

RESOLUTION NO. 24-7

A Resolution of the Governing Board of the South Coast Air Quality Management District (South Coast AQMD) determining that the Coachella Valley Contingency Measure State Implementation Plan (SIP) Revision for the 2008 8-Hour Ozone Standard is exempt from the requirements of the California Environmental Quality Act (CEQA).

A Resolution of the South Coast AQMD Governing Board adopting the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard and directing staff to forward South Coast AQMD's Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard to the California Air Resources Board (CARB) for approval and subsequent submission to the United States Environmental Protection Agency (U.S. EPA) for inclusion in the SIP.

WHEREAS, the South Coast AQMD Governing Board finds and determines that the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard is considered a "project" pursuant to CEQA; and

WHEREAS, the South Coast AQMD Governing Board finds and determines after conducting a review of the proposed project in accordance with CEQA Guidelines Section 15002(k) – General Concepts, the three-step process for deciding which document to prepare for a project subject to CEQA, and CEQA Guidelines Section 15061 – Review for Exemption, procedures for determining if a project is exempt from CEQA, that the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard (proposed project) is exempt from CEQA; and

WHEREAS, the South Coast AQMD staff has prepared a Notice of Exemption for the proposed project, that is completed in compliance with CEQA Guidelines Section 15062 – Notice of Exemption; and

WHEREAS, the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard and supporting documentation, including but not limited to, the Notice of Exemption and Draft Final Staff Report were presented to the South Coast AQMD Governing Board and the South Coast AQMD Governing Board has reviewed and considered this information, and has taken and considered staff testimony and public comment prior to approving the project; and

WHEREAS, the Coachella Valley, defined as the Riverside County portion in the Salton Sea Air Basin under the jurisdiction of South Coast AQMD, was initially classified as “severe” nonattainment for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS), with an attainment date of July 20, 2027, and was re-classified to “extreme” with an attainment date of July 20, 2032; and

WHEREAS, the federal Clean Air Act (CAA) specifies that SIPs must provide contingency measures, defined in CAA Section 172(c)(9) as “specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date”; and

WHEREAS, a comprehensive SIP addressing the “severe” nonattainment area requirements for the 2008 8-hour ozone NAAQS in the Coachella Valley was submitted as part of the 2016 Air Quality Management Plan (AQMP) to U.S. EPA via CARB on April 27, 2017. As was allowed by preceding examples of approved SIPs at the time, the 2016 AQMP included reasonable further progress (RFP) contingency measure elements in the Coachella Valley which relied on surplus emission reductions from already implemented control measures in the milestone and attainment years; and

WHEREAS, the 2016 AQMP was supplemented with CARB’s attainment contingency measure for the Coachella Valley, which was submitted to U.S. EPA on May 5, 2017. However, court decisions held that contingency measures must be additional measures for achieving emission reductions, not just surplus emission reductions from ongoing programs, and must contain triggering mechanisms that can be implemented without requiring significant action by the State or U.S. EPA once an area has failed to attain or missed a major milestone for RFP. As a result, the contingency measure elements as submitted were no longer approvable; and

WHEREAS, in 2020, U.S. EPA approved the Coachella Valley portion of the 2016 AQMP as meeting all applicable statutory and regulatory requirements for the 2008 8-hour ozone NAAQS except for the attainment contingency measure element, and conditionally approved the RFP contingency measure elements based on commitments by CARB and the South Coast AQMD to supplement the elements within one year of conditional approval, by October 16, 2021. The due date was later revised to September 30, 2022 based on consent decree; and

WHEREAS, on August 8, 2022, South Coast AQMD submitted a request to U.S. EPA via CARB to withdraw the contingency measure elements for the 2008 8-hour ozone NAAQS for the Coachella Valley to avoid potential disapproval of the submitted contingency measure elements which lacked triggering mechanisms to achieve additional reductions; and

WHEREAS, effective October 31, 2022, U.S. EPA finalized a finding of failure to submit contingency measure elements for the 2008 8-hour ozone NAAQS for the Coachella Valley. The finding established 18- and 24-month deadlines for the South Coast AQMD to submit contingency measures or face stationary source permitting sanctions and highway sanctions, respectively, as defined in federal CAA Section 179(b). A determination of completeness by the U.S. EPA will prevent the imposition of sanctions; and

