

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2008-0677; FRL-8734-2]

#### Approval and Promulgation of Implementation Plans; State of California; 2003 State Strategy and 2003 South Coast Plan for One-Hour Ozone and Nitrogen Dioxide

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve one state implementation plan (SIP) revision, and to approve in part and to disapprove in part a second SIP revision, submitted by the California Air Resources Board to provide for attainment of the one-hour ozone standard and maintenance of the nitrogen dioxide standard in the Los Angeles-South Coast Air Basin. The two SIP revisions include the 2003 State Strategy and the 2003 South Coast SIP, both of which were submitted on January 9, 2004.

With respect to the 2003 State Strategy, EPA is proposing to approve the commitment by the State to develop and propose near-term defined measures sufficient to achieve specific emissions reductions in the South Coast and to continue implementation of an existing measure. With respect to the 2003 South Coast SIP, EPA is proposing to approve certain elements, and to disapprove other elements. The plan elements that are proposed for disapproval are not required under the Clean Air Act because they represent revisions to previously-approved SIP elements, and thus, the disapprovals will not affect the requirements for the State to have an approved SIP for these SIP elements. Therefore, the disapprovals, if finalized, would not trigger sanctions clocks nor EPA's obligation to promulgate a Federal implementation plan.

EPA is proposing these actions under provisions of the Clean Air Act regarding EPA action on SIP submittals and plan requirements for nonattainment areas.

**DATE:** Any comments must arrive by November 24, 2008.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2008-0677, by one of the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the online instructions.

- *E-mail:* [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).

- *Mail or deliver:* Marty Robin, Office of Air Planning (AIR-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

**Instructions:** All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

**FOR FURTHER INFORMATION CONTACT:** Wienke Tax, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (520) 622-1622, [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov)

#### SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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#### I. Summary of Today's Proposed Action

In today's action, under the Clean Air Act (CAA or "Act"), we are proposing to approve one state implementation plan (SIP) revision, and to approve in part and to disapprove in part, a second SIP revision, submitted by the California Air Resources Board (ARB) to provide for attainment of the one-hour ozone national ambient air quality standard (NAAQS) and for maintenance of the nitrogen dioxide NAAQS in the Los Angeles-South Coast Air Basin Area (South Coast).<sup>1</sup> The two SIP revisions include the Final 2003 State and Federal Strategy ("2003 State Strategy") and the 2003 revisions to the SIP for ozone and nitrogen dioxide in the South Coast Air Basin ("2003 South Coast SIP"), both of which were submitted by ARB on January 9, 2004. These SIP revisions were developed in recognition of a need for additional emissions reductions to attain the one-hour ozone NAAQS than had been planned for in the late 1990s, and to establish new motor vehicle emissions budgets (MVEBs) for transportation conformity.

With respect to the 2003 State Strategy, we are proposing to approve the commitments by ARB to develop and propose for adoption 15 near-term defined control measures, and the commitment by the California Bureau of Automotive Repair to develop and propose one near-term defined control measure sufficient to achieve specified emissions reductions in the South

<sup>1</sup> The area referred to as "Los Angeles-South Coast Air Basin" (South Coast Air Basin or "South Coast") includes Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County. For a precise description of the boundaries of the Los Angeles-South Coast Air Basin, see 40 CFR 81.305.

Coast. We are also proposing to approve the continuation of the existing SIP pesticide strategy assigned to the California Department of Pesticide Regulation.

With respect to the 2003 South Coast SIP, we are proposing to approve the base year and projected baseline emissions inventories, the South Coast Air Quality Management District's (District's or SCAQMD's) commitment to adopt and implement near-term stationary and mobile source control measures (with the exception of "FSS-05—Mitigation Fee Program for Federal Sources") and commitment to achieve aggregate emission reductions through a schedule of rule adoption and implementation, the District's contingency measure ("CTY-01—Accelerated Implementation of Control Measures"), the District's "black box" emission reduction commitment,<sup>2</sup> the vehicle emissions offset demonstration, and the nitrogen dioxide maintenance demonstration and related motor vehicle emissions budgets (MVEBs).

Also, in connection with the 2003 South Coast SIP, we are proposing to disapprove the District commitment to adopt one particular control measure ("FSS-05—Mitigation Fee Program for Federal Sources"); the "black box" emissions reduction assignment to EPA; the revised rate-of-progress and attainment demonstrations; and the ozone MVEBs.

The primary rationale for proposing approval of certain control measures and the specific SIP elements described above is that they would strengthen the SIP by adding to, or updating, SIP elements previously approved by EPA. The reasons for proposing disapproval of the other specified elements of the 2003 South Coast SIP include incorrect rate-of-progress calculation methods and the withdrawal by ARB of the state emissions reductions commitments in the 2003 State Strategy that were relied upon in the 2003 South Coast SIP. No sanctions clocks or Federal implementation plan (FIP) requirement would be triggered by our disapprovals, if finalized, because the plan revisions that are the subject of the proposed disapprovals represent revisions to previously-approved SIP elements that EPA determined met the CAA requirements, and thus, the revisions are not required under the Clean Air Act.

<sup>2</sup> "Black box" commitment refers to the provisions under CAA section 182(e)(5) that anticipate development of new control techniques or improvement of existing control technologies.

## II. Background

### A. Introduction

Ground-level ozone is formed when oxides of nitrogen (NO<sub>x</sub>), volatile organic compounds (VOC), and oxygen react in the presence of sunlight, generally at elevated temperatures.<sup>3</sup> Strategies for reducing smog typically require reductions in both VOC and NO<sub>x</sub> emissions.

Ozone causes serious health problems by damaging lung tissue and sensitizing the lungs to other irritants. When inhaled, even at very low levels, ozone can cause acute respiratory problems; aggravate asthma; cause temporary decreases in lung capacity of 15 to 20 percent in healthy adults, cause inflammation of lung tissue, lead to hospital admissions and emergency room visits; and impair the body's immune system defenses, making people more susceptible to respiratory illnesses, including bronchitis and pneumonia. Children are most at risk from exposure to ozone because they breathe more air per pound of body weight than adults; their respiratory systems are still developing and thus more susceptible to environmental threats; and children exercise outdoors more than adults in the high-ozone months of summer.

In 1979, under section 109 of the CAA, EPA established a primary, health-based NAAQS for ozone: 0.12 parts per million (ppm) averaged over a 1-hour period. See 44 FR 8220 (February 9, 1979). In 1997, EPA revised the ozone NAAQS by establishing an 8-hour ozone NAAQS of 0.08 ppm. See 62 FR 38856 (July 18, 1997). Since submittal of the 2003 State Strategy and 2003 South Coast SIP, EPA has revoked the 1-hour ozone NAAQS, effective June 15, 2005, see 69 FR 23951 (April 30, 2004), and tightened the 8-hour ozone NAAQS to 0.075 ppm, see 73 FR 16436 (March 27, 2008). The nitrogen dioxide NAAQS is 0.053 ppm, annual average. See 40 CFR 50.11.

Despite significant progress over the years, ozone concentrations in the South Coast continue to be the highest in the country. Over the 2005–2007 period, the expected number of exceedances relative to the now-revoked 1-hour ozone NAAQS is 13.3 days per year (at the Crestline monitor), and the design value is 0.164 ppm (at Crestline).<sup>4</sup> With

<sup>3</sup> California plans sometimes use the term Reactive Organic Gases (ROG) for VOC. These terms are essentially synonymous. For the sake of simplicity, we use the term VOC herein to mean either VOC or ROG.

<sup>4</sup> For the 1-hour ozone standard, the expected number of exceedances refers to the number of days per calendar year with maximum hourly average

respect to the 8-hour ozone NAAQS, over the same period, the design value is 0.122 ppm.<sup>5</sup> In contrast to ozone, concentrations of nitrogen dioxide (NO<sub>2</sub>) in the South Coast continue to be well below the NO<sub>2</sub> NAAQS. For instance, in 2005, the highest annual concentrations measured in the South Coast were less than 60 percent of the nitrogen dioxide NAAQS based on data reported in the 2007 South Coast Air Quality Management District (AQMP) (June 2007).

### B. 1994 South Coast Ozone SIP and State Strategy

The CAA was substantially amended in 1990 to establish new planning requirements and attainment deadlines for the NAAQS, including 1-hour ozone. Under section 107(d)(1)(C) of the Act, areas designated nonattainment prior to enactment of the 1990 amendments, including the South Coast, were designated nonattainment by operation of law. The South Coast was classified as extreme nonattainment for 1-hour ozone, with an attainment deadline no later than November 15, 2010. The South Coast was also designated as "nonattainment" for nitrogen dioxide, respirable particulate matter (PM<sub>10</sub>), and carbon monoxide (CO).

