

# State Implementation Plan Adoption and Submittal of Five California Air Resources Board Regulations

## Resolution 24-4

May 23, 2024

Agenda Item No.: 24-2-1

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 a State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) 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 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, 39003, 39500, and part 5 (commencing with section 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, Health and Safety Code sections 39602 and 39003 also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

Whereas, Health and Safety Code sections 39515 and 39516 provide that any power, duty, purpose, function, or jurisdiction of the Board which may be lawfully delegated shall be conclusively presumed to have been delegated to CARB's Executive Officer unless such are specifically reserved to the Board by its affirmative vote;

Whereas, on July 18, 1997, U.S. Environmental Protection Agency (U.S. EPA) promulgated the 80 parts per billion (ppb) 8-hour ozone standard (80 ppb ozone standard);

Whereas, on March 27, 2008, U.S. EPA promulgated an 8-hour ozone standard of 75 ppb (75 ppb ozone standard);

Whereas, on October 26, 2015, U.S. EPA promulgated an 8-hour ozone standard of 70 ppb (70 ppb ozone standard);

Whereas, on March 23, 2017, CARB adopted the Revised Proposed 2016 State Strategy for the State Implementation Plan (2016 State SIP Strategy) and transmitted it to U.S. EPA for inclusion in the California SIP;

Whereas, the 2016 State SIP Strategy, in combination with local actions, was developed to provide emission reductions from State sources necessary to meet the 80 and 75 ppb ozone standards;

Whereas, the 2016 State SIP Strategy included a commitment to develop and bring to the Board for consideration the Innovative Technology Certification Flexibility; Last Mile Delivery; Medium and Heavy-Duty GHG Phase 2; and Consumer Products Program measures;

Whereas, on September 22, 2022, CARB adopted the 2022 State Strategy for the State Implementation Plan (2022 State SIP Strategy) and transmitted it to U.S. EPA for inclusion in the California SIP;

Whereas, the 2022 State SIP Strategy, in combination with local actions, was developed to provide emission reductions from State sources necessary to meet the 70 ppb ozone standard;

Whereas, the 2022 State SIP Strategy included a commitment to pursue or otherwise address each measure including the Clean Miles Standard measure;

Whereas, the Innovative Technology Certification Flexibility measure was developed into the Regulation to Provide Certification Flexibility for Innovative Heavy-Duty Engines and California Certification and Installation Procedures for Medium- and Heavy Duty Vehicle Hybrid Conversion Systems (Innovative Technology Regulation);

Whereas, on October 20, 2016, CARB adopted the Innovative Technology Regulation which provides a more flexible short-term certification pathway for innovative heavy-duty engine and bus technologies;

Whereas, on June 27, 2019, CARB adopted the Alternative Certification Requirements and Test Procedures for Heavy-Duty Electric and Fuel-Cell Vehicles and Standards and Test Procedures for Zero-Emission Powertrains (Zero-Emission Powertrain Certification Regulation) which builds upon existing certification requirements set forth for heavy-duty electric and fuel-cell vehicles and establishes an alternative certification procedure that helps ensure such vehicles are well-supported once deployed, ensures consistent and reliable information is available to fleets when making purchase decisions, and also establishes new standards with certification requirements for zero-emission powertrains installed in heavy-duty electric and fuel-cell vehicles that certify to the proposed alternative procedure;

Whereas, the Last Mile Delivery measure was developed into the Advanced Clean Trucks Regulations;

Whereas, on June 25, 2020, CARB adopted the Advanced Clean Trucks Regulation and submitted it to U.S. EPA as a revision to the California SIP on August 8, 2023;

Whereas, the Zero-Emission Powertrain Certification Regulation supports other CARB regulations including the Advanced Clean Trucks Regulation;

Whereas, the Medium Heavy-Duty GHG Phase 2 measure was developed into the California Greenhouse Gas Emissions Standards for Medium- and Heavy-Duty Engines and Vehicles

and Proposed Amendments to the Tractor-Trailer GHG Regulation (Phase 2 Tractor-Trailer Amendments Regulation);

Whereas, on September 27, 2018, CARB adopted the Phase 2 Tractor-Trailer Amendments Regulation which set new, more stringent California Phase 2 greenhouse gas emission standards that largely harmonize with the federal Phase 2 greenhouse gas standards, and harmonize California's Tractor-Trailer GHG regulation with Phase 2 trailer greenhouse gas standards;

Whereas, the Consumer Products Program measure was developed into the Amendments to the Antiperspirants and Deodorants Regulation, the Consumer Products Regulation, the Aerosol Coating Products Regulation, the Alternative Control Plan Regulation, the Tables of Maximum Incremental Reactivity Values, and Test Method 310 (Consumer Products Amendments);

