State of California
AIR RESOURCES BOARD

2016 OZONE SIP FOR VENTURA COUNTY

Resolution 17-5

March 23, 2017

Agenda Item No.: 17-3-1

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 (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 ARB to adopt the nonattainment plan approved 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 standard 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 standard of 75 parts per billion (ppb);

WHEREAS, effective July 20, 2012, U.S. EPA designated Ventura County as nonattainment for the 75 ppb 8-hour ozone standard with a Serious classification and attainment date of July 20, 2021;

WHEREAS, the Ventura County Air Pollution Control District (District) is the local air district and planning agency for Ventura County;

WHEREAS, the Act requires that a Serious nonattainment area ozone SIP include an emissions inventory, attainment demonstration, reasonably available control measures (RACM), reasonable further progress (RFP), contingency measures for RFP and attainment, and transportation conformity budgets;

WHEREAS, the District developed the 2016 Ventura County Air Quality Management Plan (2016 Plan) to meet the Serious ozone nonattainment area planning requirements for the 75 ppb 8-hour ozone standard;

WHEREAS, consistent with section 172(c)(3) of the Act, the 2016 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 2016 Plan includes an attainment demonstration that shows attainment as expeditiously as practicable by the Serious area deadline of July 20, 2021;

WHEREAS, consistent with section 172(c)(1) of the Act, the 2016 Plan demonstrates RACM;

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

WHEREAS, consistent with section 176 of the Act, the 2016 Plan establishes transportation conformity emission budgets, developed in consultation between the District and the regional transportation agency, that conform to the attainment emission levels;

WHEREAS, a recent decision by the U.S. Court of Appeals for the Ninth Circuit, in *Bahr v. U.S. Environmental Protection Agency* (9th Cir. 2016) 836 F.3d 1218, addressed the U.S. EPA's previous interpretation of contingency measure requirements under the Act;

WHEREAS, the 2016 Plan identifies sufficient contingency measures for RFP and attainment consistent with sections 172(c)(9) and 182(c)(9) of the Act, as interpreted by previous U.S. EPA guidance;

WHEREAS, ARB staff reviewed the 2016 Plan and concluded that it meets the applicable requirements of the Act;

WHEREAS, ARB will work with the U.S. EPA and the District to resolve any issues with the contingency measures identified in the 2016 Plan in light of *Bahr* and any revised guidance, and to submit a plan revision to U.S. EPA as appropriate;

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 the Act, the 2016 Plan was made available for public review at least 30 days prior to the February 14, 2017, public hearing where the District Governing Board approved the 2016 Plan;

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 2016 Plan is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) (the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment) and under California Code of Regulations, title 14, section 15308 (actions taken by a regulatory agency for protection of the environment) and the 2016 Plan will not result in any potentially significant adverse effects on the environment; and

WHEREAS, ARB has determined that its subsequent approval of the District's 2016 Plan is "ministerial" 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.

NOW, THEREFORE, the Board finds that:

1. The 2016 Plan meets the requirements of the Act for a Serious ozone nonattainment area as interpreted by existing U.S. EPA guidance;

2. The 2016 Plan includes the required air quality and emissions data, modeled attainment demonstration, RACM demonstration, RFP demonstration, and transportation conformity budgets;

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

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

BE IT FURTHER RESOLVED that the Board hereby adopts the 2016 Ventura County Air Quality Management Plan as a revision to the California SIP.

BE IT FURTHER RESOLVED that the Board hereby directs the Executive Officer to submit the 2016 Plan as approved by the District 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, including to meet applicable requirements for contingency measures.

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 2016 Ventura County Air Quality Management 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 17-5 as adopted by the Air Resources Board.

Rana McReynolds

Rana McReynolds, Clerk of the Board