

State of California
AIR RESOURCES BOARD

Resolution 92-75

November 12, 1992

Agenda Item No.: 92-18-1

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, Chapter 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, the Legislature has enacted AB 2783, (Chapter 945, Stats. 1992) effective January 1, 1993, which amends certain requirements of the Act as noted below where relevant;

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 San Diego County Air Pollution Control District (the "District") is unable to identify an attainment date for ozone, which places it in the severe nonattainment classification for ozone;

WHEREAS, the District predicts attainment of the state standard for carbon monoxide by no later than December 31, 1994, which places it in the moderate classification for carbon monoxide;

WHEREAS, the District has designed its control plan for both ozone and carbon monoxide to comply with the requirements of the more stringent of the two classifications;

WHEREAS, AB 2783 will classify the District on the basis of ambient pollutant concentrations during 1989 through 1991 rather than projected attainment dates;

WHEREAS, AB 2783 is expected to result in the same classifications for ozone and carbon monoxide within the District and therefore will not significantly change applicable planning requirements, with the exceptions noted below;

WHEREAS, section 40920(a) of the Health and Safety Code requires each district classified as a severe nonattainment area to include the following components in its attainment plan to the extent necessary to meet the requirements of the Act;

- (1) application of the best available retrofit control technology (BARCT) to existing stationary sources;
- (2) provisions to develop area source and indirect source control programs;
- (3) provisions to develop and maintain an emissions inventory system;

- (4) provisions for public education programs to promote actions to reduce emissions from transportation and area-wide 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) reasonably available transportation control measures;
- (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, AB 2783 will amend the no net increase requirement as cited in the fifth requirement identified above and require an appropriate offset threshold based on the District's classification;

WHEREAS, AB 2783 may amend the average vehicle occupancy (AVO) requirement as cited in the eighth requirement identified above and require a lesser AVO of 1.4;

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 plan 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 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 requires that any regulations 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, pursuant to section 40717(d) of the Health and Safety Code, the San Diego Association of Governments (SANDAG) prepared and adopted a transportation control measure plan and transmitted it to the District in March 1992 for inclusion into the San Diego 1991 Regional Air Quality Strategy (hereafter referred to as the "Plan");

WHEREAS, the SANDAG transportation control measure plan was modified by the District Board and included in the Plan;

WHEREAS, SANDAG, under its authority as the metropolitan planning organization, is responsible for the allocation of ISTEA finds;

WHEREAS, the San Diego 1991 Plan was adopted by the District Board on June 30, 1992, and was officially transmitted by the District to the Air Resources Board on July 29, 1992;

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, the environmental impact report (EIR) submitted by the District, and all significant issues raised and oral and written comments presented by interested persons and Board staff;

WHEREAS, the Plan includes the following major components:

1. a projection of attainment of the state eight-hour carbon monoxide standard by the end of the year 1994;
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 14 stationary source categories with control equipment between 1991 and the year 1994 and a total of 23 by the year 1997;
4. a commitment to develop a total of 8 area source control measures to be adopted by the year 1997;
5. a commitment to adopt Best Available Retrofit Control Technology at the time of rulemaking;
6. a commitment to develop an indirect source control program by the year 1994;

7. a commitment to develop and adopt a "no net increase" new source permitting rule by the year 1992;
8. a commitment to develop 2 transportation control measures to be adopted between 1991 and the year 1994 and a total of 5 by the year 1997;
9. a cost-effectiveness ranking for stationary and area source control measures and a separate cost-effectiveness ranking for transportation control measures;

WHEREAS, Section 41502(c) requires the Board to adopt written findings which explain its actions and which address the significant issues raised by interested persons;

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, and by the Board's and staff's responses to comments on the record;

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 standards for ozone, carbon monoxide, and particulate matter are exceeded in the San Diego County Air Pollution Control District;
2. The Board concurs with the District's inability to project an attainment date for ozone due to the unavailability of a reliable Urban Airshed Model;
3. The Board concurs with the District's projection of 1994 as the earliest practicable date for attainment of the state carbon monoxide standard;
4. The District is not in compliance with the "no net increase" requirement for new and modified stationary sources, nor with the lesser requirements applicable to nonattainment areas per AB 2783;
5. The District's proposal to adopt 14 stationary source rules and no area source rules between 1991 and 1994 does not represent an expeditious adoption schedule;
6. The control measures for oxides of nitrogen emissions from stationary internal combustion engines and residential hot water heaters and furnaces which the District proposes to adopt after 1994 should instead be adopted between 1991 and 1994;
7. The Plan includes provisions to develop an indirect source control program;

