

State of California
AIR RESOURCES BOARD

2018 UPDATES TO THE CALIFORNIA STATE IMPLEMENTATION PLAN

Resolution 18-50

October 25, 2018

Agenda Item No.: 18-8-11

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

WHEREAS, CARB 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 CARB 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, CARB 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, CARB is authorized by section 39600 to perform 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 CARB 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 Imperial County, Ventura County, Eastern Kern County, Western Nevada County, San Diego County, Sacramento Metropolitan, Coachella Valley, West Mojave Desert, San Joaquin Valley, and the South Coast Air Basin as nonattainment for the 75 ppb 8-hour ozone standard;

WHEREAS, the Act requires that nonattainment area ozone SIPs 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, in March 2015, U.S. EPA finalized the *Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements* rule (Ozone Rule) which outlined the SIP requirements for the 75 ppb 8-hour ozone standard;

WHEREAS, the Ozone Rule specified an RFP baseline year of 2011 but allowed states to select an alternative RFP baseline year between 2008 and 2012;

WHEREAS, CARB utilized an alternative RFP baseline year for all of the California SIPs for the 75 ppb 8-hour ozone standard consistent with the Ozone Rule;

WHEREAS, CARB staff worked with the local district staffs to prepare the SIPs for the 75 ppb 8-hour ozone standard following the Ozone Rule and all applicable U.S. EPA guidance at that time;

WHEREAS, in February 2018, the decision in *South Coast Air Quality Management District v. U.S. Environmental Protection Agency* (D.C. Cir. 2018) 882 F.3d 1138, determined that the appropriate baseline year for RFP for the 75 ppb 8-hour ozone standard is 2011 and that U.S. EPA did not properly support their reasoning for allowing areas to use alternative RFP baseline years between 2008 and 2012;

WHEREAS, a 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 which had allowed the use of reductions from implementing CARB's mobile source program;

WHEREAS, CARB developed the *2018 Updates to the California State Implementation Plan* (2018 SIP Update) to address these court decisions related to RFP baseline year and contingency for the nonattainment areas across the State;

WHEREAS, CARB staff developed a new version of its on-road mobile source Emission FACTor model, EMFAC2017, which includes updated activity levels and emissions rates for on-road heavy-duty vehicles and other mobile sources;

WHEREAS, EMFAC2017 estimated future year, on-road, mobile source emissions in many areas of the State are higher than in the previous version of the model, EMFAC2014, used in the recently-submitted SIPs;

WHEREAS, the federal conformity regulation allows a SIP to create a safety margin in a transportation conformity emissions budget and the 2018 SIP Update includes safety margins to accommodate the increased emissions seen in EMFAC2017 in some areas;

WHEREAS, section 172, subdivision (c)(9), of the Act requires that nonattainment plans provide for the implementation of specific measures to be undertaken if the area fails to meet an RFP milestone, or to attain the standard by the applicable attainment date;

WHEREAS, section 182, subdivision (c)(9), of the Act requires that nonattainment plans provide for the implementation of specific measures to be undertaken if the area fails to meet any applicable milestone;

WHEREAS, U.S. EPA's Region 9 historically approved nonattainment SIPs that featured contingency measures that relied upon reductions from the continued implementation of programs already adopted as part of the measures meeting the core RACM requirement if those measures also provided excess emission reductions beyond what was required for attainment or reasonable further progress;

WHEREAS, U.S. EPA has stated that "the purpose of contingency measures is to provide extra reductions that will provide a cushion while the plan is being revised to fully address the failure to [attain or make reasonable further progress]." (79 Fed.Reg. 61799, 61815 (Oct. 15, 2014).)

WHEREAS, since the Act and the Code of Federal Regulations (CFR) are silent on the specific level of emissions reductions, U.S. EPA has generally accepted contingency measures that "equal approximately 1 year's worth of emissions reductions necessary to achieve [reasonable further progress] for the area." (72 Fed.Reg. 20586, 20643 (Apr. 25, 2007));

WHEREAS, U.S. EPA has accepted contingency measures that equal less than a year's worth of RFP when the circumstances fit under EPA's long-standing recommendation that states should consider "the potential nature and extent of any attainment shortfall for the area" and that contingency measures "should represent a portion of the actual emissions reductions necessary to bring about attainment in the area." (78 Fed.Reg. 37741, 37750 (Jun. 24, 2013));

