

State of California
AIR RESOURCES BOARD

Resolution 92-21

April 30, 1992

Agenda Item No.: 92-5-1

WHEREAS, the Legislature has declared in section 39001 of the Health and Safety Code that the public interest shall be safeguarded by an intensive and coordinated state, regional, and local effort to protect and enhance the ambient air quality of the state;

WHEREAS, section 39606 of the Health and Safety Code requires the Air Resources Board (the "Board") to adopt ambient air quality standards, and sections 39003 and 41500 direct the Board to coordinate efforts throughout the state to attain and maintain these standards;

WHEREAS, the Legislature enacted the California Clean Air Act of 1988 (the "Act"; Stats. 1988, ch. 1568) and declared that it is necessary that the state ambient air quality standards be attained by the earliest practicable date to protect the public health, particularly the health of children, older people, and those with respiratory diseases;

WHEREAS, in order to attain these standards, the Act in Health and Safety Code sections 40910 et seq. mandates a comprehensive program of emission reduction measures and planning requirements for the state and local air pollution control districts ("districts") in areas where the standards are not attained for ozone, carbon monoxide, sulfur dioxide, and nitrogen dioxide;

WHEREAS, Health and Safety Code sections 40911 and 40913 require that each district must adopt a plan which is designed to achieve and maintain the state standards by the earliest practicable date;

WHEREAS, section 40914 of the Health and Safety Code requires that each district plan be designed to achieve a reduction in district-wide emissions of 5 percent or more per year for each nonattainment pollutant or its precursors (averaged every consecutive three year period beginning in 1988) unless the district is unable to achieve this goal despite the inclusion of every feasible measure in the plan and an expeditious adoption schedule;

WHEREAS, the Board is required to review and then approve, approve conditionally, or revise district attainment plans pursuant to sections 41500, 41503, and 41503.5 of the Health and Safety Code, and is responsible for ensuring district compliance with the Act;

WHEREAS, section 40924(a) of the Health and Safety Code requires that each year following the Board's approval of a district's attainment plan, the district shall prepare and submit a report to the Board summarizing its progress in meeting the schedules for developing, adopting, and implementing the control measures contained in the plan;

WHEREAS, section 40919(b) states a district's air pollution is to be designated as "serious" if the Board finds and determines that the district is unable to attain and maintain the applicable state standard until after December 31, 1994, but can attain and maintain the standard by not later than December 31, 1997;

WHEREAS, section 40920(b) states a district's air pollution is to be designated as "severe" if the Board finds and determines that the district is unable to attain and maintain the applicable state standard until after December 31, 1997 or is unable to identify an attainment date;

WHEREAS, the Bay Area Air Quality Management District has keyed its control strategy to the more stringent of the two classifications;

WHEREAS, section 40920(a) of the Health and Safety Code requires each district classified as a severe non-attainment area to include the following in its attainment plan:

- (1) Reasonably available transportation control measures,
- (2) Area source and indirect source control programs,
- (3) An emissions inventory system,
- (4) Public education programs to promote actions to reduce emissions from transportation and areawide sources,
- (5) A permitting program designed to achieve no net increase in emissions of nonattainment pollutants or their precursors from all permitted new or modified stationary sources,
- (6) Transportation control measures to substantially reduce the rate of increase in passenger vehicle trips and miles traveled per trip,
- (7) Application of the best available retrofit control technology (BARCT) to existing stationary sources,
- (8) Transportation control measures to achieve an average during weekday commute hours of 1.5 or more persons per passenger vehicle by 1999, and no net increase in vehicle emissions after 1997,
- (9) Measures to achieve the use of a significant number of low-emission motor vehicles by operators of motor vehicle fleets,

- (10) Measures sufficient to reduce overall population exposure to ambient pollutant levels in excess of the standard by at least 25 percent by December 31, 1994, 40 percent by December 31, 1997, and 50 percent by December 31, 2000;

WHEREAS, since the San Francisco Bay Area Air Basin has been identified as contributing to exceedances of the state ozone standard in the downwind areas of the North Central Coast, San Joaquin Valley Air Basins and the Broader Sacramento Area, transport mitigation measures are required as specified in Title 17, California Code of Regulations, section 70600;

