State of California
AIR RESOURCES BOARD

2016 OZONE STATE IMPLEMENTATION PLAN FOR THE SAN JOAQUIN VALLEY

Resolution 16-8

July 21, 2016

Agenda Item No.: 16-7-1

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, ARB is responsible for preparing the State Implementation Plan (SIP) for attaining and maintaining the National Ambient Air Quality Standards (NAAQS or standards) 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) 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, section 41650 of the Health and Safety Code requires the ARB to approve the nonattainment 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, 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, 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 power, duty, purpose, function or jurisdiction of the Board may be delegated to the ARB 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 NAAQS within their boundaries, pursuant to sections 39002, 40000, 40001, 40701, 40702, and 41650 of the Health and Safety Code;

WHEREAS, on March 27, 2008, the United States Environmental Protection Agency (U.S. EPA) promulgated an 8-hour ozone NAAQS of 75 parts per billion (ppb);

WHEREAS, effective July 20, 2012, U.S. EPA designated the San Joaquin Valley Air Basin (San Joaquin Valley) as extreme nonattainment for the 75 ppb 8-hour ozone NAAQS with an attainment date of July 20, 2032;

WHEREAS, the San Joaquin Valley includes Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare, and western Kern Counties;

WHEREAS, the San Joaquin Valley Air Pollution Control District (District) is the local air district and planning agency for the San Joaquin Valley;

WHEREAS, on March 6, 2015, U.S. EPA finalized the implementation rule (Rule) for the 75 ppb 8-hour ozone NAAQS that established SIP requirements;

WHEREAS, the Act and the Rule require that an extreme nonattainment area SIP for the 75 ppb 8-hour ozone NAAQS include an attainment demonstration, reasonably available control measures (RACM), reasonable further progress (RFP), contingency measures for RFP and attainment, transportation conformity budgets, and a vehicle miles travelled (VMT) offset demonstration;

WHEREAS, the District developed the San Joaquin Valley 2016 Plan for the 2008 8-hour Ozone Standard (SJV 2016 Ozone Plan) to meet the extreme ozone nonattainment area planning requirements for the 75 ppb 8-hour ozone NAAQS;

WHEREAS, ARB staff has conducted a thorough review of the SJV 2016 Ozone Plan and concluded it meets the requirements of the Clean Air Act (Act) as described in its Staff Report entitled, ARB Review of the San Joaquin Valley 2016 Plan for the 2008 8-Hour Ozone Standard (ARB Staff Report), and dated June 17, 2016;

WHEREAS, consistent with section 172(c)(3) of the Act, the SJV 2016 Ozone Plan includes a comprehensive, accurate, current inventory of emissions data of oxides of nitrogen (NOx), and reactive organic gases;

WHEREAS, consistent with sections 181(a) and 182(c)(2) of the Act, the SJV 2016 Ozone Plan includes an attainment demonstration that shows attainment as expeditiously as practicable by the extreme area deadline of July 20, 2032, with a demonstration the District will meet the standard by 2031;

WHEREAS, consistent with section 172(c) of the Act, the SJV 2016 Ozone Plan demonstrates RACM;

WHEREAS, consistent with sections 172(c) and 182(c)(2) of the Act, the SJV 2016 Ozone Plan identifies emission levels that demonstrate RFP through the attainment year;

WHEREAS, consistent with section 176 of the Act, the SJV 2016 Ozone Plan establishes transportation conformity emission budgets, developed in consultation

between the District and the regional transportation agencies, that conform to the attainment emission levels;

WHEREAS, consistent with the requirements of section 182(d)(1)(A) and U.S. EPA guidance issued in 2012, the SJV 2016 Ozone Plan includes a VMT emissions offset demonstration for the 75 ppb 8-hour ozone NAAQS;

WHEREAS, sections 172(c)(9) and 182(c)(9) of the Act requires contingency measures that provide extra emission reductions that go into effect without further regulatory action if an area fails to meet RFP or attain on time;

WHEREAS, the SJV 2016 Ozone Plan identifies sufficient contingency measures for RFP;

WHEREAS, in order to fulfill the attainment contingency measure requirements, the SJV 2016 Ozone Plan includes a 1.6 tpd NOx emission reduction commitment under section 182(e)(5) of the Act;

WHEREAS, on May 17, 2016, ARB staff released the Proposed 2016 State Strategy for the State Implementation Plan that includes a staff proposal for further reductions in the San Joaquin Valley subject to Board approval in September 2016;

WHEREAS, these reductions, if approved by the Board, are sufficient to eliminate the need to include a section 182(e)(5) commitment to satisfy the attainment contingency measure requirements;