The District adopted an ozone plan on September 9, 1994, as part of the 1994 South Coast Air Quality Management Plan ("1994 South Coast AQMP"). ARB supplemented the District plan with State measures and submitted it as a revision to the California SIP on November 15, 1994. On July 10, 1996, ARB submitted an extensive revision to the South Coast control measure adoption schedule to adjust for slippage in the plan's initial implementation. On January 8, 1997 (62 FR 1150), we finalized approval of the South Coast ozone plan, including the ozone portions of the 1994 South Coast AQMP, as amended in 1996, and the State measures ("1994 Ozone SIP").<sup>6</sup> The plan also contained "Federal measures," which the State wished us to adopt and

concentrations above 0.12 ppm averaged over a three-year period. The standard is attained in an area when the expected number of exceedances is equal to or less than 1 at all stations. The design value for an area, which characterizes the severity of the air quality problem, is represented by the highest design value at any individual ozone monitoring site (i.e., the highest of the fourth highest 1-hour daily maximums in a given three-year period with complete monitoring data).

<sup>5</sup> The air quality design value for the 8-hour ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour ozone concentration.

<sup>6</sup> We approved some of the State and District measures in the plan earlier. See particularly 60 FR 43379 (August 21, 1995).

implement in order to reduce emissions from mobile sources.<sup>7</sup>

#### *C. 1999 State Update to the South Coast Ozone SIP*

On July 23, 1999 (64 FR 39923), we approved an update to the South Coast portion of the 1994 Ozone SIP, reporting on implementation of ARB's control measures in the 1994 SIP and the contribution from Federal mobile source controls undertaken as part of the Public Consultative Process. We also updated our own commitment and approved a new ARB commitment to adopt by December 31, 2001, control measures needed to achieve any additional reductions which were determined to be appropriate for ARB. Please consult the final approval document and our proposed approval (64 FR 30276, June 7, 1999) for more details on the update, the "Federal measures," and the Public Consultative Process on national mobile source measures.

#### *D. 1997 South Coast AQMP and the 1997/1999 South Coast Ozone SIP*

The South Coast Air Quality Management District (SCAQMD, or "District") adopted a completely revised plan on November 8, 1996 ("1997 South Coast AQMP"), and ARB submitted the revision on February 5, 1997. The 1997 South Coast AQMP was not federally required for ozone, but was adopted by the District to address, in a comprehensive fashion, Federal and State requirements for particulate matter, carbon monoxide, and nitrogen dioxide, and State requirements for an ozone plan update. The 1997 South Coast AQMP revised the emissions inventory, modeling, and local control commitments in the attainment demonstration, but did not revise the State SIP commitments adopted in the 1994 Ozone SIP. The 1997 South Coast AQMP included a maintenance plan and redesignation request for the nitrogen dioxide NAAQS, and EPA approved the plan and redesignation request in 1998. See 63 FR 39747 (July 24, 1998).

The District amended the ozone portion of the 1997 South Coast AQMP on December 10, 1999 ("1999 South

Coast AQMP Ozone Amendment"), and ARB submitted the plan to us on February 4, 2000. We approved the ozone portion of the 1997 South Coast AQMP, as amended in 1999, on April 10, 2000 (65 FR 18903), and refer to the amended plan as the 1997/1999 South Coast Ozone SIP.

Specifically, in our April 2000 final rule, we approved the baseline and projected emissions inventories and attainment demonstration as contained in the 1997 South Coast AQMP, and we approved the following elements in the 1999 South Coast AQMP Ozone Amendment: District commitments to adopt and implement near-term and intermediate-term control measures; the District's commitment to adopt and implement "black box" control measures; the District's commitment to achieve overall emissions reductions for the years 1999–2008; the District's commitment to implement those measures that had been adopted in regulatory form between 1994 and 1999; the rate-of-progress plan for the 1999, 2002, 2005, 2008 and 2010 milestone years; the amendment to the attainment demonstration in the 1997 South Coast AQMP for ozone; and the motor vehicle emissions budgets. Upon the effective date of our approval of the 1997/1999 South Coast Ozone SIP, this plan replaced and superseded the 1994 Ozone SIP for the South Coast Air Basin with the exception of the State control measures for mobile sources, consumer products, and pesticides, and EPA's commitment to take part in the Public Consultative Process as discussed in the previous section of this document.

#### *E. 2003 State Strategy*

On October 23, 2003, ARB adopted the Final 2003 State and Federal Strategy for the California SIP ("2003 State Strategy"). The 2003 State Strategy consists of the Proposed 2003 State and Federal Strategy for the California SIP (released August 25, 2003), as modified by ARB in the resolution approving the strategy. The modifications to the proposed strategy are set forth in attachment A to ARB Board Resolution 03–22. The 2003 State Strategy identifies ARB's regulatory agenda to reduce ozone and particulate matter in California by 2010 and was submitted to update and replace the State's control measure commitments in the 1994 Ozone SIP, as modified in 1999 for the South Coast.

As submitted, the 2003 State Strategy includes four components affecting the South Coast: (1) State agency commitments to pursue 20 new defined near-term control measures to reduce emissions from mobile sources and

consumer products, and to continue implementation of the existing SIP commitment to reduce VOC emissions from pesticide use; (2) State agency annual adoption commitments to achieve at least 50 tons per day (tpd) VOC and 59 tpd NO<sub>x</sub> emissions reduction in the South Coast in 2010 from these or other near-term measures;<sup>8</sup> (3) ARB commitment to identify and adopt strategies by 2008 to achieve an additional 97 tpd combined VOC and NO<sub>x</sub> reductions in the South Coast through, in part, the evaluation of 21 additional control concepts between 2004–2006 and adoption of those found to be feasible as SIP measures on a specified schedule; and (4) ARB's "black box" commitment to reduce emissions in the South Coast by 118–233 tpd of VOC and 0–159 tpd of NO<sub>x</sub> by 2010 for "black box" emissions reductions.<sup>9</sup> ARB submitted the 2003 State Strategy to us on January 9, 2004. On February 18, 2004, EPA found the 2003 State Strategy to be complete.

By letter dated February 13, 2008, ARB withdrew certain elements of the 2003 State Strategy that relate to the South Coast. Specifically, ARB withdrew four specific defined near-term measures, the State agency annual adoption commitments described above,<sup>10</sup> the ARB commitment to identify and adopt strategies by 2008 to achieve an additional 97 tpd combined VOC and NO<sub>x</sub> reductions in the South

<sup>8</sup> ARB's annual adoption commitment represents a commitment to adopt and implement near-term measures to achieve, at a minimum, the VOC and NO<sub>x</sub> emissions reductions in tpd in the South Coast in 2010. Each year from 2003 through 2006 has a separate adoption commitment for VOC and NO<sub>x</sub>. For example, ARB's commitment for 2003 is to adopt near-term measures in that year that in the aggregate achieve at least 10 tpd VOC and 11 tpd NO<sub>x</sub> emissions reductions in 2010 in the South Coast. Under this commitment, reductions in excess of the minimum commitment for a given year may be applied to the commitment for subsequent years.

<sup>9</sup> The range is based on how much of the 97 tpd commitment is achieved from VOC versus NO<sub>x</sub>, and EPA action on a Federal emissions reduction assignment in the 2003 South Coast AQMP for 18 tpd VOC and 68 tpd NO<sub>x</sub> by 2010.

<sup>10</sup> In ARB's February 13, 2008 letter, ARB indicated that it was withdrawing the Commitment to Reduce Emissions via Adoption Schedule for the South Coast Air Basin outlined in Section I.D.1, Table I–6 of the Proposed 2003 State and Federal Strategy for the California SIP (released August 25, 2003); however, in adopting the 2003 State Strategy, the ARB Board (via Resolution 03–22) modified the commitment by increasing the total related emissions reduction commitment to a total of 50 tpd VOC and 59 tpd NO<sub>x</sub> in the South Coast in 2010. See table A–5 of attachment A to ARB Resolution 03–22. ARB clarified, in a letter dated October 14, 2008, that the reference in the February 13th letter was in error and that it intended to withdraw the commitment to reduce emissions via adoption schedule for the South Coast as modified in Resolution 03–22.