WHEREAS, sections 40913(b) and 40922(a) of the Health and Safety Code require each plan to include an assessment of the cost-effectiveness of available and proposed control measures, to contain a list which ranks the control measures from the least cost-effective to the most cost-effective, and to be based on a determination by the district board that the plan is a cost-effective strategy to achieve attainment of the state standards by the earliest practicable date;

WHEREAS, section 41503(b) of the Health and Safety Code requires that control measures for regional pollutants such as ozone shall be uniform throughout the affected air basins to the maximum extent feasible, unless specified demonstrations are made by the district;

WHEREAS, section 40915 of the Health and Safety Code requires that each district plan contain contingency measures to be implemented upon a finding by the Board that the district is failing to achieve interim goals or maintain adequate progress toward attainment;

WHEREAS, the California Environmental Quality Act ("CEQA") 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, unless specific overriding considerations are identified which substantially outweigh the potential adverse consequences of any unmitigated impacts;

WHEREAS, the Metropolitan Transportation Commission (MTC) prepared and adopted pursuant to AB 3791 (Cortese; Stats. 1988, ch. 1569) a transportation control measure plan and transmitted it to the Bay Area Air Quality Management District (the "District") in December 1990 for inclusion into the 1991 Clean Air Plan ("Plan");

WHEREAS, the 1991 Plan was adopted by the District Board on October 30, 1991, in Resolution No. 2051, was officially transmitted by the District to the Board on December 3, 1991, and was received by the Board on December 15, 1991; and

WHEREAS, a public hearing has been conducted in accordance with sections 41502 and 41503.4 of the Health and Safety Code;

WHEREAS, the Board has reviewed and considered the Plan and the environmental impact report (EIR) submitted by the District, as well as the significant issues raised and oral and written comments presented by interested persons and Board staff;

WHEREAS, the findings set forth in this Resolution are supplemented by and based on the more detailed analysis set forth in the Board Staff Report for the Plan, which is incorporated by reference herein;

WHEREAS, based upon the Plan, the EIR, the information presented by the Board staff, and the written and oral public testimony received prior to and at the hearing, the Board finds as follows:

1. State health-based ambient air quality standards for carbon monoxide and ozone are exceeded in the San Francisco Bay Area Air Basin;
2. The District has prepared a detailed emission inventory, which projects trends based on growth in population, employment, industrial/commercial activity, travel, and energy use;
3. The District projects attainment of the carbon monoxide standard by approximately 1995;
4. The District has not identified an attainment date for ozone due to the unavailability of a reliable Urban Airshed Model;
5. The inability to define an attainment date for the state ozone standard, and the projected attainment date for the carbon monoxide standard, place the region in the severe and serious categories, respectively, and the Plan keys the control strategy to the most stringent of the two classifications, which is the severe classification;
6. The District adopted amendments to its New Source Review rule on July 17, 1991, designed to achieve no net increase in emissions of carbon monoxide and ozone precursors, thereby satisfying the transport mitigation requirements applicable to the San Francisco Bay Area Air Basin and one element of the Act's severe nonattainment area requirements;
7. The Plan commits the District to retrofitting 17 source categories between 1991 and the year 2000;
8. While the Plan does not explicitly commit to adopt Best Available Retrofit Control Technology at the time of rulemaking, a clarification in support of this commitment has been provided by the District;

9. The Plan commits the District to developing and adopting rules for 28 area source categories including those for the small units of boilers, generators, and heaters;
10. The Plan commits the District to the development of an ordinance for indirect source control which may be implemented by the District or by city and county governments;
11. The Plan contains two mobile source measures: a citizen complaint program for smoking vehicles and a fleet rule requiring fleet owners to use low-emission vehicles, as provided in Health and Safety Code section 40920(a)(3);
12. The Plan addresses all reasonably available transportation control measures;
13. The Plan predicts a significant decline in the regional growth of vehicle miles traveled and trip length;
14. The District estimates that there will be no net increase in vehicle emissions after 1997;
15. The Plan contains two unique intermittent control measures to encourage citizens and industry to postpone discretionary activities during forecasted ozone episodes;
16. To meet an expeditious adoption schedule of rules, the District is proposing to adopt 36 stationary and areawide source rules between 1991 and 1994, representing a doubling of regulatory activity over the last four years;
17. The Plan contains a cost-effectiveness ranking for 67 of the Plan's 90 control measures, with insufficient information available to rank the remaining measures;
18. To meet the Act's requirements for transport mitigation, the District has adopted a no net increase permitting rule, has existing hydrocarbon BARCT rules representing 85 percent of the stationary source inventory, and proposes to adopt BARCT measures for oxides of nitrogen control amounting to 83 percent of the 1987 point source inventory;
19. The District predicts that population exposure within the region will be reduced sufficiently to meet or exceed the Act's requirements;

