

State of California
AIR RESOURCES BOARD

SOUTH COAST AIR BASIN 2012 PM2.5 AND OZONE STATE IMPLEMENTATION PLANS

Resolution 13-3

January 25, 2013

Agenda Item No.: 13-2-2

WHEREAS, the Legislature in Health and Safety Code section 39602 has designated the State Air Resources Board (ARB or Board) as the air pollution control agency for all purposes set forth in federal law;

WHEREAS, the ARB is responsible for preparing the State Implementation Plan (SIP) for attaining and maintaining the National Ambient Air Quality Standards (standards) as required by the federal Clean Air Act (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 41650 of the Health and Safety Code requires the ARB to approve the nonattainment area plan adopted by a district as part of the SIP unless the Board finds, after a public hearing, that the plan does not meet the requirements of the Act;

WHEREAS, the ARB has responsibility for ensuring that the districts meet their responsibilities under the Act pursuant to sections 39002, 39500, 39602, and 41650 of the Health and Safety Code;

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

WHEREAS, sections 39515 and 39516 of the Health and Safety Code provide that any duty may be delegated to the Board's Executive Officer as the Board deems appropriate;

WHEREAS, the districts have primary responsibility for controlling air pollution from non-vehicular sources and for adopting control measures, rules, and regulations to attain the standards within their boundaries pursuant to sections 39002, 40000, 40001, 40701, 40702, and 41650 of the Health and Safety Code;

WHEREAS, the South Coast Air Basin (SCAB or Basin) includes Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County;

WHEREAS, the South Coast Air Quality Management District (District) is the local air district with jurisdiction over the SCAB, pursuant to sections 40410 and 40413 of the Health and Safety Code;

WHEREAS, the Southern California Association of Governments (SCAG) is the regional transportation agency for the SCAB and Coachella Valley and has responsibility for preparing and implementing transportation control measures to reduce vehicle trips, vehicle use, vehicle miles traveled, vehicle idling and traffic congestion for the purpose of reducing motor vehicle emissions pursuant to sections 40460(b) and 40465 of the Health and Safety Code;

WHEREAS, section 40463(b) of the Health and Safety Code specifies that the District board must establish a carrying capacity - the maximum level of emissions which would enable the attainment and maintenance of an ambient air quality standard for a pollutant - for the South Coast Air Basin with the active participation of SCAG;

WHEREAS, the South Coast 2012 Air Quality Management Plan (AQMP) includes State Implementation Plan (SIP) amendments for fine particulate matter (PM_{2.5}) and ozone;

WHEREAS, in July 1997, the United States Environmental Protection Agency (U.S. EPA) promulgated 24-hour and annual standards for PM_{2.5} of 65 micrograms per cubic meter (ug/m³) and 15 ug/m³, respectively;

WHEREAS, in December 2004, U.S. EPA designated the South Coast Air Basin as nonattainment for the PM_{2.5} standards;

WHEREAS, in March 2007, U.S. EPA finalized the PM_{2.5} implementation rule (Rule) which established the framework and requirements that states must meet to develop annual average PM_{2.5} SIPs, set an initial attainment date of April 5, 2010, and allowed for an attainment date extension of up to five years;

WHEREAS, the Rule requires that PM_{2.5} SIPs include air quality and emissions data, a control strategy, a modeled attainment demonstration, transportation conformity emission budgets, reasonably available control measure/reasonably available technology (RACM/RACT) demonstration, and contingency measures;

WHEREAS, in July 1997, the U.S. EPA promulgated an 8-hour standard for ozone of 0.08 parts per million (ppm);

WHEREAS, on April 15, 2004, U.S. EPA designated the South Coast as nonattainment for the 0.08 ppm 8-hour ozone standard;

WHEREAS, in 2007, the District and ARB adopted SIP amendments demonstrating attainment of the annual PM_{2.5} standard by April 5, 2015, and of the 8-hour ozone standard by December 31, 2023, and submitted the SIP amendments to U.S. EPA;

WHEREAS, in 2009 and 2011, at U.S. EPA's request, ARB provided clarifying amendments to the annual PM_{2.5} and 8-hour ozone South Coast SIPs submitted in 2007;

WHEREAS, in 2011, U.S. EPA approved the control strategy, emission reduction commitment and attainment demonstration for the annual PM_{2.5} standard with an attainment date of April 5, 2015;