<sup>7</sup> In response to this assignment, we established a Public Consultative Process to identify the best options for achieving further emissions reductions from mobile source controls, at least to the extent they are needed for attainment of the 1-hour ozone NAAQS in the South Coast. In connection with the establishment of this process, both EPA and ARB made commitments regarding appropriate future emissions reductions. Please see EPA's final approval of the 1994 ozone SIP for a discussion of the "Federal measures," and our rationale, at that time, for establishing the Public Consultative Process (62 FR 1152–5, 1184–6).

Coast,<sup>11</sup> and ARB's "black box" commitment described above. For the South Coast, the remaining component of the 2003 State Strategy is the State agency commitments to pursue 16 new defined near-term control measures (and to continue implementation of the existing SIP commitment to reduce VOC emissions from pesticide use).<sup>12</sup> We are addressing the remaining commitments for the South Coast in the 2003 State Strategy in today's action.

#### F. 2003 South Coast SIP

On August 1, 2003, the District approved the 2003 South Coast Air Quality Management Plan and submitted the final plan ("2003 South Coast AQMP") to ARB on October 15, 2003. The 2003 South Coast AQMP includes revisions to the 1997 South Coast AQMP for PM<sub>10</sub>, CO, and NO<sub>2</sub>, and revisions to the 1997/1999 South Coast Ozone SIP. Specifically, with respect to the 1-hour ozone NAAQS, the 2003 South Coast AQMP updates the emissions inventories, the local control measure element, including the transportation control measures (TCMs) element,<sup>13</sup> the ROP and attainment demonstrations, and the motor vehicle emissions budgets. With respect to NO<sub>2</sub>, the 2003 South Coast AQMP updates the maintenance plan and related motor vehicle emissions budget. The ozone portion of the 2003 South Coast AQMP relies on emission reduction commitments in the 2003 State Strategy, described above, and assigns the Federal Government the responsibility of achieving 18 tpd VOC and 68 tpd NO<sub>x</sub> by 2010 in the South Coast, as the Federal Government's share of the "black box" strategy.

The 2003 South Coast AQMP includes a primary attainment strategy (option 1) that sets emission targets based on reductions from local, State, and Federal elements but also includes an alternative strategy (option 2) that excludes reductions from Federal sources and modifies the attainment emission targets if EPA does not accept the District's primary attainment strategy. Under option 2, the 2003 South Coast AQMP relaxes the NO<sub>x</sub> control target by 68 tpd NO<sub>x</sub> and assigns the 18

tpd (assigned to the Federal Government under option 1) to ARB.

On October 23, 2003, ARB adopted the 2003 South Coast AQMP, as modified in ARB Resolution 03–23 ("2003 South Coast SIP"). In Resolution 03–23, ARB adopted a modified version of "option 1" by adopting a backstop whereby, if EPA were to find the Federal assignment unacceptable, the ARB obligates itself to cover the related 18 tpd VOC and 68 tpd NO<sub>x</sub> emissions reductions as part of its "black box" commitment. In Resolution 03–23, ARB also rejected one contingency measure included in the AQMP (CTY–04—"Enhanced Oxygenated Fuels Content"), and modified the VOC and NO<sub>x</sub> MVEBs.

On January 9, 2004, ARB submitted the 2003 South Coast SIP. On February 18, 2004, EPA found the 2003 South Coast AQMP to be complete. On March 11, 2004, we found the MVEBs in the 2003 South Coast SIP adequate for transportation conformity purposes. See 69 FR 15325 (March 25, 2004). Since then, the CO budgets in the 2003 South Coast SIP have been superseded by final EPA approval of the 2005 South Coast CO Maintenance Plan (discussed below), and the ozone budgets have been superseded by EPA's adequacy determination on 8-hour ozone budgets in the 2007 South Coast SIP (see 73 FR 28110, May 15, 2008; as corrected on 73 FR 34837, June 18, 2008).

To date, we have taken final action to approve the PM<sub>10</sub> portion of the 2003 South Coast SIP, see 70 FR 69081 (November 14, 2005), but have not taken action on any other portions of the plan. With respect to the CO portion of the plan, while we have not taken action on the CO portion of the 2003 South Coast SIP, we have taken action to approve a later-submitted plan, the 2005 South Coast CO Maintenance Plan, and have taken action to approve ARB's redesignation request for the South Coast to "attainment" for CO. See 72 FR 26718 (May 11, 2007). We consider the submittal and approval of the CO maintenance plan and redesignation request to supersede the CO portion of the 2003 South Coast SIP and plan to take no further action on CO portion of the plan.<sup>14</sup> Today's document addresses

the remaining portions of the 2003 South Coast SIP (i.e., the ozone and NO<sub>2</sub> portions of the plan).

### III. Review of the 2003 State Strategy and 2003 South Coast SIP

#### A. Procedural Requirements

CAA section 110(l) requires revisions to a SIP to be adopted by the state after reasonable notice and public hearing. EPA has promulgated specific requirements for SIP revisions in 40 CFR part 51, subpart F.

The ARB provided the requisite notice and public comment periods prior to adoption of the 2003 State Strategy. Notices for a public hearing to be held on September 24–25, 2003 (later postponed to October 23, 2003), and for the availability of the Draft 2003 State Strategy, were published on August 25, 2003. At its October 23, 2003 Board hearing, ARB adopted the 2003 State Strategy as a revision to the California SIP, and submitted the revision to EPA for approval on January 9, 2004.

The SCAQMD provided the requisite notice and public comment periods prior to adoption of the 2003 South Coast AQMP. The Draft 2003 South Coast AQMP was released for public comment on February 5, 2003, and proposed modifications to the draft plan, as well as responses to comments on the draft plan, were released for public comment in June 2003. Notices for five public hearings held on various dates in July 2003 and on August 1, 2003, and for the availability of the revised Draft 2003 South Coast AQMP, were published on June 6, 2003. At the August 1, 2003 Governing Board meeting, the District adopted the 2003 South Coast AQMP and submitted the plan to ARB shortly thereafter. ARB adopted the plan, with certain modifications, as a revision to the California SIP on October 23, 2003 in accordance with state law, and submitted the revision to EPA for approval on January 9, 2004.

The SIP submittal packages for the 2003 State Strategy and the 2003 South Coast SIP include evidence of public notices and hearings, agency responses to public comments, and evidence of District and ARB adoptions as described above. Based on review of these materials, we find that the State has met the procedural requirements of CAA section 110(l) and 40 CFR part 51, subpart F for submittal of the two SIP revisions.

demonstration, from the 2003 South Coast AQMP as further evidence of the supersession of the CO portion of the 2003 South Coast AQMP.

<sup>11</sup> We interpret ARB's withdrawal of the 97 tpd combined VOC plus NO<sub>x</sub> element of the long-term strategy for the South Coast to include withdrawal of the commitment to evaluate the feasibility of 21 concepts for adoption as SIP measures listed in attachment A–1 to ARB Resolution 03–22.

<sup>12</sup> Certain other components of the 2003 State Strategy relate to the San Joaquin Valley, and were proposed for action in a separate rulemaking.

<sup>13</sup> By letter dated October 14, 2008, ARB withdrew the TCM portion of the 2003 South Coast AQMP.

<sup>14</sup> The principal purpose, other than updating the CO portion of the 1997 South Coast AQMP, for developing and submitting the CO portion of the 2003 South Coast SIP was to provide the basis for a CO maintenance plan. See page 10 of the District's Carbon Monoxide Redesignation Request and Maintenance Plan (February 2005) ("2005 CO Maintenance Plan"). That purpose has already been served by virtue of our approval of the 2005 CO Maintenance Plan in May 2007. Also, we note that the 2005 CO Maintenance Plan, which we have now approved, carries forward emissions estimates and projections, and a modeled attainment

### *B. Base Year and Projected Baseline Emissions Inventory*

CAA sections 172(c)(3) and 182(a)(1) require nonattainment areas to submit a comprehensive, accurate, and current inventory of actual emissions from all sources, in accordance with guidance provided by the EPA. The inventory is to represent emissions during the appropriate season; for example, ozone precursor (VOC and NO<sub>x</sub>) inventories are to represent summer weekday emissions. See EPA's General Preamble for implementation of title I of the CAA Amendments of 1990, 57 FR 13498 (April 16, 1992) ("General Preamble"), at 13502. EPA guidance for 1-hour ozone SIP emission inventories includes, in addition to the General Preamble: "Procedures for the Preparation of Emission Inventories for Carbon Monoxide and Precursors of Ozone, Volume I: General Guidance for Stationary Sources," EPA-450/4-91-016; and "Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources," EPA-450/5-91-026d Revised.