WHEREAS, consistent with the requirements of the Health and Safety Code, the Board also makes the following findings:

20. The District has initiated an acceptable public education campaign, as required by Health and Safety Code section 40918(a)(6), to teach people about the impacts of single occupancy vehicles and to direct them to transportation alternatives;
21. The Plan contains an acceptable contingency procedure, as required by Health and Safety Code section 40915, which provides that if a proposed control measure is not adopted or implemented, the District will do everything possible to accelerate the adoption and implementation of subsequent rules;
22. An attainment demonstration for ozone is not currently feasible for the District due to the unavailability of a reliable Urban Airshed Model;
23. Although the District is unable to specify an attainment date for ozone, the Plan satisfies the requirements of Health and Safety Code section 41503(d) because it contains every feasible control strategy or measure to ensure that progress toward attainment is maintained;
24. Although the Plan includes all reasonably available transportation control measures, additional factual detail is needed before some of these measures can be approved, as specified in Appendix B of the Staff Report;
25. The measures set forth in the plan, due to inadequate legal authority and no firm commitment to institute pricing strategies, may not result in compliance with the requirement of a 1.5 average vehicle occupancy by the year 2000, as set forth in Health and Safety Code section 40920(a)(2);
26. The District has correctly estimated that there will be no net increase in vehicle emissions after 1997, as required by Health and Safety Code section 40920(a)(2);
27. The combination of state and local measures in the Plan falls short of the 5 percent per year reductions mandated by Health and Safety Code section 40914(a), and the Plan instead indicates an annual reduction of hydrocarbons from 3.1 to 4 percent, of oxides of nitrogen (NOx) from 2.6 to 3.4 percent, and for carbon monoxide from 3.7 to 4.5 percent;
28. Although the Plan achieves emission reductions of less than 5 percent per year, the Plan satisfies the requirements of Health and Safety Code sections 40914(b) and 41503.1 because it provides for the expeditious adoption of all feasible controls;

29. The District has included all feasible transportation, stationary and areawide source measures in the Plan;
30. The District has met the Act's requirements for transport mitigation, as set forth in Health and Safety Code section 40912 and Title 17, California Code of Regulations, section 70600, in that the District has adopted a no net increase permitting rule, has existing hydrocarbon BARCT rules representing 85 percent of the stationary source inventory, and proposes to adopt BARCT measures for NOx control amounting to 83 percent of the 1987 point source inventory;
31. Population exposure within the region will be reduced sufficiently to meet or exceed the Act's requirements, as set forth in Health and Safety Code section 40924(a)(4);
32. The Plan includes uniform control measures for the region, as provided in Health and Safety Code section 41503(b), including model ordinances for the proposed employer-based trip reduction and indirect source review;
33. The Final EIR prepared and certified for the Plan meets the requirements of the California Environmental Quality Act, and that environmental documentation for individual measures should be prepared as necessary as each measure is considered for adoption;
34. The adoption of the Plan by the Board will result in some adverse environmental impacts which cannot be mitigated to insignificant levels, that the alternatives and mitigation measures set forth in the EIR have been adequately addressed for purposes of this planning activity, and that the District's findings and supporting statements of fact for each significant effect, as set forth in the District's "Certification of Final Environmental Impact Report, Adoption of Findings, Statement of Overriding Considerations, and Adoption of Mitigation Monitoring Program" dated October 30, 1991, are hereby incorporated by reference herein as the findings which this Board is required to make pursuant to Public Resources Code section 21081;

NOW, THEREFORE, BE IT RESOLVED that the Board commends the District as well as MTC and the Association of Bay Area Governments, which assisted in the preparation of the Plan, for their considerable efforts to develop a plan to improve the air quality, public health, and quality of life for residents in the San Francisco Bay Area Air Basin;

BE IT FURTHER RESOLVED, that Board approves the 1991 Clean Air Plan as submitted by the District with the conditions and clarification set forth below;

BE IT FURTHER RESOLVED, that the Board approves the emission inventory set forth in the Plan;

BE IT FURTHER RESOLVED, that the Board approves the carbon monoxide assessment, and defers action on the ozone attainment demonstration until a reliable photochemical model is available;