WHEREAS, in 2012, U.S. EPA approved the control strategy, emission reduction commitment and attainment demonstration for the 8-hour ozone standard with an attainment date of June 15, 2024;

WHEREAS, in December 2006, U.S. EPA lowered the 24-hour PM_{2.5} standard from 65 ug/m³ to 35 ug/m³;

WHEREAS, effective December 14, 2009, U.S. EPA designated the South Coast Air Basin as nonattainment for the 35 ug/m³ PM_{2.5} standard;

WHEREAS, on March 12, 2012, U.S. EPA issued a memorandum that provided further guidance on the development of SIPs specific to the 35 ug/m³ PM_{2.5} standard and set an initial attainment date of December 14, 2014, with a provision for an attainment date extension of up to five years;

WHEREAS, the 2012 AQMP Plan identifies directly-emitted PM_{2.5}, nitrogen oxides (NO_x), sulfur oxides (SO_x) and volatile organic compounds (VOC) as PM_{2.5} attainment plan precursors consistent with the Rule;

WHEREAS, the emission reductions contained in the 2012 AQMP for PM_{2.5} attainment rely on adopted regulations and on new or revised District control measures;

WHEREAS, the 2012 AQMP's new PM_{2.5} measures include further strengthening of the District's wood burning curtailment program, outreach, and incentive programs;

WHEREAS, in accordance with section 172(b)(2) of the Act, the 2012 AQMP identifies 2014 as the most expeditious attainment date for the 24-hour PM_{2.5} standard;

WHEREAS, the attainment analysis in the 2012 AQMP demonstrates that the 24-hour PM_{2.5} standard will be met throughout the Basin by the proposed 2014 attainment date;

WHEREAS, consistent with section 172(c)(3) of the Act, the 2012 AQMP includes a comprehensive, accurate, current inventory of emissions data for directly emitted PM_{2.5} and PM_{2.5} precursors: oxides of nitrogen (NO_x), reactive organic gases (ROG), sulfur oxides (SO_x), and ammonia (NH₃);

WHEREAS, consistent with section 172(c) of the Act, the 2012 AQMP demonstrates the implementation of RACM/RACT for direct PM_{2.5} and the area's relevant PM_{2.5} precursors;

WHEREAS, consistent with section 172(c)(9) of the Act, the 2012 AQMP includes contingency measures that provide extra emissions reductions that go into effect without further regulatory action if the area fails to make attainment of the 24-hour PM_{2.5} standard on time;

WHEREAS, consistent with section 176 of the Act, the 2012 AQMP establishes transportation conformity emission budgets, developed in consultation between the District, ARB staff, transportation agencies, and U.S. EPA, that conform to the attainment emission levels;

WHEREAS, the approved commitment for emission reductions is for total aggregate reductions that may be achieved through the measures identified in the SIP, alternative measures or incentive programs, and actual emission decreases that occur;

WHEREAS, the approved commitment for emission reductions allows for the substitution of reductions of one precursor for another using relative PM_{2.5} reductions values identified by the District;

WHEREAS, section 182(e)(5) of the Act provides that SIPs for extreme ozone nonattainment areas may rely in part upon the development of new technologies or the improvement of existing technologies;

WHEREAS, the approved SIP includes commitments to achieve additional reductions from advanced technology as provided for in section 182(e)(5) of the Act;

WHEREAS, in the Federal Register (Volume 77 Fed.Reg. 12674 at 12686 (March 1, 2012)) entry approving the ozone elements of the South Coast 8-hour ozone SIP, U.S. EPA stated that measures approved under section 182(e)(5) may include those that anticipate future technological developments as well as those that require complex analyses, decision making and coordination among a number of government agencies;

WHEREAS, the 2011 revision to the 8-hour ozone SIP included State commitments to develop, adopt, and submit contingency measures by 2020 if advanced technology measures do not achieve planned reductions;

WHEREAS, the 2012 AQMP includes actions to develop and put into use advanced transformational technologies to fulfill in part the approved SIP commitment for the Act section 182(e)(5) reductions;

WHEREAS, these actions described in the 2012 AQMP as seventeen mobile measures (five on-road measures, five off-road measures, and seven advanced technology measures), are consistent with U.S. EPA's interpretation of 182(e)(5) used in the approval of the South Coast 8-hour ozone SIP (77 Fed.Reg. 12674 at 12686 (March 1, 2012));

