State of California
AIR RESOURCES BOARD

Resolution 07-20

June 14, 2007

Agenda Item No.: 07-6-2

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

WHEREAS, the ARB is responsible for the preparation of the State Implementation Plan (SIP) for attaining and maintaining the national ambient air quality standards (NAAQS) 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, 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 local air districts have primary responsibility for controlling air pollution from nonvehicular 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, the San Joaquin Valley Unified Air Pollution Control District (District) was established pursuant to sections 40150 and 40151 of the Health and Safety Code as the unified air pollution control district responsible for carrying out these responsibilities in the San Joaquin Valley Air Basin;

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

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

WHEREAS, in April 2004, U.S. EPA designated the San Joaquin Valley Air Basin as nonattainment of the 8-hour ozone standard;

WHEREAS, in April 2004, U.S. EPA finalized "Phase 1" of the 8-hour ozone implementation rule (Phase 1 Implementation Rule), which established the classification scheme for nonattainment areas and identified continuing obligations with respect to the existing 1-hour ozone requirements;

WHEREAS, as part of that action U.S. EPA classified the San Joaquin Valley Unified Air Pollution Control District as a "serious" nonattainment area with an initial attainment date of June 15, 2013, and subject to the requirements of Subpart 2 of Part D of Title I of the Act;

WHEREAS, in November 2005, U.S. EPA supplemented its Phase 1 Implementation Rule with a "Phase 2" rule that specifies the emission controls and planning elements that nonattainment areas must address in their SIPs;

WHEREAS, the Act requires that areas classified moderate or greater, demonstrate that Reasonable Further Progress (RFP) toward attainment of the 8-hour ozone NAAQS will occur;

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, 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 the adoption and submittal to the U.S. EPA of any SIP revision;

WHEREAS, the District staff developed the 2007 Ozone Plan for the San Joaquin Valley Air Basin (2007 Ozone Plan) to fulfill the planning requirements of both the federal Act and the California Clean Air Act;

WHEREAS, the 2007 Ozone Plan includes updated air quality and emissions data, a control strategy based on State, local, and federal measures, a modeled attainment demonstration, an RFP demonstration, transportation conformity emission budgets, and contingency measures;

WHEREAS, the air quality modeling for the San Joaquin Valley demonstrates the need for a 75 percent reduction in NOx emissions and a 25 percent reduction in ROG emissions from current levels, beyond the benefits of the existing emission control program, in order to attain the 8-hour ozone NAAQS by the June 15, 2013, attainment date for serious nonattainment areas;

WHEREAS, the 2007 Ozone Plan control strategy relies on adopted State regulations, as well as proposed commitments for new statewide measures;

WHEREAS, the District was unable to identify control measures with emission reductions sufficient for the San Joaquin Valley to attain the 8-hour ozone NAAQS by either June 15, 2013, or the severe-17 attainment date of June 15, 2021;

WHEREAS, in section 181(b)(3) of the Act allows an area to request reclassification to a higher nonattainment status with a later attainment date;

WHEREAS, as required by federal law, the District made the 2007 Ozone Plan available for public review at least 30 days prior to the hearing;

WHEREAS, following a public hearing on April 30, 2007, the Governing Board of the District voted to request a reclassification to extreme nonattainment and adopted the 2007 Ozone Plan to fulfill the requirements of the Act for extreme 8-hour ozone nonattainment areas;

WHEREAS, the 2007 Ozone Plan includes a dual path approach to attain the 8-hour ozone NAAQS in which "Path 1" sets out a federally approvable SIP to attain the ozone standard, and "Path 2" charts a course to early attainment through important, but not federally approvable, policy initiatives;

WHEREAS, Path 1 was developed to provide a federally approvable SIP and includes the commitments and timelines needed in such a plan, and recognizes the constraints placed on such a plan by State and federal law, policy, and guidance;

WHEREAS, Path 2 includes important, but not federally approvable, policy initiatives such as the use of increased, but as yet unsecured, incentive funding to expedite attainment;

WHEREAS, the 2007 Ozone Plan has been submitted to ARB as a SIP revision, along with proof of public notice publication and environmental documents in accordance with State and federal law;

WHEREAS, the California Department of Pesticide Regulation provided to ARB staff updated pesticide emission data which reflect changes to the emission estimating methodology, after the final draft of the 2007 Ozone Plan was made available, and which were not included in the 2007 Ozone Plan emissions inventory;

WHEREAS, the updated pesticide emission estimates result in the need for ARB staff to update the RFP demonstration in the 2007 Ozone Plan;

WHEREAS, the updated RFP demonstration continues to show that the San Joaquin Valley will meet the required progress milestones and will continue to have additional emission reductions needed to meet the contingency measure requirements for progress;

WHEREAS, ARB staff has updated the transportation conformity emission budgets included in the 2007 Ozone Plan, in order to correct a data entry error in the 2008 budget for San Joaquin County and to update Madera County's budgets in all years to accommodate updated vehicle activity data provided by the Madera County Metropolitan Planning Organization;

WHEREAS, updating the transportation conformity emission budgets does not result in a need to update the RFP or attainment demonstrations;

WHEREAS, Appendix E of the 2007 Ozone Plan specifically addresses the California Clean Air Act requirements for a Triennial Progress Report and Plan Revision, which the Board is not acting on at this time;