WHEREAS, if U.S. EPA has not approved a contingency measure SIP revision within 24-months, U.S. EPA must promulgate a federal contingency measure plan in the Coachella Valley; and

WHEREAS, on March 17, 2023, the U.S. EPA released Draft Guidance on the Preparation of State Implementation Plan Provisions that Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter (Draft Guidance) which identifies solutions and flexibility related to key issues that regions face in developing approvable contingency measures, including the scarcity of available measures, implementation timelines following a contingency trigger, and the amount of reductions needed, among other issues; and

WHEREAS, the Draft Guidance requires that contingency measures must be ready to implement without further significant action by the State or U.S. EPA, become effective within 60 days and achieve emission reductions within two years from the triggering event, and achieve emission reductions equivalent of one year's worth of progress. If less than one year's worth of emission reductions are achieved from the contingency measure, justification is required that no other measures are feasible based on technological or economic considerations; and

WHEREAS, the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard was developed consistent with the Draft Guidance and contains a commitment to consider amending Rule 463 to include a contingency measure which, if triggered, will increase the frequency of inspection of organic liquid storage tanks located in the South Coast Air Basin and the Coachella Valley by utilizing Optical Gas Imaging (OGI) to detect and repair leaks. The Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard also includes the California Smog Check Contingency Measure adopted by CARB on October 26, 2023; and

WHEREAS, South Coast AQMD has determined that the proposed contingency measure for amending Rule 463 and the California Smog Check Contingency Measure achieve less than one year's worth of emission reductions. In accordance with the Draft Guidance, the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard includes a robust demonstration of the lack of other feasible contingency measures to reduce emissions in the Coachella Valley; and

WHEREAS, the Draft Staff Report for the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard was released for public comment and review on January 17, 2024 with a comment period ending on February 16, 2024; and

WHEREAS, two public consultation meetings were held on January 31, 2024 and February 1, 2024 to solicit comments and suggestions from the public, affected businesses, and stakeholders. The meetings were conducted in both English and Spanish; and

WHEREAS, the South Coast AQMD Governing Board has determined that no Socioeconomic Impact Assessment is required under Health and Safety Code Section 40440.8 or 40728.5, because these sections apply only to rules and regulations, and further that no socioeconomic impact will result from the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard; and

WHEREAS, the public hearing has been properly noticed in accordance with all provisions regarding notice of revisions to the SIP in the Code of Federal Regulations Title 40, Part 51, Section 51.102; and

WHEREAS, the South Coast AQMD Governing Board has held a public hearing in accordance with all provisions of law; and

WHEREAS, the South Coast AQMD specifies the Planning and Rules Manager of the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard as the custodian of the documents or other materials which constitute the record of proceedings upon which the adoption of the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard is based, which are located at the South Coast AQMD, 21865 Copley Drive, Diamond Bar, California; and

NOW, THEREFORE BE IT RESOLVED, that the South Coast AQMD Governing Board does hereby determine, pursuant to the authority granted by law, that the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) – Common Sense Exemption. This information was presented to the South Coast AQMD Governing Board, whose members exercised their independent judgment and reviewed, considered, and approved the information therein prior to acting on the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard; and

BE IT FURTHER RESOLVED, that the South Coast AQMD Governing Board does hereby adopt, pursuant to the authority granted by law, the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard, as set forth in the attached, and incorporated herein by this reference; and

BE IT FURTHER RESOLVED, that staff is hereby directed to forward a copy of this Resolution and the Coachella Valley Contingency Measure SIP Revision for the 2008 8-Hour Ozone Standard to CARB for approval and subsequent submittal to the U.S. EPA for inclusion in the SIP.

AYES: Cacciotti, Lock Dawson, Delgado, Hagman,
Kracov, McCallon, Mitchell, Padilla-Campos,
Rodriguez, and Solache

NOES: None

ABSENT: Do, Perez, and Raman

March 1, 2024
Date

Faye Thomas
Faye Thomas, Clerk of the Boards