WHEREAS, on November 6, 1991, U.S. EPA designated the South Coast Air Basin an extreme nonattainment area for the 1-hour ozone standard with an attainment date of no later than November 15, 2010;

WHEREAS, in 2000 ARB submitted the 1999 Amendment to the South Coast 1997 AQMP, collectively called the 1997/1999 SIP revision, which included long-term measures pursuant to section 185(e)(5);

WHEREAS, in 2000 U.S. EPA approved the 1997/1999 revision to the South Coast 1-hour ozone SIP;

WHEREAS, in 2003 ARB submitted a revision to the South Coast 1-hour ozone SIP;

WHEREAS, in 2009 U.S. EPA disapproved the attainment demonstration in the 2003 revision;

WHEREAS, on February 2, 2011, the Ninth Circuit Court of Appeals remanded U.S. EPA's 2009 final action on the 2003 South Coast 1-hour ozone SIP and directed U.S. EPA to take further action to ensure that the State develop a plan demonstrating attainment of the 1-hour ozone standard, consistent with Clean Air Act requirements;

WHEREAS, on January 7, 2013, U.S. EPA issued a SIP call for the State to submit, within 12 months of the effective date of the SIP call, a SIP revision demonstrating attainment of the 1-hour ozone standard in the Basin;

WHEREAS, the 2012 AQMP's 1-hour ozone attainment demonstration relies on adopted state and local regulations, along with new local regulations including continued implementation of the approved 8-hour ozone SIP to reduce emissions by 2022;

WHEREAS, the 1-hour ozone attainment demonstration also relies upon section 182(e)(5) provisions for future reductions from developing new technologies or improving existing technologies;

WHEREAS, the actions to implement advanced technology measures for the approved 8-hour ozone SIP also describe actions to implement advanced technology measures for the 1-hour ozone attainment demonstration;

WHEREAS, section 182(e)(5) of the Act requires contingency measures be submitted no later than three years prior to the attainment year in the event that the anticipated long-term measures approved pursuant to section 182(e)(5) do not achieve planned reductions needed for attaining the 1-hour ozone standard;

WHEREAS, section 182(e)(5) contingency measures in the approved SIP meet the requirements for attainment contingency measures because section 182(e)(5) is not relied on for emission reductions prior to November 15, 2000;

WHEREAS, the 2012 AQMP demonstrates the Basin will attain the 1-hour ozone standard by 2022;

WHEREAS, consistent with section 172(c)(3) of the Act, the 2012 AQMP includes a comprehensive, accurate, current inventory of emissions data for precursors of ozone: oxides of nitrogen (NO_x) and reactive organic gases (ROG);

WHEREAS, consistent with section 172(c) of the Act, the 2012 AQMP demonstrates the implementation of RACM/RACT for NO_x and ROG;

WHEREAS, section 182(d)(1)(a) of the Act requires ozone nonattainment areas classified as severe and extreme to submit a vehicle miles traveled (VMT) offset demonstration showing no increase in motor vehicle emissions between the base year in the Act 1990 Amendments and the area's attainment year;

WHEREAS, in February 2011, the Ninth Circuit Court of Appeals held that section 182(d)(1)(a) of the Act requires additional transportation control strategies and transportation control measures to offset vehicle emissions whenever they are projected to be higher than if base year VMT had not increased;

WHEREAS, the Ninth Circuit Court of Appeals remanded the approval of the 2007 8-hour ozone SIP VMT emissions offsets demonstration to U.S. EPA;

WHEREAS, in September 2012, U.S. EPA proposed to withdraw its final approvals, and then disapprove, SIP revisions submitted to meet the section 182(d)(1)(a) VMT emissions offset requirements for the U.S. EPA approved South Coast Air Basin 1-hour and 8-hour ozone plans;

WHEREAS, in August 2012, U.S. EPA issued guidance entitled “Implementing Clean Air Act Section 182(d)(1)(A): Transportation Control Measures and Transportation Control Strategies to Offset growth in Emissions Due to Growth in Vehicle Miles Traveled”;

WHEREAS, consistent with the requirements of section 182(d)(1)(A) as specified by the Ninth Circuit Court of Appeals ruling in 2011 and with U.S. EPA guidance in 2012, and in response to U.S. EPA’s September 2012 proposal, the 2012 AQMP includes a VMT offset demonstration for both 1-hour and 8-hour ozone plans;