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 of notice and opportunity for public review, must be conducted before adopting and submitting any SIP revision to U.S. EPA;

WHEREAS, as required by federal law, the District made the SJV 2016 Ozone SIP available for public review at least 30 days before the District hearing;

WHEREAS, following a public hearing on June 16, 2016, the District Governing Board approved the SJV 2016 Ozone Plan;

WHEREAS, on April 1, 2016, U.S. EPA partially disapproved elements of the California Infrastructure SIP related to ozone monitoring requirements in the Bakersfield Metropolitan Statistical Area (MSA), as U.S. EPA had not yet approved a replacement for the high site monitor, Arvin Bear Mountain, which closed due to a lease that was not renewed;

WHEREAS, ARB established a replacement monitor at the Arvin-Di Giorgio elementary school prior to the closure of the Arvin Bear Mountain monitor;

WHEREAS, on April 29, 2016, ARB submitted a request to U.S. EPA establishing the Arvin-Di Giorgio ozone monitor as the replacement monitor for the Arvin Bear Mountain ozone monitor;

WHEREAS, on May 2, 2016, U.S. EPA approved the Arvin-Di Giorgio ozone monitor as the replacement for the Arvin Bear Mountain ozone monitor site;

WHEREAS, the ARB Staff Report recommends the Board submit a request identifying, as a revision to the California SIP, the Arvin-Di Giorgio ozone monitoring site as the maximum ozone concentration monitor in the Bakersfield Metropolitan Statistical Area, to address U.S. EPA's partial disapproval of the California Infrastructure SIP;

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, to meet its obligations under CEQA, the District determined that the SJV 2016 Ozone Plan is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) and under California Code of Regulations, title 14, section 15308 ("Class 8" exemption: Actions Taken by Regulatory Agencies for Protection of the Environment) because the record evidence shows with certainty that the SJV 2016 Ozone Plan will enhance the environment by better protecting the public from health impacts associated with exposure to ozone, the regulatory process involves procedures for protection of the environment, and there is no possibility that the proposed activity may result in a significant adverse impact on the environment;

WHEREAS, ARB has determined that its subsequent approval of the District's SJV 2016 Ozone Plan is a "ministerial" approval for purposes of CEQA (Cal. Code Regs, tit. 14, §15268) because ARB's review is limited to determining if the Plan meets the requirements of the Act, and ARB lacks authority to modify or not approve the Plan in response to environmental concerns, as described in Chapter VI of the ARB Staff Report; and

WHEREAS, the ARB Staff Report was made available for public review at least 30 days before the public hearing.

NOW, THEREFORE, BASED ON THE FOREGOING, the Board finds that:

1. The SJV 2016 Ozone Plan meets the requirements of the Act for an extreme ozone nonattainment area;

2. The SJV 2016 Ozone Plan includes the required air quality and emissions data, modeled attainment demonstration, RACM demonstration, RFP demonstration, contingency measures for RFP and attainment, transportation conformity budgets, and a VMT offset demonstration;

3. Ongoing implementation of ARB and District control programs provides the emission reductions needed for meeting the 75 ppb 8-hour ozone NAAQS by the attainment deadline;

4. The Proposed 2016 State Strategy for the State Implementation Plan scheduled for Board consideration in September 2016, if approved, provides sufficient NOx emissions reductions to eliminate the need for a section 182(e)(5) commitment;

5. It is appropriate to designate the Arvin-Di Giorgio ozone monitor as the maximum ozone concentration monitor for the Bakersfield Metropolitan Statistical Area, which fulfills U.S. EPA requirements; and

6. ARB's review and approval of the SJV 2016 Ozone Plan submitted by the District for inclusion in the California SIP is a ministerial activity for purposes of CEQA.

BE IT RESOLVED that the Board approves the ARB Staff Report dated June 17, 2016.

BE IT FURTHER RESOLVED that the Board hereby approves the San Joaquin Valley 2016 Ozone Plan as a revision to the California SIP.

BE IT FURTHER RESOLVED that the Board hereby directs the Executive Officer to submit the San Joaquin Valley 2016 Ozone Plan as adopted by the District along with the ARB Staff Report to U.S. EPA for inclusion in the California SIP to be effective, for purposes of federal law, upon approval by U.S. EPA.

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 that the San Joaquin Valley 2016 Ozone Plan was adopted after notice and public hearing as required by Section 110(l) of the Act and 40 CFR section 51.102.

I hereby certify that the above is a true and correct copy of Resolution 16-8 as adopted by the Air Resources Board.

Tracy Jensen

Tracy Jensen, Clerk of the Board