Whereas, on March 25, 2021, CARB adopted the Consumer Products Amendments which lowered volatile organic compounds (VOC) standards for existing categories of consumer products, added VOC standards for some new categories of products, and clarified a number of definitions;

Whereas, on April 3, 2023, CARB submitted the Consumer Products Amendments to U.S. EPA as a revision to the California SIP;

Whereas, California Code of Regulation (CCR), title 17, section 94512, Administrative Requirements, of the Consumer Products regulations was not included in the 30-day notice nor submitted to U.S. EPA on April 3, 2023;

Whereas, U.S. EPA has requested CCR, title 17, section 94512, to be submitted to support the April 3, 2023, Consumer Products Amendments SIP submittal;

Whereas, on May 20, 2021, CARB adopted the Clean Miles Standard which reduces emissions from passenger ride-hailing services operated by transportation network companies (TNC) by establishing an annual increase in the percent of zero-emission passenger miles traveled and greenhouse gas emission reduction targets that TNCs are required to meet;

Whereas, the California Environmental Quality Act (CEQA; Public Resources Code section 21080.5) requires that no project which may have significant adverse environmental impacts may 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, it was determined, that the SIP adoption and submittal of the Innovative Technology Regulation, Zero-Emission Powertrain Certification Regulation, Clean Miles Standard, Phase 2 Tractor-Trailer Amendments Regulation, and Consumer Products Amendments are exempt from CEQA under CCR, title 14, section 15308 (actions taken by a regulatory agency for protection of the environment), and will not result in any potentially significant adverse effects on the environment;

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 CEQA and its implementing regulations at CCR, title 14, section 15251(d), and CARB conducts its CEQA review according to this certified program (CCR, title 17, sections 60000-60007);

Whereas, 42 U.S.C. § 4701(I) and Title 40 of the Code of Federal Regulations, section 51.102, require that one or more public hearings, preceded by at least 30 days' notice and opportunity for public review, must be conducted if requested prior to adopting and submitting any SIP revision to U.S. EPA;

Whereas, the Innovative Technology Regulation, Zero-Emission Powertrain Certification Regulation, Clean Miles Standard, Phase 2 Tractor-Trailer Amendments Regulation, and Consumer Products Amendments were not publicly noticed as SIP submissions during their initial adoptions;

Whereas, this State Implementation Plan Adoption and Submittal of Five California Air Resources Board Regulations was publicly noticed for thirty days, and

Whereas the Board finds that:

1. The State Implementation Plan Adoption and Submittal of Five California Air Resources Board Regulations satisfies the noticing requirements for SIP adoption and submission;
2. The State Implementation Plan Adoption and Submittal of the Innovative Technology Regulation, Zero-Emission Powertrain Certification Regulation, Clean Miles Standard, Phase 2 Tractor-Trailer Amendments Regulation, and Consumer Products Amendments is necessary to meet CARB's SIP commitments for attaining the 80 ppb, 75 ppb, and 70 ppb ozone standards; and
3. The State Implementation Plan Adoption and Submittal of the Innovative Technology Regulation, Zero-Emission Powertrain Certification Regulation, Clean Miles Standard, Phase 2 Tractor-Trailer Amendments Regulation, and Consumer Products Amendments is exempt from CEQA, and no additional environmental review, or revisions to the prior environmental analysis, are required because substantial evidence in the record shows there are no changes that will result in new significant adverse environmental impacts or a substantial increase in severity of previously identified significant adverse impacts.

Now, therefore, be it resolved that the Board hereby adopts as revisions to the California SIP the Innovative Technology Regulation, Zero-Emission Powertrain Certification Regulation, Clean Miles Standard, Phase 2 Tractor-Trailer Amendments Regulation, and Consumer Products Amendments.

Be it further resolved that the Board hereby directs the Executive Officer to submit the Innovative Technology Regulation, Zero-Emission Powertrain Certification Regulation, Clean Miles Standard, Phase 2 Tractor-Trailer Amendments Regulation, and Consumer Products Amendments 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 hereby certifies that the Innovative Technology Regulation, Zero-Emission Powertrain Certification Regulation, Clean Miles Standard, Phase 2 Tractor-Trailer Amendments Regulation, and Consumer Products Amendments and submittal into the California SIP was adopted after notice and public hearing as required by Section 110(1) of the Act and 40 CFR section 51.102.

Be it further resolved that the Board directs the Executive Officer to work with California's air pollution control 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.

I hereby certify that the above is a true and correct copy of Resolution 24-4 as adopted by the California Air Resources Board.

*Shelby Levirini*

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Board Clerk