CALIFORNIA INFRASTRUCTURE SIP

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California Environmental Protection Agency
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TABLE OF CONTENTS

ATTACHMENT 1: RELEVANT CALIFORNIA HEALTH AND SAFETY CODE SECTIONS INCLUDED FOR INFORMATION ONLY AND NOT TO BE INCLUDED IN CALIFORNIA'S STATE IMPLEMENTATION PLAN

LIST OF TABLES AND FIGURES

INTRODUCTION

Each time the United States Environmental Protection Agency (U.S. EPA) adopts a new National Ambient Air Quality Standard (federal standard or standard) or revises an existing standard, the federal Clean Air Act (CAA) requires states to develop and submit an Infrastructure State Implementation Plan (SIP). An Infrastructure SIP is administrative in nature and describes the authorities, resources, and programs a state has in place to implement, maintain, and enforce the federal standards. It does not contain any proposals for emission control measures.

The overarching framework or infrastructure for California's air quality programs is well established. As the air pollution control agency responsible for all purposes set forth in federal law (California Health and Safety Code (H&SC) Section 39602), the Air Resources Board (ARB) submitted California's first Infrastructure SIP in response to the CAA of 1970. U.S. EPA approved this submittal in 1979 (40 Code of Federal Regulations (CFR) 52.220). ARB has submitted several Infrastructure SIP revisions since that time, in response to new or revised federal standards. These revisions build on previous Infrastructure SIP submittals. When U.S. EPA approves an Infrastructure SIP revision, it becomes part of the overall statewide SIP.

Table 1 summarizes the federal standards that U.S. EPA most recently adopted or revised. As shown in Table 1, ARB previously submitted Infrastructure SIP revisions to comply with changes to the 1997 ozone standard, 1997 fine particulate matter ($PM_{2.5}$) standard, 2008 lead standard, and 2010 nitrogen dioxide (NO_2) standard. U.S. EPA has not yet acted fully on any of these submittals. In addition, ARB submitted a certification letter for the 2006 $PM_{2.5}$ standard infrastructure requirements.

The Infrastructure SIP revision documented here, along with supporting Attachments 1 through 3, provides additional information and clarification of ARB's previous Infrastructure SIP submittals. In addition, it addresses all infrastructure requirements for the 2008 federal ozone standard, the 2006 and 2012 $PM_{2.5}$ standards, and the 2010 federal sulfur dioxide (SO_2) standard. ARB acknowledges there may be some overlap between this Infrastructure SIP revision and the previous Infrastructure SIP submittals. In such cases, the information in this Infrastructure SIP revision supersedes those previous submittals. Furthermore, because most infrastructure elements are general in nature, many parts of this current revision will be relevant to any future new or revised federal standards.

TABLE 1
Recent Federal Standard Adoptions / Revisions and Infrastructure SIP Submittals*

Pollutant	***Year Standard Revised***	***Standard Level***	***Averaging Time***	***Date ARB Submitted Infrastructure SIP Revision***
Ozone	1997	0.08 ppm	8-hour	November 16, 2007
	2008	0.075 ppm	8-hour	No submittal**
$PM_{2.5}$	1997	65 $\mu g/m^3$	24-hour	November 16, 2007 and July 7, 2009
		15 $\mu g/m^3$	Annual	
	2006	35 $\mu g/m^3$	24-hour	July 7, 2009
		15 $\mu g/m^3$	Annual	
	2012	35 $\mu g/m^3$	24-hour	No submittal
		12 $\mu g/m^3$	Annual	
Lead	2008	0.15 $\mu g/m^3$	Rolling 3-month	October 6, 2011
NO_2	2010	100 ppb	1-hour	December 12, 2012
		0.053 ppm	Annual	
SO_2	2010	75 ppb	1-hour	No submittal

** $PM_{2.5}$ = fine particulate matter; NO_2 = nitrogen dioxide; SO_2 = sulfur dioxide; ppm = parts per million; $\mu g/m^3$ = micrograms per cubic meter; ppb = parts per billion.*

*** March 12, 2011, was the initial due date for states to submit an Infrastructure SIP for the 2008 ozone standard. However, in light of on-going litigation, a number of states, including California, did not meet this deadline. In response to further litigation, U.S. EPA made failure to submit findings on January 4, 2013. These findings started a 24-month clock, setting a new submittal date of January 4, 2015.*