In 2000, we approved the base and future year (summer season) emissions inventories in the 1997 South Coast AQMP as meeting the requirements of CAA sections 172(c)(3) and 182(a)(1). See 65 FR 18903, at 18904 (April 10, 2000). In 1998, we approved the base and future year (winter season) emissions inventories in the 1997 South Coast AQMP for the purposes of the NO<sub>2</sub> maintenance plan. See 63 FR 39747 (July 24, 1998). The 2003 South Coast AQMP contains revised base and future year emissions inventories for ozone precursors, VOC and NO<sub>x</sub> (summer season), and for NO<sub>x</sub> (winter season, for NO<sub>2</sub> planning purposes). The District describes the basis for the revisions in the inventories in chapter 3 of the 2003 South Coast AQMP. More detail is provided in appendix III of the plan.

The emissions inventories in the 2003 South Coast AQMP reflect estimates of emissions from numerous source subcategories within four major categories of sources, i.e., point, area, off-road, and on-road. The plan presents annual average day inventories, as well as planning inventories (summer for ozone and winter for NO<sub>2</sub>), for 1995, 1997, 2000, 2002, 2003, 2005, 2006, 2007, 2008, 2010, and 2020. The plan also includes a reconstructed emissions inventory for 1990, the base year for air quality planning under the CAA Amendments of 1990.

The inventories reflect updated demographic data, and vehicle activity forecasts, as well as updated calculation methods. The on-road emissions were

calculated using ARB's EMFAC2002 emission factors<sup>15</sup> and the transportation activity data provided by the Southern California Association of Governments (SCAG) from their 2001 Regional Transportation Plan. Emissions estimates from off-road vehicle categories (e.g., trains, ships, construction equipment) were developed using ARB's OFF-ROAD emissions model, which calculates emissions from more than 100 types of off-road sources.

Area source emissions were jointly developed by ARB and the District for a total of 350 categories. For 1997, reported data are used for point sources emitting more than 4 tons per year of any one of the criteria air contaminants (i.e., VOC, NO<sub>x</sub>, SO<sub>x</sub>, or particulate matter) except for CO for which the data reporting threshold is 100 tons per year. (See Appendix III of 2003 South Coast AQMP.) The future emission forecasts are based on demographic and economic growth projections provided by SCAG, and take into account emission reductions resulting from ARB and District regulations adopted by October 31, 2002.

The emissions inventory requirements of CAA sections 172(c)(3) and 182(a)(1) were met in the 1994 Ozone Plan, and then, as amended, in the 1997 South Coast AQMP. Based on our review of the inventory documentation included in the 2003 South Coast AQMP, we find that the emission inventories in the 2003 South Coast AQMP are also comprehensive, accurate, and current at the time the SIP was submitted, and improved relative to those that are in the approved SIP. Accordingly, we propose to approve the base and future year emissions inventories (summer and winter seasons) in the 2003 South Coast AQMP as meeting the requirements of CAA sections 172(c)(3) and 181(a)(1).

### *C. Control Measures and Contingency Measures*

The CAA requires that SIPs "shall include enforceable emission limitations, and such other control measures, means or techniques \* \* \*, as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment

\* \* \* by the applicable attainment date \* \* \*." CAA section 172(c)(6). The CAA also allows areas classified as extreme to include "provisions \* \* \* which anticipate development of new control techniques or improvement of existing control technologies, \* \* \* if the State demonstrates \* \* \* that—(A) such provisions are not necessary to achieve the incremental emission reductions required during the first 10 years after the date of the enactment of the Clean Air Act Amendments of 1990; and (B) the State has submitted enforceable commitments to develop and adopt contingency measures to be implemented \* \* \* if the anticipated technologies do not achieve planned reductions." CAA section 182(e)(5). The latter provisions which anticipate development of new control techniques or improvement of existing control technologies are often referred to as the "black box."

#### *1. State's Defined Measures*

In 1997, we approved all of the State's control measures contained in the 1994 Ozone SIP that EPA had not previously approved. See 62 FR 1150 at 1183 (January 8, 1997). EPA's 1997 approval included assignment of specific emissions reductions by nonattainment area and milestone year for all of the State control measures, including those previously approved, under section 110(k)(3), 182(e)(5), and 301(a) of the CAA. In 1999, we approved a revision to the State's commitment to achieve long-term emissions reductions in the South Coast at the close of the Public Consultative Process. See 64 FR 39923, at 39926–39927 (July 23, 1999).

ARB intended the 2003 State Strategy, as submitted on January 9, 2004, to update and entirely replace the State's control strategy contained in the 1994 Ozone SIP (as modified in 1999 for the South Coast); however, as noted previously, on February 13, 2008, ARB withdrew key components of the strategy with respect to the South Coast, including the near-term annual emissions reductions commitments, additional emissions reduction commitment for the South Coast, and the "black box" emissions reduction commitment. Therefore, with these key components missing, we do not interpret the remaining component the 2003 State Strategy (i.e., commitment for near-term defined measures) as replacing the ozone control strategy, but rather as a set of new measures to achieve additional emissions reductions in the South Coast by the 1-hour ozone NAAQS attainment date of 2010.

The remaining component of the 2003 State Strategy is a commitment by ARB

<sup>15</sup> On April 1, 2003, EPA approved EMFAC2002 for use in SIP development and required its use in transportation conformity analyses in California (68 FR 15720). On January 18, 2008, we approved an updated version of EMFAC, EMFAC2007, for use by California state and local governments to meet CAA requirements. See 73 FR 3464. We are proposing approval of the revised emissions inventories that rely on the earlier version of EMFAC because the earlier version was the one approved at the time when the 2003 South Coast SIP was submitted to EPA.

to have its staff submit to the Board and propose for adoption the control measures set forth in Table 1.<sup>16</sup> Under the 2003 State Strategy, the ARB staff proposal for each control measure must, at a minimum, achieve the estimated emission reductions set forth in Table 1 of this document (derived from the 2003 State Strategy, ARB Resolution 03–22, Attachment A–6, Table I–7). Where a range of estimated emission reductions

is shown, the ARB staff proposal must, at a minimum, achieve the lower end of the range of reductions. ARB's Board then must take action on or before the action dates set forth in Table 1, but such action by the Board may include any action within its discretion. The measures themselves are discussed in detail in sections II and III of the Proposed 2003 State and Federal Strategy for California SIP (August 25,

2003). We note that, based on Table 1–3 in the Final 2007 South Coast AQMP (June 2007) and further investigation by EPA as to the status of ARB's rulemakings, we believe that ARB staff proposals were submitted to the Board for most of the 15 obligations listed in Table 1 and that ARB has taken action on such proposals. Similarly we believe that the Bureau of Automotive Repair (BAR) has fulfilled its one obligation.

TABLE 1—DEFINED STATE MEASURES TO BE DEVELOPED AND PROPOSED

[Source: 2003 State Strategy, ARB Resolution 03–22, Attachment A–6, Table I–7]