WHEREAS, the 2012 AQMP also includes a second VMT emissions offset demonstration for 8-hour ozone that meets an alternative VMT offset methodology proposed by U.S. EPA;

WHEREAS, the California Environmental Quality Act (CEQA) requires that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, pursuant to California Environmental Quality Act (CEQA), the District prepared a Program Environmental Impact Report (EIR) for the 2012 AQMP that was released for a 45-day public review and comment period from September 7, 2012 to October 23, 2012, and in the Final Program EIR the District responded to the 13 comment letters received;

WHEREAS, the District’s Final Program EIR identified potentially significant and unavoidable project-specific adverse environmental impacts to air quality (CO and PM10 impacts from construction activities), energy demand, hazards (associated with accidental release of liquefied natural gas during transport), water demand, noise (from construction activities) and traffic (construction activities and operations), as well as potentially significant cumulative adverse impacts to air quality (construction), energy demand, hazards and hazardous materials, hydrology and water quality, noise, and transportation and traffic;

WHEREAS, the District Governing Board adopted a Statement of Findings and a Statement of Overriding Considerations finding the project’s benefits outweigh the unavoidable adverse impacts, as well as a Mitigation Monitoring Plan;

WHEREAS, federal law set forth in section 110(l) of the Act and Title 40, Code of Federal Regulations (CFR), section 51.102, requires that one or more public hearings, preceded by at least 30 days notice and opportunity for public review, must be conducted prior to adopting and submitting any SIP revision to U.S. EPA;

WHEREAS, as required by federal law, the District made the 2012 AQMP available for public review at least 30 days before the District hearing;

WHEREAS, following a public hearing on December 7, 2012, the AQMD Governing Board voted to approve the 2012 AQMP including the 24-hour PM2.5 plan, the 8-hour ozone advanced technology actions and the 1-hour ozone plan;

WHEREAS, on December 20, 2012, the District transmitted the 2012 AQMP to ARB as a SIP revision, along with proof of public notice publication, and environmental documents in accordance with State and federal law; and

WHEREAS, the Board finds that:

1. The 2012 AQMP meets the applicable planning requirements established by the Act and the Rule for 24-hour PM2.5 SIPs, and includes the required air quality and emissions data, modeled attainment demonstrations, RACM/RACT demonstrations, new source review, transportation conformity emission budgets, and contingency measures;
2. The existing 2007 PM2.5 SIP, including benefits of ARB's adopted mobile source control measures, combined with the new District control measures identified in the adopted 2012 AQMP will provide the emission reductions needed for meeting the 24-hour PM2.5 standard by the December 14, 2014, attainment date;
3. The 2012 AQMP identifies contingency measures that will achieve additional emission reductions, beyond those relied on in the attainment demonstration, in the event that the South Coast Air Basin does not attain the 24-hour PM2.5 standard by 2014;
4. The 2012 AQMP meets applicable planning requirements established by the Act for 1-hour ozone SIPs, and includes the required air quality and emissions data, modeled attainment demonstrations, new source review and RACM/RACT demonstrations;
5. The 2012 AQMP VMT offset demonstrations meets the section 182(d)(1)(a) VMT offset requirements for both the 1-hour ozone and the 8-hour ozone plans; and
6. ARB has reviewed and considered the Final EIR prepared by the District and comments presented by interested parties, and find there are no additional feasible mitigation measures or alternatives within ARB's powers that would substantially lessen or avoid the project-specific impacts identified.

NOW, THEREFORE, BE IT RESOLVED the Board hereby approves the South Coast 2012 AQMP as an amendment to the SIP, excluding those portions not required to be submitted to U.S. EPA under federal law, and directs the Executive Officer to forward the 2012 AQMP as approved to U.S. EPA for inclusion in the SIP to be effective, for purposes of federal law, upon approval by U.S. EPA.

BE IT FURTHER RESOLVED that the Board commits to develop, adopt, and submit contingency measures by 2019 if advanced technology measures do not achieve planned reductions as required by section 182(e)(5)(B).

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to work with the District 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.

BE IT FURTHER RESOLVED that the Board hereby certifies pursuant to 40 CFR section 51.102 that the District's 2012 AQMP was adopted after notice and public hearing as required by 40 CFR section 51.102.

I hereby certify that the above is a true and correct copy of Resolution 13-3, as adopted by the Air Resources Board.

/s/

Tracy Jensen, Clerk of the Board