CAA Section 110(a)(2) lists the specific elements that must be addressed in an Infrastructure SIP, with exceptions for several elements identified in CAA Section 110(a)(2). In particular, this revision does not address the portion of Section 110(a)(2)(C) that applies to a permitting program for nonattainment new source review within nonattainment areas, nor does it address Section 110(a)(2)(I), which pertains to the specific requirements for attainment plans for areas designated as nonattainment. U.S. EPA interprets these requirements to be outside the scope of the Infrastructure SIP. Furthermore, the CAA provides separate statutory schedules for submitting planning requirements for areas designated as nonattainment. This Infrastructure SIP submittal also does not address CAA Section 110(a)(2)(D)(i)(I), which deals with transport. Under the District of Columbia Circuit Court's opinion in *EME Homer City Generation v. EPA*, states do not need to address this infrastructure element until U.S. EPA quantifies each state's transport obligation (see *EME Homer City Generation, L.P. v. EPA, 696 F .3d 7* (D.C. Cir. 2012), cert. granted, 2013 U.S. Lexis 4801 (2013)). Table 2 lists the page number of this document where each relevant infrastructure element is addressed.

TABLE 2
Required Infrastructure SIP Elements*

Infrastructure SIP Element	***Clean Air Act Requirement***	***Page Number of Element Description***
Emission Limits and Other Control Measures	§110(a)(2)(A)	Page 5
Ambient Air Quality Monitoring/Data System	§110(a)(2)(B)	Page 8
Programs for Enforcement, PSD, and NSR	§110(a)(2)(C)	Page 13
Interstate and International Transport Provisions	§110(a)(2)(D)	Page 17
Adequate Personnel, Funding, Authority, Conflict of Interest, and Board Composition	§110(a)(2)(E)	Page 20
Stationary Source Monitoring and Reporting	§110(a)(2)(F)	Page 22
Contingency Plans for Emergency Episodes	§110(a)(2)(G)	Page 28
Future SIP Revisions	§110(a)(2)(H)	Page 35
Consultation with Government Officials, Public Notification, PSD, and Visibility Protection	§110(a)(2)(J)	Page 36
Air Quality Modeling/Data	§110(a)(2)(K)	Page 42
Permitting Fees	§110(a)(2)(L)	Page 43
Consultation/Participation by Affected Local Entities	§110(a)(2)(M)	Page 45

* *Note that states are not required to address elements in CAA Sections 110(a)(2)(D)(i)(I) and 110(a)(2)(I) in the Infrastructure SIP. CAA Section 110(a)(2)(D)(i)(I) deals with transport, and under the District of Columbia Circuit Court's opinion in EME Homer City Generation v. EPA, this infrastructure element does not need to be addressed until after U.S. EPA quantifies each state's obligation. CAA Section 110(a)(2)(I) is specific to nonattainment areas, and as U.S. EPA interprets the Clean Air Act, SIPs incorporating any necessary local nonattainment area controls are not due within three years of promulgation of the federal standard, but rather are due at the same time as the nonattainment area planning requirements (75 FR 6474).*

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Emission Limits and Other Control Measures [CAA Section 110(a)(2)(A)]

This section of the CAA requires states to establish control measures and programs that limit emissions.

ARB and local air pollution control districts and air quality management districts (local districts or districts) have a longstanding history of developing, implementing, and enforcing measures and programs aimed at controlling emissions. Over time, these measures and programs have resulted in significant air quality improvements, and current monitoring data show that statewide air quality meets the standards U.S. EPA has adopted for NO_2, SO_2, and carbon monoxide (CO). The remaining federal standards are still exceeded in some parts of the State, but with continued enforcement of existing control measures and the development and implementation of new measures, California will continue moving toward the goal of attaining and maintaining all federal standards, statewide.

Discussion

California H&SC Section 39002 divides emission control activities into vehicular and non-vehicular sectors. ARB has authority to adopt and implement mobile source controls. This authority extends to both on-road and off-road mobile sources, as well as to the fuels that power them (H&SC Section 39602.5). ARB also has authority to regulate consumer products, under H&SC Section 41712(b). In contrast, local districts have authority to adopt and implement stationary source controls. The stringency of these district rules can vary, depending on the nature and severity of the local air pollution problem. If a district fails to meet its responsibilities, ARB is authorized to act in its stead. Over time, California has implemented one of the most comprehensive and stringent emission control programs in the world. These controls limit the emission of all pollutants and their precursors subject to federal standards, and they reflect the effective air quality partnership that exists at the State and local levels.

Over the last several decades, ARB has dramatically tightened motor vehicle and fuel standards. New cars are now 99 percent cleaner than their uncontrolled counterparts, while trucks are 98 percent cleaner. In addition, California has implemented a number of programs to reduce emissions from mobile sources already in use – the legacy fleet. For example, the Smog Check program ensures that passenger vehicles stay clean as they age and that on-board diagnostic systems identify smog control problems. Heavy-duty truck inspection programs help control smoke emissions and detect emission control mal-maintenance and tampering. Over the last decade, ARB adopted more than 20 in-use vehicle regulations. California has also drastically lowered emission standards for off-road sources, such as lawn and garden equipment, recreational vehicles and boats, and construction equipment.