Strategy (agency)	Name	Final action date	Implementation date	Expected reductions (south coast 2010)	
				VOC	NO <sub>x</sub>
LT/MED-DUTY–1 (ARB) .....	Replace or Update Emission Control Systems on Existing Passenger Vehicles.	2005	2007–2008	0–20 .....	0–20.
LT/MED-DUTY–2 (BAR) .....	Improve Smog Check to Reduce Emissions from Existing Passenger and Cargo Vehicles.	2002–2005	2002–2006	5.6–5.8 .....	8.0–8.4.
ON-RD HVY-DUTY–1 (ARB)	Augment Truck and Bus Highway Inspections with Community-Based Inspections.	2003	2005	0–0.1 .....	0.
ON-RD HVY-DUTY–3 (ARB)	Pursue Approaches to Clean Up the Existing and New Truck/Bus Fleet.	2003–2006	2004–2010	1.4–4.5 ....	16–21.
OFF-RD CI–1 (ARB) .....	Pursue Approaches to Clean Up the Existing Heavy-Duty Off-Road Equipment Fleet (Compression Ignition Engines).	2004–2008	2006–2010	2.3–7.8 ....	8–10.
OFF-RD LSI–1 (ARB) .....	Set Lower Emission Standards for New Off-Road Gas Engines (Spark-Ignited Engines 25 hp and Greater).	2004–2005	2007	0 .....	0.8.
OFF-RD LSI–2 (ARB) .....	Clean Up Off-Road Gas Equipment Through Retrofit Controls and New Emissions Standards (Spark-Ignited Engines 25 hp and Greater).	2004	2006–2012	0.8–2.0 .....	2–4.
SMALL OFF-RD–1 (ARB) ....	Set Lower Emission Standards for New Handheld Small Engines and Equipment (Spark-Ignited Engines under 25 hp such as Weed Trimmers, Leaf Blowers, and Chainsaws).	2003	2005	1.9 .....	0.2.
SMALL OFF-RD–2 (ARB) ....	Set Lower Emission Standards for New Non-Handheld Small Engines and Equipment (Spark-Ignited Engines under 25 hp such as Lawnmowers).	2003	2007	6.3–7.4 .....	0.6–1.9.
MARINE–1 (ARB) .....	Pursue Approaches to Clean Up the Existing Harbor Craft Fleet—Cleaner Engines and Fuels.	2003–2005	2005	0.1 .....	2.7.
MARINE–2 (ARB) .....	Pursue Approaches to Reduce Land-Based Port Emissions—Alternative Fuels, Cleaner Engines, Retrofit Controls, Electrification, Education Programs, Operational Controls.	2003–2005	2003–2010	0.1 .....	0.1.
FUEL–2 (ARB) .....	Set Low-Sulfur Standards for Diesel Fuel for Trucks/Buses, Off-Road Equipment, and Stationary Engines.	2003	2006	Enabling ...	Enabling.
CONS–1 (ARB) .....	Set New Consumer Products Limits for 2006 .....	2003–2004	2006	2.3 .....	0.
CONS–2 (ARB) .....	Set New Consumer Products Limits for 2008–2010 .....	2006–2008	2008–2010	8.5–15 .....	0.
FVR–1 (ARB) .....	Increase Recovery of Fuel Vapors from Aboveground Storage Tanks.	2003	2007	0–0.1 .....	0.
FVR–2 (ARB) .....	Recover Fuel Vapors from Gasoline Dispensing at Marinas.	2006–2009	2006–2010	0–0.1 .....	0.
PEST–1 <sup>1</sup> (DPR) .....	Implement Existing Pesticide Strategy .....		1996–2010	Base-line ..	N/A.
Potential Range for Defined Near-Term State Measures .....				33.3–72.9	38.4–69.1

<sup>1</sup> We interpret our approval of this measure as maintaining the status quo with respect to the existing pesticide strategy (i.e., the SIP will continue to reflect the strategy as approved by EPA in 1997).

<sup>16</sup> In the case of control measure LT/MED-DUTY–2, the commitment is not ARB's, but rather, the Bureau of Automotive Repair's (BAR's)

commitment. BAR's commitment to adopt the measure is documented in appendix I–1 of the Proposed 2003 State and Federal Strategy for the

California State Implementation Plan (August 25, 2003).

Assuming that the remaining component of the 2003 State Strategy adds to, but does not replace, the existing SIP ozone strategy, we propose to approve the State commitments with respect to the near-term defined measures listed in table 1 as described above as strengthening the SIP.<sup>17</sup> We propose to approve the State's commitments with respect to the near-term defined measures, not as fulfilling any particular requirement under the CAA, but as a strengthening of the South Coast portion of the California SIP. As such, our proposed approval is made under CAA sections 110(k)(3) and 301(a).

## 2. District's Near-Term Control Measures, Annual Emissions Reductions Commitment, and Contingency Measure

In 2000, under CAA section 110(k)(3), we approved the District's commitment to adopt and implement the short- and

intermediate-term control measures in the 1997/1999 South Coast Ozone SIP by the dates specified to achieve the identified emissions reductions, and the District's commitment to adopt and implement control measures to achieve the identified annual emissions reduction commitments for 1999 to 2008.<sup>18</sup>

The 2003 South Coast AQMP includes an updated list of commitments for those District control measures that remain from the 1997/1999 South Coast Ozone SIP, and a set of new District commitments to adopt near-term control measures. See table 2 of this document. Consistent with the approach in the 1997/1999 South Coast SIP, the District commits to meet the adoption dates, implementation dates, and emission reduction targets shown in table 2 (derived from table 4–1 of the 2003 South Coast AQMP), unless a measure, in whole or in part, is determined to be infeasible.

Also consistent with the 1997/1999 South Coast SIP, the District includes in the 2003 plan an additional enforceable commitment to achieve aggregate emission reductions through a schedule of rule adoption and implementation for specific years. See table 3 of this document. Under the 2003 South Coast AQMP, the District reserves the right to substitute measures listed in table 2 (of this document) with other measures, provided that the given measure is found to be infeasible and that the overall equivalent emission reductions by adoption and implementation dates shown in tables 3 and 4 (of this document) are maintained. Based on table 1–2 of the 2007 South Coast AQMP (June 2007), we believe that most of the District's near-term commitments with respect to control measures for which emission reductions targets are identified have been met.

TABLE 2—DISTRICT'S NEAR-TERM VOC AND NO<sub>x</sub> CONTROL MEASURES

[Source: 2003 South Coast AQMP, Table 4–1]

Control measure	Title of control measure	Reduction target <sup>1</sup> (tons/day)
<b>Remaining 1997/1999 South Coast Ozone Plan Control Measures</b>		
CTS–07 .....	Further Emission Reductions from Architectural Coatings and Cleanup Solvents (Rule 1113) (VOC) .....	8.5
CTS–10 .....	Miscellaneous Industrial Coatings and Solvent Operations (VOC) .....	3.0
FUG–05 .....	Emission Reductions from Fugitive Emissions Sources (VOC) .....	2.0
MSC–01 .....	Promotion of Lighter Color Roofing and Road Materials and Tree Planting Programs (All Pollutants) .....	TBD
MSC–03 .....	Promotion of Catalyst-Surface Coating Technology Programs (All Pollutants) .....	TBD
PRC–07 .....	Industrial Process Operations (VOC) .....	2.0
WST–01 <sup>2</sup> .....	Emission Reductions from Livestock Waste (VOC) .....	4.8
WST–02 <sup>3</sup> .....	Emission Reductions from Composting .....	1.2
FSS–04 <sup>4</sup> .....	Emission Charges of \$5,000 per Ton of VOC for Stationary Sources Emitting Over 10 Tons per Year (VOC).	TBD
FLX–01 .....	Economic Incentive Programs .....	TBD
<b>New Control Measures</b>		
CMB–10 .....	Additional NO <sub>x</sub> Reductions for RECLAIM (NO <sub>x</sub> ) .....	3.0
MSC–05 .....	Truck Stop Electrification (NO <sub>x</sub> ) .....	2.1
MSC–07 .....	Natural Gas Fuel Specifications (NO <sub>x</sub> ) .....	TBD
MSC–08 .....	Further Emission Reductions from Large VOC Sources (VOC) .....	TBD
FSS–05 <sup>5</sup> .....	Mitigation Fee Program for Federal Sources (All Pollutants) .....	TBD
FSS–06 .....	Further Emission Reductions from In-Use Off-Road Vehicles and Equipment (VOC, NO <sub>x</sub> , PM <sub>10</sub> ) .....	TBD
FSS–07 .....	Emission Fee Program for Port-related Mobile Sources (All Pollutants) .....	TBD
Total .....	VOC .....	21.5
	NO <sub>x</sub> .....	5.1

<sup>1</sup> The emission reductions estimates are based on the 2010 planning inventory in the 2003 South Coast AQMP. The District notes that the actual reductions are subject to change during the rulemaking process based on the latest available emission inventory data.

<sup>2</sup> Previously approved in connection with the PM<sub>10</sub> portion of the 2003 South Coast AQMP. See 70 FR 69081 (November 14, 2005).

<sup>3</sup> Previously approved in connection with the PM<sub>10</sub> portion of the 2003 South Coast AQMP. See 70 FR 69081 (November 14, 2005).

<sup>4</sup> The measure is intended to achieve reductions after the 2010 attainment date.

<sup>5</sup> Proposed for disapproval herein.

<sup>17</sup> In the alternative, if ARB indicates an intention to replace the existing SIP ozone strategy by the commitment for near-term measures shown in table 1 of this document, then we propose to disapprove the set of defined measures on the basis that the State has not provided a demonstration that

replacement of the existing SIP ozone strategy by the set of measures in table 1 would not interfere with attainment or maintenance of the NAAQS or any other applicable requirement of the Act. See CAA section 110(l).

<sup>18</sup> Our approval made enforceable the District's commitment to achieve the overall emissions reduction schedule and creates the possibility of District control measure adjustments and substitutions under the approved SIP, so long as the overall emission reductions obligations are met.



Based on our review of the District's updated strategy in the 2003 South Coast AQMP for achieving near-term emissions reductions, and the progress the District has achieved to date in

implementing the measures, we propose to approve the District's commitment to adopt the near-term measures listed in table 2 (except for FSS-05, as described below) and commitment to achieve

aggregate emissions reductions through the rule and adoption schedule shown in table 3.