WHEREAS, U.S. EPA has stated that it is reasonable that contingency measures should, at a minimum, ensure that an appropriate level of emissions reduction progress

continues to be made if attainment or [reasonable further progress] is not achieved, or if an area fails to attain the standard by its statutory attainment date and additional planning is needed by the State. (72 Fed. Reg. at 20,643);

WHEREAS, a decision by the U.S. Court of Appeals for the Ninth Circuit in October 2016, *Bahr v. U.S. Environmental Protection Agency* (9th Cir. 2016) 836 F.3d 1218, addressed Region 9's interpretation of contingency measure requirements under the Act and determined that total reliance on excess emission reductions from already implemented measures for contingency purposes was inadequate under the Act, the court also found that contingency measures need to include some action that is not yet occurring but that will be implemented in the future if triggered by a failure to attain;

WHEREAS, the 2018 SIP Update includes a Statewide contingency measure specifying the new actions California will take if they are triggered by U.S. EPA issuing a finding that one of the covered areas has failed to meet an RFP milestone or failed to meet the standard by the applicable attainment date, and an emissions analysis that shows the emissions reductions from the state's contingency measure for each area;

WHEREAS, for Imperial County, the 2018 SIP Update includes a 2011 RFP baseline year and a 2017 RFP milestone year demonstrating RFP;

WHEREAS, for Ventura County, the 2018 SIP Update includes a 2011 RFP baseline year, 2017 and 2020 RFP milestone years, RFP contingency, and attainment contingency;

WHEREAS, for Eastern Kern County, the 2018 SIP Update includes a 2011 RFP baseline year, 2017 and 2020 RFP milestone years, RFP contingency, and attainment contingency;

WHEREAS, for Sacramento Metro, the 2018 SIP Update includes a 2011 RFP baseline year, 2017, 2020, 2023, and 2024 RFP milestone years, updated transportation conformity budgets with safety margins for RFP and attainment, RFP contingency, and attainment contingency;

WHEREAS, for West Mojave Desert, the 2018 SIP Update includes a 2011 RFP baseline year, 2017, 2020, 2023, and 2026 RFP milestone years, updated transportation conformity budgets with safety margins for RFP and attainment, RFP contingency, and attainment contingency;

WHEREAS, for Coachella Valley, the 2018 SIP Update includes a 2011 RFP baseline year, 2017, 2020, 2023, and 2026 RFP milestone years, updated transportation conformity budgets for RFP and attainment, RFP contingency, and attainment contingency;

WHEREAS, for the San Joaquin Valley, the 2018 SIP Update includes a 2011 RFP baseline year, 2017, 2020, 2023, 2026, 2029, and 2031 RFP milestone years, updated

transportation conformity budgets with safety margins for RFP and attainment, RFP contingency, and attainment contingency;

WHEREAS, for the South Coast Air Basin, the 2018 SIP Update includes a 2011 RFP baseline year, 2017, 2020, 2023, 2026, 2029, and 2031 RFP milestone years, updated transportation conformity budgets for RFP and attainment, and RFP contingency;

WHEREAS, since the 2017 RFP milestone has passed and been met, RFP contingency is no longer needed for the 2017 RFP milestone year;

WHEREAS, for Western Nevada County and San Diego County, the 2018 SIP Update includes RFP and attainment contingency;

WHEREAS, consistent with section 172(c)(3) of the Act, the 2018 SIP Update includes a comprehensive, accurate, current inventory of emissions data of NO_x and ROG;

WHEREAS, consistent with sections 172(c)(2) and 182(c)(2) of the Act, the 2018 SIP Update identifies emission levels that demonstrate RFP through the attainment year;

WHEREAS, consistent with section 176 of the Act, the 2018 SIP Update establishes transportation conformity emission budgets, developed in consultation between the local district and the regional transportation agency, that conform to the attainment emission levels;

WHEREAS, the 2018 SIP Update identifies sufficient State contingency measures for RFP and attainment consistent with sections 172(c)(9) and 182(c)(9) of the Act, as interpreted by *Bahr v. U.S. Environmental Protection Agency*;

WHEREAS, U.S. EPA guidance requires that all SIP measures meet specific requirements to be credited toward the SIP, including a demonstration that the emission reductions are surplus, quantifiable, permanent, and enforceable;

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 2018 SIP Update was made available for public review at least 30 days prior to the October 25 and 26, 2018 public hearing;

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, CARB staff has determined that the proposed 2018 SIP Update is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) ("common sense" exemption) because the record evidence shows with certainty that there is no possibility that the proposed activity may result in a significant adverse impact on the environment, as described in Chapter XI of the 2018 SIP Update; and

WHEREAS, CARB staff has proposed a typographical correction to the 2018 SIP Update, this correction as set forth in Attachment C to this Resolution.