WHEREAS, the District is not submitting as a SIP revision Chapter 7, sections 6 and 7, of the 2007 Ozone Plan, which outline the potential incentive funding plan which would be used when additional incentive funding sources are secured under Path 2;

WHEREAS, the 2007 Ozone Plan, excluding Appendix E and Chapter 7, sections 6 and 7, comprises the 2007 SIP for ozone in the San Joaquin Valley (2007 Ozone SIP);

WHEREAS, the 2007 Ozone Plan relies on emission reductions to be achieved by the proposed State Strategy for California's 2007 SIP (State Strategy), which has not yet been approved by the ARB;

WHEREAS, it is appropriate to defer final action on the 2007 Ozone Plan until such time as the State Strategy has been approved by ARB;

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 the requirements of CEQA the District prepared an Initial Study/Negative Declaration for the 2007 Ozone Plan and adopted it on April 30, 2007;

WHEREAS, the Board finds that:

1. It is necessary to reduce NOx emissions by 75 percent and ROG emissions by 25 percent, from 2006 levels, in order to attain the federal ozone standard;

2. Combined emissions of ROG and NOx in the San Joaquin Valley are projected to decline until 2024 and continue declining thereafter due to adopted State, federal, and local controls;

3. The existing emission control program, combined with the new local measure commitments and the estimated benefits of the proposed State Strategy will achieve all of the necessary ROG emission reductions needed to attain the federal ozone standard by 2014;

4. The existing emission control program, combined with the new local measure commitments and the estimated benefits of the proposed State Strategy, will achieve 84 percent of the NOx emission reductions needed to attain the federal ozone standard by 2023;

5. Advancements in emission control technologies for stationary, area-wide and mobile sources are necessary in order to achieve the last increment of NOx emission reductions necessary to attain the federal ozone standard;

6. State and local commitments to achieve additional emission reductions through the reliance on advancements in emission control technologies are only allowed for areas classified as extreme nonattainment;

7. The State, federal, and local control strategy identified in the 2007 Ozone Plan provides the necessary emission reductions to demonstrate attainment of the 8-hour ozone standard by 2024;

8. Already adopted State mobile source control regulations will provide the required contingency measures in the event that the San Joaquin Valley does not attain the standard by 2024; these measures will achieve additional emission reductions beyond those relied on in the attainment demonstration;

9. The 2007 Ozone Plan meets all applicable planning requirements established by the Act and U.S. EPA regulations;

10. More than 80 percent of the current NOx emissions in the San Joaquin Valley are from mobile sources not under the direct regulatory control of the District; and

11. It is appropriate for the District to pursue a dual path strategy in order to meet State and federal air quality planning requirements, while at the same time pursuing local policy initiatives to encourage early clean-up of older, higher emitting vehicles and equipment.

WHEREAS, the Board further finds that:

1. ARB has reviewed and considered the 2007 Ozone Plan, along with the Initial Study/Negative Declaration prepared for the Plan, and finds that the 2007 Ozone Plan is consistent with the requirements of the Act; and

2. ARB finds that the Initial Study/Negative Declaration prepared for the 2007 Ozone Plan meets the requirements of CEQA.

NOW, THEREFORE, BE IT RESOLVED that the Board is initiating steps toward final adoption of the Plan, and directs the Executive Officer to: (1) take final action to adopt the Plan, including the updated emissions inventory, RFP demonstration, and transportation conformity emission budgets, as a SIP revision after the State Strategy has been adopted, or (2) return the Plan to the Board for further consideration if the Executive Officer determines that this is warranted in light of any changes to the proposed State Strategy that would affect the emission reductions from State measures that are relied on in the Plan.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to submit to U.S. EPA, as a separate SIP submittal, the District's request for reclassification to extreme nonattainment.

BE IT FURTHER RESOLVED, that once final action has been taken to adopt the Plan as a SIP revision, the Board directs the Executive Officer to forward the Plan to the 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 directs the Executive Officer to work with 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 directs the Executive Officer, as part of the submittal to U.S. EPA, to request expedited adequacy findings for the transportation conformity emission budgets.

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 San Joaquin Valley 2007 Ozone Plan was adopted after notice and public hearing as required by 40 CFR section 51.102.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to work with the District and stakeholders during the next six months to fully investigate additional measures, including operational measures, that can feasibly be implemented to achieve emission reductions more quickly in the San Joaquin Valley.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to carefully review the final report being prepared by the International Sustainable Systems Research Center, entitled "Clearing the Air," and to evaluate the feasibility of the recommendations contained in the report.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to form a task force of Board members and Valley stakeholders, and to conduct outreach and townhall meetings with community members and stakeholders, in order to foster better communication and identify additional actions to accelerate air quality improvement in the San Joaquin Valley.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to report back to the Board within six months with the results of staff's investigation, an analysis of feasible suggestions received from community members and stakeholders, and staff's recommendations on appropriate revisions to strengthen the SIP.

BE IT FURTHER RESOLVED, that after reporting to the Board within six months, the Board directs the Executive Officer to report annually thereafter regarding progress by the District and ARB in meeting their SIP commitments, and whether additional measures or SIP revisions could be adopted.

I hereby certify that the above is a true and correct copy of Resolution 07-20, as adopted by the Air Resources Board.

Lori Andreoni, Clerk of the Board