

Transport State Implementation Plan

Resolution 24-9

July 25, 2024

Agenda Item No.: 24-4-1

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 designated CARB as the air pollution control agency for all purposes set forth in federal law;

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

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

Whereas, the air districts have primary responsibility for the control of air pollution from nonvehicular sources and for adopting control measures, rules and regulations to attain the NAAQS within their boundaries pursuant to Health and Safety Code sections 39002, 40000, 40001, 40701, and 40702;

Whereas, on October 1, 2015, the U.S. Environmental Protection Agency (U.S. EPA) promulgated a revised 8-hour ozone NAAQS at a level of 0.070 parts per million (ppm);

Whereas, when U.S. EPA promulgates a new NAAQS, the Act section 110(a)(2)(D)(i)(I) requires each state to submit to U.S. EPA a new or revised SIP within three years that "contain adequate provisions prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any

other state with respect to any such national primary or secondary ambient air quality standard”;

Whereas, U.S. EPA often refers to section 110(a)(2)(D)(i)(I) as the “good neighbor provision” and to SIP revisions addressing this requirement as “Good Neighbor SIPs” or “interstate transport SIPs;”

Whereas, CARB submitted the 2018 California Infrastructure SIP Revision that included the Good Neighbor SIP for the 0.070 ppm 8-hour ozone NAAQS to U.S. EPA on October 1, 2018;

Whereas, U.S. EPA approved portions of the 2018 California Infrastructure SIP Revision on March 30, 2021, but did not act on the Good Neighbor SIP element;

Whereas, on May 24, 2022, U.S. EPA proposed disapproval of the Good Neighbor element of the 2018 California Infrastructure SIP and finalized the action on February 13, 2023;

Whereas, the U.S. EPA disapproval stated that California failed to contain the necessary provisions to eliminate emissions that will contribute significantly to nonattainment or interfere with maintenance of the 0.070 ppm 8 hour ozone NAAQS in any other state, including a sufficient evaluation of additional emissions control opportunities and any permanent and enforceable emissions controls in its SIP submission;

Whereas, on April 6, 2022, U.S. EPA proposed an Interstate Transport Federal Implementation Plan (FIP) for California and other states, which was finalized on June 5, 2023;

Whereas, the Interstate Transport FIP identifies reductions in ozone-forming emissions of nitrogen oxides (NO_x) from electric generating units (EGUs) and industrial facilities (Non-EGUs) to ensure that 28 states, reduce pollution that significantly contributes to difficulties attaining and maintaining the 0.070 ppm 8-hour ozone NAAQS in downwind states;

Whereas, the Interstate Transport FIP determined that EGUs in California were well controlled and identified emission reductions from Non-EGU sources only, which U.S. EPA estimated would provide 1600 tons of NO_x reductions during the ozone season;

Whereas, CARB, in collaboration with California air districts, prepared the 2024 Good Neighbor SIP to resolve the disapproval and replace the Interstate Transport Federal Implementation Plan for California in addressing our interstate transport obligations for the 0.070 ppm 8-hour ozone NAAQS;

Whereas, the 2024 Good Neighbor SIP addresses the inadequacies outlined by the U.S. EPA in their disapproval and ensures that the emission reductions outlined in the Interstate Transport FIP are addressed adequately;

Whereas, California’s 19 moderate and above nonattainment areas under the 0.070 ppm 8-hour ozone NAAQS are already required to have reasonable available control technology on all major sources;

Whereas, CARB analysis shows that implementing the Interstate Transport FIP requirements will result in less emission reductions than was estimated by U.S. EPA due to the fact that the current level of controls at nearly all subject facilities already effectively meet or exceed the emission limits in the Interstate Transport FIP;

Whereas, three facilities that U.S. EPA identified in the Interstate Transport FIP that emit 518 tons of NO_x during the ozone season do not yet meet the emission limits in the Interstate Transport FIP;

Whereas, CARB has unique authority provided by the Act to set emission standards for mobile sources;

Whereas, CARB is proposing to substitute the 10,470 tons of NO_x emission reductions during the ozone season from the Clean Truck Check Program as the permanent and enforceable measure to address transport of pollutants to our downwind neighbors;

Whereas, the Clean Truck Check Program provides more reductions than were proposed in the Interstate Transport FIP;

Whereas, the 2024 Good Neighbor SIP complies with the Act section 110(l) by demonstrating that the replacement of the Interstate Transport FIP with an approvable SIP will not interfere with the attainment and maintenance of the federal 8-hour ozone standard or any other Act requirements related to this standard;

Whereas, federal law sets forth in section 110(l) of the Act and Title 40, Code of Federal Regulations, section 51.102 requires that, within the 30 day notification period, states must provide notice, provide the opportunity to submit written comments and the state must hold a public hearing or provide the public the opportunity to request a public hearing;

Whereas, the 2024 Good Neighbor SIP was made available for a 30-day public review from June 14, 2024, to July 15, 2024;

Whereas, a public hearing was held at CARB's Board Meeting on July 25, 2024;

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; California Code of Regulations, title 14, section 15251(d)), and CARB conducts its CEQA review according to this certified program (California Code of Regulations, title 17, sections 60000-60007);

Whereas, CARB staff has determined that the proposed 2024 Good Neighbor SIP is exempt from CEQA under California Code of Regulations, title 14, section 15061(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 the "Environmental Analysis" Chapter of the 2024 Good Neighbor SIP; and

Whereas, the Board finds that:

The proposed 2024 Good Neighbor SIP contains adequate provisions prohibiting sources within California from emitting any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to the 0.070 ppm 8-hour ozone NAAQS;

The proposed 2024 Good Neighbor SIP was developed in an open public process, in consultation with affected parties, through numerous public workshops, individual meetings, and other outreach efforts, and these efforts are expected to continue;

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

The proposed 2024 Good Neighbor SIP is exempt from CEQA under California Code of Regulations, title 14, section 15061(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.

Now, therefore, be it resolved that the Board hereby adopts the 2024 Good Neighbor SIP.

Be it further resolved that the Board hereby directs the Executive Officer to submit the 2024 Good Neighbor SIP to U.S. EPA for inclusion in the California SIP and to replace the Interstate Transport FIP in California, to be effective, for purposes of federal law, upon approval by U.S. EPA.

Be it further resolved that the Board hereby directs the Executive Officer to work with the districts and U.S. EPA and take appropriate action to resolve any completeness or approvability issues that may arise regarding the State Implementation Plan 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 2024 Good Neighbor SIP was adopted after public notification as required by 40 Code of Federal Regulations section 51.102).

I hereby certify that the above is a true and correct copy of Resolution 24-9 as adopted by the California Air Resources Board.

Board Clerk