NOW THEREFORE, BASED ON THE FOREGOING, BE IT RESOLVED that this Statewide contingency measure consists of two complementary elements for the 75 ppb 8-hour ozone, 35 $\mu\text{g}/\text{m}^3$ 24-hour PM_{2.5}, and 12 $\mu\text{g}/\text{m}^3$ annual PM_{2.5} standards, as relevant for the covered districts, that together with any district contingency measures address the contingency measure requirements of the Act as interpreted in *Bahr*:

- 1) Inclusion of a trigger mechanism directing the Executive Officer to allocate resources and enhance enforcement actions in the applicable nonattainment areas to provide additional oxides of nitrogen (NO_x) reductions in the event that U.S. EPA determines the area failed to meet an RFP milestone or failed to attain the 75 ppb 8-hour ozone, 35 $\mu\text{g}/\text{m}^3$ 24-hour PM_{2.5}, and/or 12 $\mu\text{g}/\text{m}^3$ annual PM_{2.5} standards, as relevant, by the applicable attainment date; and
- 2) Demonstration of how additional reactive organic gases (ROG) and NO_x emission reductions that are expected to occur due to ongoing State mobile source control programs, together with the emissions reductions from the enhanced enforcement actions contingency measures and district contingency measures or commitments, provide for approximately one year's worth of progress in the years following RFP milestone and attainment years;

BE IT FURTHER RESOLVED that:

1. Within 60 days of a U.S. EPA finding that an area in Table X-1 or X-2 of Attachment A has failed to meet an RFP milestone or has failed to attain the 75 ppb 8-hour ozone, 35 $\mu\text{g}/\text{m}^3$ 24-hour PM_{2.5}, and/or 12 $\mu\text{g}/\text{m}^3$ annual PM_{2.5} standards, as relevant, by the applicable attainment date, the CARB Executive Officer will direct enhanced enforcement actions in the given nonattainment area minimally consisting of:
 - a) A published report describing the enforcement history, inspection locations, and compliance status of stationary and mobile sources in the area (Enhanced Enforcement Report). The report will include a determination of the probable causes of the failure and will state the type and quantity of additional enforcement resources that will be utilized within the failing area along with an explanation of why the type and quantity of enforcement resources allocated (Enhanced Enforcement Program) are appropriate to reduce emissions and health impacts in the failing area.
 - b) Implementation of the Enhanced Enforcement Program documented in the Enhanced Enforcement Report.

- c) The actions described in the Enhanced Enforcement Program will continue:
 - i. In the case of a failure to attain, until CARB submits a new SIP to U.S. EPA demonstrating attainment of the relevant NAAQS.
 - ii. In the case of a failure to make RFP, for one year from the date the actions in the Enhanced Enforcement Program are initiated.
2. A published final report documenting the actions and emissions and exposure reductions resulting from the implemented Enhanced Enforcement Program.

BE IT FURTHER RESOLVED, the Board finds that:

1. The 2018 SIP Update is necessary to resolve approvability issues related to recent court decisions;
2. The 2018 SIP Update meets the requirements of the Act and U.S. EPA guidance related to RFP baseline year, RFP demonstration, contingency measures for RFP and attainment, and transportation conformity budgets;
3. The proposed 2018 SIP Update is exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3) because substantial evidence in the record shows with certainty that there is no possibility that the proposal may result in a significant adverse impact on the environment;
4. A given Enhanced Enforcement Report (as described above) may not conclude that no enhanced enforcement action is appropriate; U.S. EPA's finding that a covered area has failed to meet an RFP milestone or failed to attain must result in some enhanced enforcement action for the relevant district and those actions must begin within 60 days of the finding;
5. A given Enhanced Enforcement Program must include some of the enhanced enforcement actions listed in the "Menu of Enhanced Enforcement Actions" (Attachment B), additional actions beyond those listed may also be included, the specific actions chosen for an Enhanced Enforcement Program must be appropriate to address the specific failure, as detailed in the relevant Enhanced Enforcement Report;
6. The enhanced enforcement actions undertaken pursuant to a given Enhanced Enforcement Plan meet the requirements of the Act as interpreted by *Bahr* in that they comprise specific measures that take effect in the future if an area fails to meet the required condition, without further rulemaking action by the State or U.S. EPA Administrator; and
7. The reductions that would result from the enhanced enforcement actions undertaken pursuant to a given Enhanced Enforcement Plan are quantifiable, surplus, enforceable and permanent within the meaning of U.S. EPA guidance.