**TABLE 3—DISTRICT'S NEAR-TERM VOC AND NO<sub>x</sub> EMISSIONS REDUCTIONS COMMITMENT TO BE ACHIEVED THROUGH RULE ADOPTION AND IMPLEMENTATION <sup>1</sup>**

[Source: 2003 South Coast AQMP, Table 4–8A]

Year	VOC		NO <sub>x</sub>	
	Based on adoption date	Based on implementation date	Based on adoption date	Based on implementation date
2002 .....	0.6	.....	.....	.....
2003 .....	16.9	0.6	.....	.....
2004 .....	2.0	.....	3.0	.....
2005 .....	2.0	.....	2.1	.....
2006 .....	.....	4.8	.....	.....
2007 .....	.....	2.0	.....	2.1
2008 .....	.....	12.1	.....	.....
2009 .....	.....	.....	.....	.....
2010 .....	.....	2.0	.....	3.0
Total .....	21.5	21.5	5.1	5.1

<sup>1</sup> In tons per day based on the 2010 planning inventory in the 2003 South Coast AQMP.

Like the State defined control measures discussed above, we propose to approve the District's updated strategy for near-term emissions reductions in the 2003 South Coast AQMP, not as fulfilling any particular requirement under the CAA, but as a strengthening of the South Coast portion of the California SIP. As such, our proposed approval is made under CAA sections 110(k)(3) and 301(a).

One particular District control measure, FSS-05 ("Mitigation Fee Program for Federal Sources"), assigns to EPA the responsibility of adopting a mitigation fee program. See page 4–17 of the 2003 South Coast AQMP. Under this program, the mitigation fee would be paid by the owners of such sources as aircraft, ocean-going vessels, trains, and pre-empted off-road equipment (that are under the jurisdiction of EPA) through EPA rulemaking and/or EPA grants to the District. The District would then use the monies collected to implement strategies for both federal and non-federal sources to achieve equivalent reductions for SIP purposes. We propose to disapprove this particular control measure on the grounds that States are not given the authority under the CAA to assign emission reductions responsibilities to the Federal Government. For a detailed discussion of EPA's view on "federal assignments," see EPA's final rule approving the 1994 Ozone SIP (62 FR 1150, at 1152–1155 (January 8, 1997)).

Under the 2003 South Coast AQMP, the expected progress in meeting the AQMP attainment goals, measured in

terms of emission reductions, is verified through the annual auditing program called the Reasonable Further Progress (RFP) program. In the event the RFP program shows that the implementation of the plan is not providing adequate progress and the interim emission reduction goals have not been met, the District must take action to bring forward measures that are scheduled for later adoption or implementation, or to implement certain other contingency measures. See section 2 of appendix IV–A of the 2003 South Coast AQMP. With respect to progress towards the 1-hour ozone NAAQS, the 2003 South Coast AQMP includes one contingency measure, CTY-01—Accelerated Implementation of Control Measures, that would accelerate the starting implementation date for the stationary and mobile source control measures that have implementation dates on and after 2004. The original and revised (i.e., under CTY-01) starting implementation dates of the stationary and mobile source control measures affected by the contingency measure are shown in table 2 of chapter 9 of the 2003 South Coast AQMP. As noted above, we believe that most of the District's near-term commitments to adopt defined measures have been met.

Based on our review of contingency measure strategy, and the progress the District has achieved to date in implementing the measures, we propose to approve CTY-01 (except for the individual FSS-05, which we are proposing to disapprove for the reasons given above) as a strengthening of the

South Coast portion of the California SIP.<sup>19</sup> As such, our proposed approval is made under CAA sections 110(k)(3) and 301(a).

### 3. District's Black Box Emissions Reduction Commitment

In 2000, we approved the District's commitment to adopt and implement the long-term "black box" control measures in the 1997/1999 South Coast Ozone Plan by the dates specified to achieve the identified emissions reductions under CAA sections 110(k)(3) and 182(e)(5). See 65 FR 18903, at 18905 (April 10, 2000).

In the 1997/1999 South Coast SIP, the District calculated that the remaining portion of its "black box" commitment amounted to 28 tpd of VOC. In the 2003 South Coast AQMP, the District contends that, after implementation of its proposed near-term measures, the District would be exceeding its emission target in the 1997/1999 South Coast SIP by about 65 tpd of VOC. As such, the District's "black box" commitment in the 1997/1999 South Coast SIP of 28 tpd has been fulfilled. Nonetheless, in view of the magnitude of the reductions now understood to be needed for attainment of the 1-hour ozone NAAQS in the South Coast, the District has adopted an additional "black box" commitment of

<sup>19</sup> We are proposing in this document to disapprove the rate-of-progress demonstration in the 2003 South Coast AQMP, but we note that CTY-01, by its terms, could be triggered under the District's RFP program regardless of our action on the ROP demonstration.



31 tpd as shown in table 4 of this document.

TABLE 4—DISTRICT'S BLACK BOX VOC EMISSION REDUCTIONS COMMITMENT TO BE ACHIEVED THROUGH RULE ADOPTION AND IMPLEMENTATION

[Source: 2003 South Coast AQMP, Table 4–8B]

Year	VOC (2010 planning inventory, tons/day)	
	Based on adoption date	Based on implementation date <sup>1</sup>
2005 .....	4.0	.....
2006 .....	10.0	.....
2007 .....	10.0	3.0
2008 .....	7.0	10.0
2009 .....	.....	11.0
2010 .....	.....	7.0
Total .....	31.0	31.0

<sup>1</sup> Represents the final, full implementation date; typically a rule contains multiple implementation dates.

As described in the 2003 South Coast AQMP (appendix IV–A, section 1, group 8), the District's "black box" commitment is organized into two tiers. The first tier targets (but is not limited to) stationary source categories including miscellaneous industrial coatings and solvent operations, fugitive sources, and industrial process operations. The second tier targets all stationary source categories for which feasible reductions can be identified. We propose to approve the District's new "black box" commitment in the 2003 South Coast AQMP, not as fulfilling any particular requirement under the CAA, but as a strengthening of the South Coast portion of the California SIP. As such, our proposed approval is made under CAA sections 110(k)(3) and 301(a).

#### 4. Black Box Emissions Reduction Assignment to the Federal Government

Lastly, the 2003 South Coast AQMP allocates a portion of the "black box" to the Federal Government. The "federal assignment" in the 2003 South Coast AQMP calls for the Federal Government to achieve emissions reductions of 68 tpd NO<sub>x</sub> and 18 tpd VOC in the South Coast by 2010. As discussed above in connection with District measure FSS–05, we propose to disapprove this assignment on the grounds that States are not given the authority under the CAA to assign emission reductions responsibilities to the Federal Government.

#### D. Attainment Demonstration

All 1-hour ozone areas classified as serious or above must demonstrate attainment "as expeditiously as practicable" but not later than dates

specified in CAA section 181(a), which establishes for extreme areas a deadline of November 15, 2010. For purposes of demonstrating attainment, CAA section 182(c)(2)(A) requires serious, severe, and extreme areas to use photochemical grid modeling or an analytical method EPA determines to be as effective.

In 2000, we approved the attainment demonstration for the 1-hour ozone NAAQS in the 1997 South Coast AQMP, as amended by the District in 1999, as meeting the requirements of CAA sections 182(c)(2) and (e). See 65 FR 18903, at 18905 (April 10, 2000). The District revised the 1-hour ozone attainment demonstration in the 2003 South Coast AQMP in light of updated emissions inventories that show higher mobile source emissions than prior projections and updated modeling that indicates a lower carrying capacity in the air basin. The District describes the methods, assumptions and results of the modeling effort in chapter 5 of the main body of the AQMP and provides more details on the modeling effort in appendix V.

The 2003 South Coast AQMP's modeled attainment demonstration for 1-hour ozone relies upon emission reductions from the ARB's control strategy as set forth in the 2003 State Strategy, most of which was withdrawn by ARB on February 13, 2008. As a result, we need not conduct a detailed review of the modeling to conclude that the 2003 South Coast AQMP does not meet the CAA section 182(c)(2)(A) requirement for a demonstration of attainment of the 1-hour ozone NAAQS by the applicable attainment date (in this case, 2010). EPA proposes to disapprove the ozone plan with respect to the attainment demonstration

requirements of CAA section 182(c)(2)(A), because of the deficiencies in the control measure portions of the plan resulting from the withdrawal of the State's emission reduction commitments in the 2003 State Strategy.

