CARB staff worked with local district staff for the relevant nonattainment areas to prepare the California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard following the 70 ppb Implementation Rule and all applicable U.S. EPA guidance available at that time;

Whereas, in 1990, CARB adopted a statewide low emission vehicle (LEV) program (Cal. Code Regs., tit. 13, § 1960.1);

Whereas, in 1994, CARB submitted the *1994 California State Implementation Plan (1994 California SIP)*, as a SIP revision to U.S. EPA to opt-out of the Clean-Fuel Vehicle Program, which included a demonstration that California's LEV program achieved emissions reductions at least equivalent to the reductions that would be achieved by the U.S. EPA Clean-Fuel Vehicle Program;

Whereas, together with the 1994 California SIP, CARB submitted Executive Order G-125-145 formally adopting the request to opt-out of the U.S. EPA Clean-Fuel Vehicle Program;

Whereas, effective September 27, 1999, U.S. EPA approved the California SIP revision to opt-out of the U.S. EPA Clean-Fuel Vehicle Program (64 Fed. Reg. 46849 (Sept. 27, 1999));

Whereas, California has continued to strengthen the requirements for light-duty passenger cars, adopting LEV II in 1998 (Cal. Code Regs., tit. 13, § 1961) and LEV III in 2012 (Cal. Code Regs., tit. 13, § 1961.2) as part of the Advanced Clean Cars Program, which combines the control of smog-causing (criteria) pollutants and greenhouse gas (GHG) emissions into a single coordinated package of regulations: the Low-Emission Vehicle regulation for criteria and GHG emissions and a technology forcing regulation for zero-emission vehicles (ZEV) that contributes to both types of emission reductions, which also expanded zero emission vehicle requirements;

Whereas, staff has proposed the California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard to certify that California's LEV program continues to qualify as a substitute for the U.S. EPA Clean-Fuel Vehicle Program and satisfies sections 182, subdivision (c)(4) and 246 of the Act for Coachella Valley, Sacramento Metropolitan Area, San Joaquin Valley,

South Coast Air Basin, Ventura County, and West Mojave Desert nonattainment areas for the 70 ppb ozone standard, as set forth in the Staff Report released to the public on December 17, 2021, which set forth the rationale and basis as well as data, reports, and information relied upon;

Whereas, CARB's regulatory program that involves the adoption, approval, amendment, or repeal of standards, rules, regulations, or plans has been certified by the Secretary for Natural Resources under Public Resources Code section 21080.5 of the California Environmental Quality Act (CEQA; Cal. Code Regs., tit. 14, § 15251(d)), and CARB conducts its CEQA review according to this certified program (Cal. Code Regs., tit. 17, §§ 60000-60007);

Whereas, staff has determined that the proposed California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard is exempt from CEQA under CCR, title 14, section 15061, subdivision (b)(3) ("common sense" exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in Chapter 4 of the Staff Report;

Whereas, staff has also determined the proposed California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard is exempt from CEQA under CCR, title 14, section 15308 ("Class 8" exemption: Actions Taken by Regulatory Agencies for Protection of the Environment) because the record evidence shows that the California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard will enhance the environment by better protecting the public from health impacts associated with exposure to oxides of nitrogen, ozone, and particulate matter, the regulatory process involves procedures for protection of the environment, and the California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard will not result in any significant adverse environmental impacts as described in Chapter 4 of the Staff Report;

Whereas, staff made the proposed California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard available to the public with a 30-day public comment period that began when notice was released on December 17, 2021;

Whereas, staff consulted with all affected air districts between December 3 through December 8, 2021;

Whereas, the proposed California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard does not disproportionately impact people of any race, culture, income, or national origin;

Whereas, staff has determined that the California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard meets the requirements of the Act and is necessary for inclusion in the SIP; and

Whereas, the Board finds that:

The proposed California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard meets the statutory requirements for nonattainment areas classified as Serious, Severe, or Extreme that are required to submit either Clean-Fuel Vehicle

Program or opt-out of the program by providing a substitute program as identified in section 182, subdivision (c)(4), and section 246 of the Act;

The proposed California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard meets the statutory requirements in Health and Safety Code sections 39002, 39500, 39600, 39601, 39602, 40000, 40001, 40400 et seq., 40469, 40701, 40702, 40950, 41200, 41300, 41650; and CCR, title 17, section 60110;

The proposed California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard was developed in an open public process, in consultation with affected air districts, through a public comment period;

The proposal is consistent with CARB's environmental justice policies and do not disproportionately impact people of any race, culture, income, or national origin;

The proposed California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard is exempt from CEQA under CCR, title 14, section 15061, subdivision (b)(3) 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

The proposed California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard is also exempt from CEQA under CCR, title 14, section 15308 because substantial evidence in the record shows that it will enhance the environment by better protecting the public from health impacts associated with exposure to oxides of nitrogen, ozone, and particulate matter, the regulatory process involves procedures for protection of the environment, and the proposal will not result in any significant adverse environmental impacts.

Now, therefore, be it resolved that the Board hereby adopts the California Clean Fuels for Fleets Certification for the 70 ppb Ozone Standard to certify that California's LEV program continues to qualify as a substitute for the U.S. EPA Clean-Fuel Vehicle Program requirement and satisfies sections 182, subdivision (c)(4) and 246 of the Act for Coachella Valley, Sacramento Metropolitan Area, San Joaquin Valley, South Coast Air Basin, Ventura County, and West Mojave Desert nonattainment areas for the 70 ppb ozone standard, as set forth in the Staff Report released to the public on December 17, 2021.

Be it further resolved that the Board hereby directs the Executive Officer to submit the Clean Fuels for Fleets Certification 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 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 Clean Fuels for Fleets Certification was adopted after notice and public hearing as required by Section 110(l) of the Act (42 U.S.C. § 7410(l)) and 40 C.F.R. part 51, subpart F, section 51.102.

I hereby certify that the above is a true and correct copy of Resolution 22-1 as adopted by the California Air Resources Board.



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Katie Estabrook, Board Clerk