BE IT FURTHER RESOLVED that the Board hereby adopts the 2018 SIP update, as modified by the typographical correction set forth in Attachment C to this Resolution, as a revision to the California SIP.

BE IT FURTHER RESOLVED that the Board hereby directs the Executive Officer to submit the 2018 SIP update, as modified by the typographical correction set forth in Attachment C to this Resolution, 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 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 2018 SIP Update 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 18-50 as adopted by the Air Resources Board.



Cristina Granados, Clerk of the Board

Resolution 18-50

October 25, 2018

Identification of Attachments to Board Resolution 18-50

Attachment A:
"Covered Districts"

Attachment B:
"Menu of Enhanced Enforcement Actions"

Attachment C:
"Correction of Typographical Error"

ATTACHMENT A
“Covered Districts”

Table X-1. California Nonattainment Areas Covered by this Contingency Measure SIP Revision with Submitted Plans

Nonattainment Area	Classification	RFP Milestone and Attainment Years	Applicable Attainment Date ¹
Eastern Kern County	Serious	2017, 2020	July 20, 2021
Ventura County	Serious	2017, 2020	July 20, 2021
Coachella Valley	Severe-15	2017, 2020, 2023, 2026	July 20, 2027
Sacramento Metro	Severe-15	2017, 2020, 2023, 2024	July 20, 2025
Western Mojave Desert	Severe-15	2017, 2020, 2023, 2026	July 20, 2027
San Joaquin Valley (Ozone)	Extreme	2017, 2020, 2023, 2026, 2029, 2031	July 20, 2032
South Coast Air Basin	Extreme	2017, 2020, 2023, 2026, 2029, 2031	July 20, 2032

Table X-2. California Nonattainment Areas Covered by this Contingency Measure SIP Revision Submitting Separate SIPs

Nonattainment Area	Classification	RFP Milestone and Attainment Years	Applicable Attainment Date ²
Western Nevada County	Serious (Expected)	2017, 2020	July 20, 2021
San Diego County	Serious (Expected)	2017, 2020	July 20, 2021
San Joaquin Valley (35 µg/m³ 24-hour PM_{2.5})	Serious	2017, 2020, 2023	December 31, 2024
San Joaquin Valley (12 µg/m³ annual PM_{2.5})	Serious (Expected)	2019, 2022, 2025	December 31, 2025

¹ Under 40 CFR 51.1100(h), the attainment year ozone season refers to the ozone season immediately preceding a nonattainment area’s maximum attainment date. Because the maximum applicable attainment dates for the 75 ppb 8-hour ozone standard are in the middle of the year, the attainment demonstration must show attainment by no later than the year prior to the maximum applicable attainment date. For example, for an extreme area, the attainment demonstration must show attainment by no later than 2031, which makes 2032 the year immediately following the attainment year the year for which for attainment contingency measures are required under CAA section 172(c)(9).

² Under 40 CFR 51.1100(h), the attainment year ozone season refers to the ozone season immediately preceding a nonattainment area’s maximum attainment date. Because the maximum applicable attainment dates for the 75 ppb 8-hour ozone standard are in the middle of the year, the attainment demonstration must show attainment by no later than the year prior to the maximum applicable attainment date. For example, for an extreme area, the attainment demonstration must show attainment by no later than 2031, which makes 2032 the year immediately following the attainment year the year for which for attainment contingency measures are required under CAA section 172(c)(9).