BE IT FURTHER RESOLVED, that the Board approves the "severe" classification designation for ozone attainment planning, and the "serious" classification for carbon monoxide;

BE IT FURTHER RESOLVED, that the Board approves the District's "no net increase" provisions for new and modified permitted stationary sources;

BE IT FURTHER RESOLVED, that the Board conditionally approves the BARCT proposals, based on confirmation from the District that the appropriate level of technology and/or emission limitation will be chosen at the time of rulemaking;

BE IT FURTHER RESOLVED, that the Board approves the selection of area source control measures;

BE IT FURTHER RESOLVED, that the Board approves the Plan's provisions to develop an indirect source control program;

BE IT FURTHER RESOLVED, that the Board approves the smoking vehicle complaint program, and directs the Executive Officer to continue to work with the District on fleet rules, with the objective of resolving implementation issues prior to the District's submission of its first triennial progress report, due to the Board three years from the date of this resolution and to be prepared pursuant to section 40924(b) of the Health and Safety Code;

BE IT FURTHER RESOLVED, that the Board approves those transportation control measures that fully comply with the Act's requirements, and conditionally approves those measures where further actions are needed to comply with the Act, as identified in Appendix B of the Staff Report;

BE IT FURTHER RESOLVED, that the Board approves and incorporates by reference herein the "ARB-BAAQMD-MTC Staff Agreement", which specifies the actions that need to be taken by BAAQMD and MTC in order to revise and improve those transportation control measures that have been conditionally approved;

BE IT FURTHER RESOLVED, that the Board approves the Plan's approach to achieve a reduced rate of growth in trips and trip length;

BE IT FURTHER RESOLVED, that the Board approves the Plan's approach to achieve no net increase in vehicle emissions;

BE IT FURTHER RESOLVED, that the Board approves the investigation of intermittent control strategies in the Plan, while recognizing that further analysis by the District of specific emission reduction claims is needed;

BE IT FURTHER RESOLVED, that the Board approves the District's emission accounting as consistent with state regulations;

BE IT FURTHER RESOLVED, that the Board approves the lessor rates of annual emission reductions expressed in the District's plan as the maximum achievable rate of progress under the specific circumstances which pertain to the Bay Area;

BE IT FURTHER RESOLVED, that the Board approves the Plan's proposed schedule for rulemaking and related activities as "expeditious" within the meaning of the Act and given the particular circumstances facing the District;

BE IT FURTHER RESOLVED, that the Board approves the Plan's population exposure analysis as the best currently available, and directs the Executive Officer to work with the District to revisit this analysis in the next Plan update due three years from the date of this resolution, to be prepared pursuant to section 40924(b) of the Health and Safety Code;

BE IT FURTHER RESOLVED, that the Board approves the Plan as being in compliance with the uniformity requirement for regional pollutants, and directs the Executive Officer to monitor the effectiveness of the District's measures delegated to other government agencies in achieving a uniform degree of emission control;

BE IT FURTHER RESOLVED, that the Board approves the Plan as being in compliance with the public education requirement of the Act;

BE IT FURTHER RESOLVED, that the Board conditionally approves the procedural approach to contingency measures in the Plan, and directs the Executive Officer to obtain further information as to how it will be implemented and to clarify the conditions under which Plan revisions are necessary;

BE IT FURTHER RESOLVED, that the Board approves the Plan's compliance with the California Environmental Quality Act and the mitigation monitoring efforts to be undertaken by the District pursuant to section 21081.6 of the Public Resources Code, and directs the District to include a report on the progress of these efforts in the first annual progress report to be submitted to the Board one year from the date of this resolution;

BE IT FURTHER RESOLVED, that the Board desires to see coordination in the implementation of the Plan among the District, the Association of Bay Area Governments (ABAG), and the Metropolitan Transportation Commission (MTC);

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to prepare additional written findings and analysis which addresses any significant issues raised or written evidence presented by interested persons, to the extent that any of these issues or evidence were not

adequately addressed in the Staff Report or at the Board hearing, and the Board further directs the Executive Officer to incorporate any additional findings or analysis into the record pursuant to section 41502(d) of the Health and Safety Code.

I hereby certify that the above is a true and correct copy of Resolution 92-21, as adopted by the Air Resources Board.

Pat Hutchens
Pat Hutchens, Board Secretary