#### E. Quantitative Milestones and Reasonable Further Progress (RFP)

CAA section 172(c)(2) requires nonattainment area plans to provide for reasonable further progress (RFP) which is defined in section 171(1) as such annual incremental reductions in emissions as are required in part D or may reasonably be required by the Administrator in order to ensure attainment of the relevant NAAQS by the applicable date.

CAA section 182(c)(2) require that serious and above area SIPs include rate-of-progress (ROP) quantitative milestones that are to be achieved every 3 years after 1996 until attainment. For ozone areas classified as serious and above, section 182(c)(2) requires that the SIP must provide for reductions in ozone-season, weekday VOC emissions of at least 3 percent per year net of growth averaged over each consecutive 3-year period. This is in addition to the 15 percent reduction over the first 6-year period required by CAA section 182(b)(1) for areas classified as moderate and above. The CAA requires that these milestones be calculated from the 1990 inventory after excluding, among other things, emission reductions from "[a]ny measure related to motor vehicle exhaust or evaporative emissions promulgated by the Administrator by January 1, 1990" and emission reductions from certain federal gasoline volatility requirements. CAA section 182(b)(1)(B)–(D). EPA has issued

guidance on meeting 1-hour ozone ROP requirements. *See* General Preamble at 13516 and "Guidance on the Post-1996 Rate-of-Progress Plan and the Attainment Demonstration," EPA-452/R-93-015, OAQPS, EPA, February 18, 1994 (corrected).

CAA section 182(c)(2)(C) allows for NO<sub>x</sub> reductions which occur after 1990 to be used to meet the post-1996 ROP emission reduction requirements, provided that such NO<sub>x</sub> reductions meet the criteria outlined in the CAA and EPA guidance. The criteria require that: (1) The sum of all creditable VOC and NO<sub>x</sub> reductions must meet the 3 percent per year ROP requirement; (2) the substitution is on a percent-for-percent of adjusted base year emissions basis for the relevant pollutant; and (3) the sum of all substituted NO<sub>x</sub> reductions cannot be greater than the cumulative NO<sub>x</sub> reductions required by the modeled attainment demonstration. *See* General Preamble at 13517 and "NO<sub>x</sub> Substitution Guidance," OAQPS, EPA, December 1993. Our guidance in the General Preamble states that by meeting the specific ROP milestones discussed above, the general RFP requirements in CAA section 172(c)(2) will also be satisfied. *See* the General Preamble at 13518.

In 2000, we approved the revised ROP demonstration for the milestone years 1999, 2002, 2005, 2008, and 2010 in the 1999 amendment to the 1997 South Coast AQMP, as meeting the requirements of CAA sections 172(c)(2) and 182(c)(2). *See* 65 FR 18903, at 18905 (April 10, 2000). The 2003 South Coast AQMP includes a revised demonstration for milestone years 2005, 2008, and 2010. *See* pages 6–6 through 6–9 of the AQMP. The revised ROP demonstration in the 2003 South Coast AQMP does not rely on emissions reductions from any new control measures in the plan but relies only on VOC and NO<sub>x</sub> emission reductions from existing District and ARB rules. For the milestone years 2005 and 2008, the ROP demonstration shows that baseline VOC emission levels are below the target levels. In 2010, however, the VOC reductions in the baseline are insufficient to meet the target, and thus, the plan relies in part on NO<sub>x</sub> substitution.

Our review of the ROP demonstration in the 2003 South Coast AQMP reveals a flaw in the calculation method. The demonstration purports to adjust emissions for the base year (1990) to remove the benefit of the pre-1990 Federal motor vehicle control program (FMVCP) and certain federal gasoline volatility requirements, as is required under the CAA, but the adjustment in the ROP table for NO<sub>x</sub> (table 6–3b in the

AQMP) has been set at zero, which cannot be correct. Given the minimal explanation for how the adjustment was determined, we can only presume that the same calculation method was used for the VOC table (table 6–3a). Therefore, we conclude that the calculation methods used to demonstrate rate-of-progress for 2005, 2008, and 2010 are incorrect, and on that basis, we propose to disapprove the revised rate-of-progress demonstration in the 2003 South Coast AQMP as failing to meet the requirements of CAA sections 172(c)(2) and 182(c)(2).

#### *F. Transportation Control Measures To Offset Growth in Motor Vehicle Emissions*

Section 182(d)(1)(A) of the CAA requires nonattainment areas classified as severe or above to adopt and submit transportation control measures (TCMs) sufficient to offset any growth in emissions from growth in vehicle-miles-traveled (VMT) or number of vehicle trips and to provide for ROP. EPA's interpretation of this provision allows areas to satisfy the requirement if they demonstrate that emissions from motor vehicles decline each year through the attainment year. *See* the General Preamble at 13521–13522. The 2003 South Coast SIP refers to the TCMs in appendix IV–C of the 2003 South Coast AQMP as the basis for compliance with the CAA requirement in section 182(d)(1)(A). *See* page 6–10 of the 2003 South Coast AQMP. As noted in section II.E of this document, the TCM portion of the 2003 South Coast AQMP, including appendix IV–C, was withdrawn, and thus, it cannot serve as the basis for meeting the requirement.

However, by letter dated September 10, 2008, the District provided supplemental motor vehicle emissions data drawn largely from emissions inventory estimates presented in appendix III of the 2003 South Coast AQMP. *See* letter from Elaine Chang, DrPH, Deputy Executive Officer, SCAQMD, to Matt Haber, Deputy Director, Air Division, EPA Region IX, September 10, 2008. Based on the emission data presented in appendix III of the South Coast AQMP and the supplemental information provided by SCAQMD on September 10th, we find that baseline motor vehicle emissions in the South Coast decline each year from 2003 to the attainment year (2010), and that, as a result, no TCMs need be included in the plan to offset motor vehicle emissions for the purposes of CAA section 182(d)(1)(A). We therefore propose to approve the 2003 South Coast SIP, as supplemented on September 10, 2008, as meeting the

TCM offset requirement under CAA section 182(d)(1)(A).

#### *G. Nitrogen Dioxide Maintenance Demonstration*

In 1998, EPA approved the nitrogen dioxide maintenance plan that was included as an element of the 1997 South Coast AQMP. The 2003 South Coast SIP updates the original maintenance plan with more current air monitoring data and emissions estimates and projections. *See* page 6–11 of the 2003 South Coast AQMP. In support of its conclusion that the updated plan demonstrates maintenance of the nitrogen dioxide NAAQS, SCAQMD refers to ambient monitoring data that continues to show concentrations below the NAAQS and to the downward trend in baseline NO<sub>x</sub> emissions.

Based on our review of the monitoring data presented in chapter 2 of the 2003 South Coast AQMP, which show a maximum concentration in 2001 among the 23 monitoring stations of less than 80% of the NAAQS, and the emissions estimates presented in chapter 3, which show a decline from nearly 1,300 tpd (winter season) of NO<sub>x</sub> in 1997, to 1,000 tpd in 2006, to 820 tpd in 2010, we agree with SCAQMD that the 2003 South Coast AQMP demonstrates maintenance of the nitrogen dioxide NAAQS.<sup>20</sup> Therefore, we propose to approve the update of the NO<sub>2</sub> maintenance demonstration in the 2003 South Coast SIP.

#### *H. Motor Vehicle Emissions Budgets (MVEBs)*

Under section 176(c) of the CAA, transportation plans, programs and projects in nonattainment or maintenance areas that are funded or approved under title 23 U.S.C. and the Federal Transit Laws (49 U.S.C. Chapter 53) must conform to the applicable SIP.

<sup>20</sup> Unlike ozone, which peaks in the South Coast in the summer and early fall months, NO<sub>2</sub> generally peaks in the late fall and winter months. The use of a planning inventory (winter season) rather than an annual-average inventory to update the maintenance demonstration for the annual NO<sub>2</sub> NAAQS is consistent with the original NO<sub>2</sub> maintenance demonstration from the 1997 South Coast AQMP, which we approved in 1998 (63 FR 39747, July 24, 1998). In the 1997 South Coast AQMP, the District demonstrated maintenance of the annual NO<sub>2</sub> NAAQS using a linear rollback approach and baseline planning inventories (winter season) for NO<sub>x</sub> to project future-year annual NO<sub>x</sub> concentrations from baseline annual NO<sub>x</sub> concentrations for several key locations in the South Coast representative of areas with historically higher NO<sub>2</sub> concentrations. Projected future-year annual NO<sub>2</sub> concentrations were then determined from projected annual NO<sub>x</sub> concentrations using average NO<sub>2</sub>/NO<sub>x</sub> ratios measured at the key locations. *See* chapter 1 of appendix V to the 1997 South Coast AQMP (November 1996).