8. The Plan contains all reasonably available transportation control measures given the circumstances which prevail in the District, but additional factual detail is needed before some of these measures can be fully approved, as specified in Appendix B of the Staff Report;
9. The Plan is not in compliance with the requirement to expeditiously implement transportation control measures because the District has postponed implementation of transportation control measures pending inclusion of California-registered vehicles garaged in Mexico and used for the purpose of commuting to worksites in California in the state's inspection and maintenance ("Smog Check") program;
10. The Plan demonstrates compliance with the requirement that the regional growth of trips and trip length be substantially reduced;
11. The Plan does not currently satisfy the requirement of a 1.5 person average vehicle occupancy by the year 1999 and additional time is needed to develop baseline data and an analytical framework to make that demonstration;
12. The Board concurs with the District's finding that there will be no net increase in vehicle emissions after 1997;
13. 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 from 2.0 to 3.2 percent; nitrogen oxides from 1.7 to 3.3 percent; and carbon monoxide from 2.8 to 3.2 percent from the year 1987 through 2000;
14. The District has included all feasible transportation, stationary and area source measures in the Plan but does not provide for their expeditious adoption;
15. The Plan does not satisfy the requirements of Health and Safety Code sections 40914(b) and 41503.1 because the Plan achieves emission reductions of less than 5 percent per year and because it does not provide for the expeditious adoption of all feasible control measures given the circumstances which prevail in the District;
16. The Plan is in compliance with the three cost-effectiveness requirements of the Act;
17. The Board concurs with the District's decision to defer the population exposure assessment until a photochemical model is developed;
18. The Plan includes uniform control measures for the San Diego Air Basin;

19. The District has initiated an acceptable public education campaign about air quality issues;
20. The District's specified contingency measures and its accelerated adoption and measure evaluation contingency procedure meets the Act's requirements;
21. The Final EIR prepared and certified by the District Board for the Plan meets the requirements of CEQA, and environmental documentation for individual measures should be prepared as necessary as each measure is considered for adoption;
22. The EIR has adequately addressed alternatives and mitigation measures for the purposes of this planning activity; the Board is a responsible agency for the purposes of CEQA; the Board concurs with the District Board's finding that the Plan will not result in adverse environmental impacts which cannot be mitigated to insignificant levels; and the District's findings and supporting statements of fact, as set forth in the District's Resolution 92-244, dated June 30, 1992, are hereby incorporated by reference as the findings which this Board is required to make pursuant to Public Resources Code section 21081 and CEQA guidelines;

WHEREAS, the Board has prepared additional findings in response to the significant issues which have been raised by public comments, set forth in Attachment A hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT RESOLVED, that the Board approves those portions of the San Diego Regional Air Quality Strategy, which, as identified in the Staff Report, 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, for those Plan provisions where further actions are needed to comply with the Act.

BE IT FURTHER RESOLVED, that the Board approves the carbon monoxide attainment demonstration and finds that the year 1994 represents the earliest practicable attainment date for the state carbon monoxide standard.

BE IT FURTHER RESOLVED, that the Board directs the District to incorporate an attainment demonstration for the state ozone standard into the Plan as soon as the earliest practicable attainment date for that standard can be determined.

BE IT FURTHER RESOLVED, that the Board approves the "severe" area classification for ozone within the San Diego District under existing law and directs staff to work with the District to determine the appropriate classification under AB 2783 as expeditiously as possible.

BE IT FURTHER RESOLVED, that the Board directs the District to adopt and implement a permitting rule for new and modified stationary sources, which complies with the requirements of the California Clean Air Act and the pending changes to the Act as reflected in AB 2783, by July 1, 1993.

BE IT FURTHER RESOLVED, that the Board directs the District to revise its rulemaking calendar placing greater emphasis on emission reduction potential and to submit to the Board the revised schedule by March 13, 1993.

