

State of California
AIR RESOURCES BOARD

Resolution 92-69

September 10, 1992

Agenda Item No.: 92-15-2

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, sections 40911 and 40913 of the Health and Safety Code 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 districts 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 40918(b) states that a district's air pollution is to be designated as "moderate" if the Board finds and determines that the district can attain and maintain the applicable state standard by not later than December 31, 1994;

WHEREAS, section 40919(b) states that 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 Monterey Bay Unified Air Pollution Control District (the "District") has classified itself as serious non-attainment for ozone;

WHEREAS, section 40919(a) of the Health and Safety Code requires each district classified as a serious non-attainment area to include the following components in its attainment plan to the extent necessary to meet the requirements of the Act:

- (1) 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;
- (2) application of the best available retrofit control technology (BARCT) to existing stationary sources;
- (3) provisions to develop area source and indirect source control programs;
- (4) provisions to develop and maintain an emissions inventory system;
- (5) provisions for public education programs to promote actions to reduce emissions from transportation and areawide sources;
- (6) transportation control measures to substantially reduce the rate of increase in passenger vehicle trips and miles traveled per trip;
- (7) reasonably available transportation control measures;

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 basin 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 and further require that any requirements to implement such measures be adopted by the district within 180 days following the Board's finding of inadequate progress;

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 Monterey Bay 1991 Air Quality Management Plan (the "Plan") was adopted by the District Board on December 11, 1991, in Resolution No. 91-56, and was officially transmitted by the District to the Air Resources Board on December 19, 1991;

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 Board adopted new criteria for designating areas of California as nonattainment, attainment, or unclassified for state ambient air quality standards on May 15, 1992, per Board Resolution 92-43, but these criteria have not yet been approved by the Office of Administrative Law;

WHEREAS, AB 2783 introduced during the 1991-92 Legislative Session, passed by the California State Legislature, and awaiting action by the Governor, would modify the minimum statutory criteria for nonattainment area plans;

WHEREAS, the Plan includes the following major components:

1. a 1997 attainment demonstration for ozone utilizing ARB guidance document dated October 1990.
2. a detailed emission inventory, which projects trends based on growth in population, employment, industrial/commercial activity, travel, and energy use;
3. commitments to adopt measures requiring the retrofitting of 9 stationary source categories with control equipment between 1991 and the year 1994;
4. a commitment to adopt Best Available Retrofit Control Technology at the time of rulemaking;
5. a commitment to develop and adopt rules for 13 area source categories between 1991 and 1994;
6. a commitment to develop one indirect source control measure between 1991 and 1994;
7. a commitment to develop 6 transportation control measures for adoption between 1991 and 1994;
8. a cost-effectiveness ranking for transportation, indirect source, stationary source and area source control measures;

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. The State health-based ambient air quality standard for ozone is exceeded in the Monterey Bay Unified Air Pollution Control District;
2. The District's 1997 attainment demonstration is based on adequate data and methodology and the classification of "serious" for the Monterey Bay District is appropriate;
3. The District's New Source Review rule does not currently comply with the "no net increase" requirement for new and modified permitted stationary sources, but the District committed at the August 26, 1992, meeting of the Monterey District Board to amend its rule to meet the "no net increase" requirement;

4. The District's proposal to adopt 21 stationary and area source rules between 1991 and 1994 is a significant increase of regulatory activity and represents an expeditious adoption schedule;
5. The Plan as amended by the Monterey District Board actions on August 26, 1992 contains all reasonably available transportation control measures, but additional factual detail as specified in the Staff Report and at the September 10, 1992, Board meeting, is needed before the transportation control measures can be unconditionally approved;
6. The combination of state and local measures in the Plan falls short of the 5 percent per year reductions for ozone and its precursors, and the Plan instead indicates an annual reduction of hydrocarbons of 3.2 to 3.3 percent and of oxides of nitrogen (NOx) of 1.8 to 8.3 percent from the year 1987 through 1997;
7. The Plan convincingly demonstrates compliance with the requirement that the regional growth of vehicle miles travelled and trips show a significant decline;
8. The Plan includes every feasible transportation, stationary, and area source measure;
9. 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 every feasible control measure, given the circumstances which prevail in the District;
10. Capacity-enhancing projects do not uniformly result in a net air quality benefit, and, therefore, the Street and Highway Improvement measure in the Plan may not be classified as a "transportation control measure" within the meaning of the Act;
11. The District has an acceptable public education campaign about air quality issues, but should cooperate and coordinate with local government when developing and adopting enforceable controls;
12. The Plan contains an adequate list of contingency measures as required by Health and Safety Code section 40915;
13. The Final EIR prepared and certified by the District Board for the Plan meets the requirements of CEQA, and that environmental documentation for individual measures should be prepared as necessary as each measure is considered for adoption;

14. The Board is a responsible agency for purposes of CEQA and approval of Plan by the Board will result in some adverse environmental impacts which cannot be mitigated to insignificant levels; the alternatives and mitigation measures set forth in the EIR have been adequately addressed for purposes of this planning activity; and the District's findings and supporting statements of fact for each significant effect, as set forth in the District's Resolution No. 91-56, dated December 11, 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 approves those portions of the Monterey Bay 1991 Air Quality Management Plan which, as identified in the Staff Report, and in the staff's oral presentation at the public meeting on September 10, 1992, meet the requirements of the Act;

BE IT FURTHER RESOLVED, that the Board directs the District to take such actions as identified in the Staff Report and the following paragraphs for those plan provisions where further actions are needed to comply with the Act;

BE IT FURTHER RESOLVED, that the Board determines that the District is not in compliance with the "no net increase" requirements for new and modified permitted stationary sources, and directs the District to adopt a no net increase rule no later than March 10, 1993, which mitigates all future emission increases and those occurring between July 1, 1991, and the rule implementation date, in effect making the new source review rule retroactive to July 1, 1991;

BE IT FURTHER RESOLVED, that the Board directs the District to submit a workplan and schedule to address employer based trip reduction measures and trip reduction measures for other sources by March 10, 1993;

BE IT FURTHER RESOLVED, that the Board directs the District to reassess Street and Highway Improvements as a potential source of ozone precursor emissions, and to reflect the impact of this source, if any, in its emissions inventory;

BE IT FURTHER RESOLVED, that the Board directs the District to submit a workplan and schedule for obtaining outstanding financial and policy commitments for each transportation control measure from the responsible implementing agencies, and other details as specified in the Staff Report, by December 10, 1992;

BE IT FURTHER RESOLVED, that the Board conditionally approves the rate of annual emissions reductions in the plan as reflecting the maximum reductions possible, in recognition of the Monterey District Board's August 26, 1992, actions;

BE IT FURTHER RESOLVED, that the Board directs the District board to make the requisite cost-effectiveness finding at the earliest possible date;

BE IT FURTHER RESOLVED, that the Board approves the District'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 if the new designation criteria or new legislation noted above alter the District's designation and the criteria by which the basis of the Board's Plan revision directives set forth above, the Executive Officer shall work with the District to assure it the opportunity to develop and submit plan provisions which meet the new requirements. In this event, the Board delegates to the Executive Officer the authority to review and approve, or conditionally approve, the new plan; and in the altering to advise the Board if section 41503.2. must be invoked.

I hereby certify that the above is a true and correct copy of Resolution 92-69, as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Board Secretary