Attachment B:
“Menu of Enhanced Enforcement Actions”

Source Category	Actions
Commercial truck and bus fleets	<ul style="list-style-type: none"> • Using existing and future data sources and equipment, including CARB’s PEAQS system and technologies developed to support U.S. EPA’s Next Generation Compliance strategy, identify fleet owners/operators of high-emitting vehicles and equipment operating within the region that contribute to the failure(s) • Conduct additional inspections of vehicles and equipment operating with the region • Conduct additional audits of fleets operating in the region • Conduct additional inspections and investigations to ensure vehicles do not include undisclosed auxiliary emissions control devices or other uncertified/illegal aftermarket emissions equipment • Issue citations and notices of violations as warranted
Off-road construction and mining equipment; Cargo-handling equipment	<ul style="list-style-type: none"> • Using existing and future data sources and equipment, including remote sensing technologies developed to support U.S. EPA’s Next Generation Compliance strategy, identify fleet owners/operators of high-emitting vehicles and equipment operating within the region that contribute to the failure(s) • Conduct additional inspections of equipment operating with the region • Conduct additional audits of fleets operating in the region • Issue citations and notices of violations as warranted
Passenger vehicles; Aftermarket parts	<ul style="list-style-type: none"> • Use new and existing data sources and advanced technologies to identify high-emitting vehicles operated within the region for investigation • Conduct additional investigations of high-emitting vehicles to determine if new vehicles are being sold for use in California using undisclosed auxiliary emissions control devices or other uncertified/illegal emissions parts • Conduct additional investigations of manufacturers, retailers and installers of aftermarket “defeat devices” • Issue citations and notices of violations as warranted
Vehicle and equipment fuels;	<ul style="list-style-type: none"> • Conduct additional investigations to ensure vehicle and equipment fuels meet applicable standards • Issue citations and notices of violations as warranted
Small off-road engines	<ul style="list-style-type: none"> • Conduct additional investigations of products sold for use within the region

Source Category	Actions
	<ul style="list-style-type: none"><li data-bbox="591 241 1268 275">• Issue citations and notices of violations as warranted
Off-road recreational vehicles, recreational boats and personal watercraft	<ul style="list-style-type: none"><li data-bbox="591 319 1403 384">• Conduct additional investigations of consumer products sold for use within the region<li data-bbox="591 390 1268 424">• Issue citations and notices of violations as warranted
Marine vessels; Marine fuels	<ul style="list-style-type: none"><li data-bbox="591 466 1344 569">• Conduct additional inspections of marine vessels to ensure vessels are adhering to applicable fuel, auxiliary engine and shorepower requirements<li data-bbox="591 575 1373 640">• Conduct additional investigations to ensure marine fuels used meet applicable standards<li data-bbox="591 646 1268 680">• Issue citations and notices of violations as warranted
Consumer products	<ul style="list-style-type: none"><li data-bbox="591 718 1403 783">• Conduct additional investigations of consumer products sold for use within the region<li data-bbox="591 789 1268 823">• Issue citations and notices of violations as warranted

**Attachment C:
“Correction of Typographical Error”**

Page 70 Table X-2 of the 2018 SIP Update is changed as follows. Text with ~~Strikethrough~~ is deleted text, and underlined text is new text.

**Table X-2. California Nonattainment Areas Covered by this SIP Revision
Submitting Separate SIPs**

Nonattainment Area	Classification	RFP Milestone and Attainment Years	Applicable Attainment Date ^[1]
Western Nevada County	Serious (Expected)	2017, 2020	July 20, 2021
San Diego County	Serious (Expected)	2017, 2020	July 20, 2021
San Joaquin Valley (35 µg/m ³ 24-hour PM _{2.5})	Serious	2017, 2020, 2023	December 31, 2025 <u>2024</u>
San Joaquin Valley (12 µg/m ³ annual PM _{2.5})	Serious (Expected)	2019, 2022, 2025	December 31, 2025

^[1] Under 40 CFR 51.1100(h), the attainment year ozone season refers to the ozone season immediately preceding a nonattainment area’s maximum attainment date. Because the maximum applicable attainment dates for the 75 ppb 8-hour ozone standard are in the middle of the year, the attainment demonstration must show attainment by no later than the year prior to the maximum applicable attainment date. For example, for an extreme area, the attainment demonstration must show attainment by no later than 2031, which makes 2032 the year immediately following the attainment year the year for which for attainment contingency measures are required under CAA section 172(c)(9).