BE IT FURTHER RESOLVED, that the Board directs the District to accelerate its schedule for adoption and implementation of BARCT measures for NOx sources in the current planning cycle and include this in the revised schedule to be submitted to the Board by March 13, 1993.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to work with the District to resolve technical issues related to fleet rules.

BE IT FURTHER RESOLVED, that the Board conditionally approves the transportation control measures, and directs the District to provide additional details as specified in Appendix B of the staff report.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to continue to work with the District and the Department of Motor Vehicles to include California-registered vehicles garaged in Mexico and used for the purpose of commuting to worksites in California in the state's inspection and maintenance program.

BE IT FURTHER RESOLVED, that the Board directs the District to proceed with implementation of its transportation control measures while the effort to include Mexican commute vehicles in the state's inspection and maintenance program is underway.

BE IT FURTHER RESOLVED, that the Board directs the District and SANDAG to develop better information on baseline travel conditions, establish a monitoring network, develop an analytical framework for assessing District AVO levels, and submit this information to the Board by May 13, 1993.

BE IT FURTHER RESOLVED, that the Board directs the District to work with SANDAG to use its discretion as the Metropolitan Planning Organization to place highest priority on TCM implementation when allocating ISTEPA funds.

BE IT FURTHER RESOLVED, that the Board finds the Plan does not contain an expeditious rule adoption schedule and directs the District to submit a revised rule development and adoption schedule reflecting expeditious implementation by March 13, 1993.

BE IT FURTHER RESOLVED, that the Board conditionally approves the District's emissions accounting as consistent with state regulations, and conditionally approves the lesser rates of annual emissions reductions portrayed in the Plan as the maximum reductions possible upon submittal of a revised rule development and adoption schedule reflecting expeditious adoption and implementation.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to work with the District to develop a population exposure model.

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

ATTACHMENT A: ARB Findings in Response to Significant Issues

Issues raised by interested persons at the Board hearing are addressed in the following comments. Many of these and other comments are also discussed in more detail in staff testimony at the hearing, and the transcript of the hearing is incorporated by reference herein.

Significant Issues

Issue: The District should be allowed the necessary time to develop a socioeconomic model prior to the adoption of control measures included in the Plan.

Response: Although the law requires a socioeconomic impact analyses for specific regulations, no specific process is required. Case-by-case analyses are possible and necessary to satisfy the Act's requirements for an expeditious adoption schedule.

Issue: A socioeconomic analysis should be performed on the overall Plan, before the rules within the Plan are adopted.

Response: State law requires that socioeconomic analyses be performed for individual rules. No such analysis is required for air quality plans; instead, the law requires that a finding of cost-effectiveness be made. State law also requires the expeditious adoption of all feasible measures.

Issue: The District's classification in response to AB 2783 needs to be resolved as expeditiously as possible.

Response: ARB staff agree and will work with the District to resolve this matter as expeditiously as possible.

Issue: AB 2766 funds surcharge on motor vehicle registrations should be used for the administrative cost of implementing TCMs.

Response: Many valuable projects are competing for AB 2766 funds. ARB staff are currently evaluating districts' use of AB 2766 funds as required by statute. Next year, staff will report their findings to the Board and make recommendations as to the appropriate priority for various allocations.

Issue: ARB should encourage and advance the development of market-based trip reduction measures and new technology for motor vehicle control.

Response: ARB staff agree. A statewide committee has been formed to examine market-based TCMs and is in the process of contracting out for an in-depth study. With regard to technological advances, staff note that several of the regulations previously adopted by ARB are

technology forcing; for example, reformulated gasoline specifications and stringent tailpipe standards.

Issue: Several commentators were concerned about the applicability and timing of the trip reduction rule to schools.

Response: The opposition of school districts to any trip reduction measure is cause for significant concern. The Board suggests that the District invest extra effort in understanding school districts' unique problems and developing special strategies to address them. This effort should be part of the regular rule development process that follows approval of the plan.

Issue: The biotech industries questioned the applicability of an AVO rule to their unique industry.

Response: This is analogous to school districts' concerns and, likewise, should be addressed through the industries' participation in the rule development and adoption process.