In short, a transportation plan and program are deemed to conform to the applicable SIP if the emissions resulting from the implementation of that transportation plan and program are less than or equal to the MVEBs established in the control strategy SIPs for the attainment year, ROP years, maintenance year and other analysis years. See, generally, 40 CFR part 93.

On March 11, 2004, we found the NO<sub>x</sub> and VOC MVEBs for ozone, and the NO<sub>x</sub> MVEB for nitrogen dioxide, in the 2003 South Coast SIP to be adequate for transportation conformity purposes. Letter from Deborah Jordan, EPA to Catherine Witherspoon, ARB, March 11, 2004. A table attached to the letter summarized our adequacy determination. Our notice of adequacy for these budgets was published in the **Federal Register** on March 25, 2004 at 69 FR 15325 and was effective 15 days later, on April 9, 2004. We are now proposing to disapprove the VOC and NO<sub>x</sub> MVEBs for 1-hour ozone, and to approve the NO<sub>x</sub> MVEB for nitrogen dioxide, for transportation conformity purposes.

With respect to ozone, we propose to disapprove the VOC and NO<sub>x</sub> budgets based on our proposed disapprovals of the 1-hour ozone ROP and attainment demonstrations as discussed above. As such, we conclude that the VOC and NO<sub>x</sub> MVEBs in the 2003 South Coast SIP, when considered together with all other emissions sources, are not consistent with applicable requirements for RFP and attainment for the 1-hour ozone NAAQS because the plan revision as a whole does not provide for RFP and attainment. While we are proposing to disapprove these 1-hour ozone budgets into the SIP, it should be noted that they would not be used for future conformity determinations even if we were to approve them. This is because EPA has revoked the 1-hour ozone standard and transportation conformity determinations are no longer required for that air quality standard, and because we have already found VOC and NO<sub>x</sub> MVEBs adequate for the 8-hour ozone standard. See 73 FR 28110 (May 15, 2008), as corrected at 73 FR 34837 (June 18, 2008).

With respect to nitrogen dioxide, we propose to approve the NO<sub>x</sub> MVEB of 686 tpd (winter season) for years 2003 and 2010.<sup>21</sup> Use of a planning inventory

(winter) in the 2003 South Coast AQMP as the basis for the updated maintenance demonstration (and corresponding NO<sub>x</sub> MVEB) for the annual NO<sub>2</sub> NAAQS is consistent with the approach we approved in the original NO<sub>2</sub> maintenance plan from the 1997 South Coast AQMP, as discussed above. The NO<sub>x</sub> MVEB is shown in table 6–7 of the 2003 South Coast AQMP, and, as shown in that table, the NO<sub>x</sub> MVEB for nitrogen dioxide reflects baseline 2003 motor vehicle emissions (shown in more detail in table C–5 in attachment C to appendix III of the 2003 South Coast AQMP), and as reduced slightly by the emissions reductions attributed to the District's adopted employer-based trip reduction rule (District rule 2202) and State-adopted vehicle inspection and maintenance program (I/M) improvements not accounted for in the baseline motor vehicle estimate. The baseline motor vehicle estimates are based on ARB's motor vehicle emissions factor model, EMFAC2002, which was approved by EPA on April 1, 2003 (68 FR 15720) and the most recent planning and vehicle activity data then available.<sup>22</sup>

The baseline emissions inventories, which reflect baseline motor vehicle emissions as well as baseline emissions for all other source categories, show a decline in NO<sub>x</sub> emissions through 2010, and even if motor vehicle emissions estimates in 2010 were equal to the 2003 MVEB of 686 tpd, overall baseline NO<sub>x</sub> emissions in 2010 would still be less than the corresponding estimate for 2003, an attainment year, and thus we find the NO<sub>x</sub> MVEB for 2003, when considered with all other emissions sources, to be consistent with continued maintenance of the nitrogen dioxide NAAQS through 2010.

#### IV. Public Comment and Final Action

Under section 110(k)(3) of the CAA, and for the reasons discussed above, EPA proposes the following action on the 2003 State Strategy, as submitted on January 9, 2004:

(1) Approval of commitments by State agencies to develop and propose 16 near-term defined control measures (15

for ARB and 1 for BAR) to achieve specified emissions reductions in the South Coast as listed in table 1 of this document and the continuation of the existing pesticide strategy.

Also under section 110(k)(3) of the CAA, and for the reasons discussed above, EPA proposes the following actions on the 2003 South Coast SIP, as submitted on January 9, 2004:

(1) Approval of base year and projected baseline emission inventories under CAA sections 172(c)(3) and 182(a)(1);

(2) Approval of the District's commitment to adopt and implement near-term control measures as shown in table 2 of this document (except FSS–05), the District's commitment to achieve emissions reduction through a schedule of adoption and implementation as shown in table 3 of this document, and the District's contingency measure CTY–01 (“Accelerated Implementation of Control Measures”), as strengthening the SIP;

(3) Disapproval of District control measure FSS–05 (“Mitigation Fee Program for Federal Sources”) that assigns control measure responsibility to the Federal Government;

(4) Approval of District's “black box” VOC emission reduction commitment of 31 tpd;

(5) Disapproval of the “black box” emission reduction commitment of 68 tpd of NO<sub>x</sub> and 18 tpd of VOC assigned to the Federal Government;

(6) Disapproval of the attainment demonstration because control measures upon which the demonstration relies have been withdrawn;

(7) Disapproval of the reasonable further progress demonstration because the calculations do not properly account for the emissions reductions from the pre-1990 FMVCP and certain federal gasoline volatility requirements;

(8) Approval of the demonstration that no TCM offsets are required under CAA section 182(d)(1)(A) based on baseline motor vehicle emissions projections as supplemented by the District;

(9) Approval of the revised nitrogen dioxide maintenance demonstration based on the downward trend in baseline NO<sub>x</sub> emissions;

(10) Disapproval of the 1-hour ozone (VOC and NO<sub>x</sub>) motor vehicle emissions budgets in the wake of proposed disapprovals of the rate-of-progress and attainment demonstrations; and

(11) Approval of the nitrogen dioxide motor vehicle emissions budget of 686 tpd (year 2003), winter planning inventory.

<sup>21</sup> In table 6–7 of the 2003 South Coast AQMP, a footnote to the NO<sub>x</sub> MVEB states: “2003 budget applicable to future years, including the last year of maintenance plan (i.e., 2010).” We interpret this language as establishing a MVEB for year 2003 and for year 2010 and not as establishing a budget for each intervening year and the years after 2010. An interpretation otherwise would be unreasonable in

that it would necessitate a conformity determination for NO<sub>2</sub> by SCAG for each of the intervening years and for an indeterminate number of future years.

<sup>22</sup> On January 18, 2008, we approved an updated version of EMFAC, EMFAC2007, for use by California state and local governments to meet CAA requirements. See 73 FR 3464. We are proposing approval of the NO<sub>x</sub> budgets for NO<sub>2</sub> in the 2003 South Coast AQMP despite the fact that they reflect an earlier-approved version of EMFAC (EMFAC2002) because the earlier version was the one approved at the time when the 2003 South Coast SIP was submitted to EPA.

No sanctions clocks or FIP requirement would be triggered by our disapprovals, if finalized, because the approved SIP already contains the plan elements that we are proposing to disapprove. A disapproval of the revisions to the already-approved elements would not alter the fact that the SIP already meets these statutory requirements.

EPA is soliciting public comments on the issues discussed in this document and will accept comments for the next 30 days. These comments will be considered before taking final action.

## V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would

be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 15, 2008.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. E8-25468 Filed 10-23-08; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2006-0869, FRL-8721-6]

### Revisions to the California State Implementation Plan, San Diego County Air Pollution Control District, San Joaquin Valley Air Pollution Control District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the San Diego County Air Pollution Control District (SDCAPCD), San Joaquin Valley Air Pollution Control District (SJVAPCD), and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). The revisions concern the permitting of air pollution sources. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by *November 24, 2008*.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-

OAR-2006-0869, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

- *E-mail:* [R9airpermits@epa.gov](mailto:R9airpermits@epa.gov).
- *Mail or deliver:* Gerardo Rios (AIR-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

**Instructions:** All comments will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

#### FOR FURTHER INFORMATION CONTACT:

Laura Yannayon, Permits Office (AIR-3), U.S. Environmental Protection Agency, Region IX, (415) 972-3534, [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposal addresses the following local rules: SDCAPCD Rule 24, SJVAPCD Rule 2050, and VCAPCD Rules 11 and 29. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will