In addition to regulating sources that fall under State control, ARB has worked closely with U.S. EPA to regulate emissions where authority is split between California and the federal government. These efforts have impacted emissions from large diesel, gasoline, and liquid petroleum gas equipment. Requirements to use cleaner low-sulfur diesel fuel for near-shore ships is providing important emission benefits in California, and new locomotive engines are now 50 to 60 percent cleaner.

California's 35 local districts have primary authority to control emissions from stationary sources and small local businesses. These controls are generally implemented through a combination of prohibitory rules that set emissions limits by facility type, facility permits that specify equipment use and other operating parameters, and a New Source Review program designed to accommodate industrial growth while mitigating environmental impacts. Many district rules reflect established emission control technologies, while others reflect some of the newest and state of the art technologies. In combination, district rules cover a wide range of sources including refineries, manufacturing facilities, cement plants, refinishing operations, electrical generation and biomass facilities, boilers, and generators. Furthermore, California district rules are among the most stringent in the nation. For example, the South Coast Air Quality Management District (AQMD) adopted Rule 1420.1, defining lead emission standards for large lead-acid battery recycling facilities. U.S. EPA cited this rule as an example of an effective lead emission control strategy in its March 2012 guidance document on developing Reasonably Available Control Measures for lead sources.[1] South Coast AQMD continues to refine and strengthen Rule 1420.1 to better protect public health.

Table 3 provides a sampling of the wide range of statewide and district rules adopted over the years and submitted as part of California's SIP. The information provided includes a brief description of the rule, the pollutant or precursor emissions controlled, the rule number, and a citation for the Federal Register approval notice. A number of the measures listed are pollutant-specific, while others target multiple pollutants, thus maximizing the cost-benefit. The rules listed in Table 3 demonstrate actions taken by the State and districts to adopt and implement the control measures needed to attain and maintain the federal standards, as authorized in the H&SC. A list of ARB and district rules included in California's SIP is available on U.S. EPA's website (http://yosemite.epa.gov/R9/r9sips.nsf/Casips?readform&count=100&state=California).

[1] Implementation of the 2008 Lead National Ambient Air Quality Standards Guide to Developing Reasonably Available Control Measures (RACM) for Controlling Lead Emissions, March 2012, EPA-457/R-12-001.

TABLE 3
Examples of California SIP-Approved Emission Control Measures

Rule Description	Pollutant or Precursor Emission Controlled*	Rule / Regulation Number**	Federal Register Citation
Exhaust Emissions Standards and Test Procedures - 1985 & Subsequent Model Heavy-Duty Engines and Vehicles	HC, NO_x, PM, CO	State Regulation 13 CCR 1956.8	75 FR 26653
Exhaust Emissions Standards and Test Procedures - 2004 & Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles	HC, NO_x, PM, CO	State Regulation 13 CCR 1961	75 FR 26653
California Reformulated Gasoline Regulations	HC, SO_x	State Regulation 13 CCR 2250-2297	60 FR 43379, 75 FR 26653
Lead in Gasoline	Lead	State Regulation 13 CCR 2253.4	75 FR 26653
Sulfur Content of Diesel	SO_x	State Regulation 13 CCR 2281	75 FR 26653
Consumer Products	VOC	State Regulation 17 CCR Subchapter 8.5 Article 2	77 FR 7535
Emissions Standard for Lead from Large Lead-Acid Battery Recycling Facilities	Lead	South Coast AQMD Rule 1420.1	78 FR 5305
Open Burning	PM	South Coast AQMD Rule 444	67 FR 16644
Crude Oil Production Sumps	HC	San Joaquin Valley APCD Rule 4402	77 FR 64227
Agricultural Sources	PM	San Joaquin Valley APCD Rule 8081	71 FR 8461
Portland Cement Kilns	NO_x	Mojave Desert AQMD Rule 1161	68 FR 9015
Fugitive Dust Control	PM	Mojave Desert AQMD Rule 403.1	74 FR 40750
Transfer of Gasoline into Vehicle Fuel Tanks	HC	Sacramento Metro AQMD Rule 449	78 FR 898
Agricultural Burning	PM	Sacramento Metro AQMD Rule 501	49 FR 47490
Sulfur Dioxide	SO_2	Bay Area AQMD Rule 9-01	64 FR 30396

* *HC = hydrocarbons; NO_x = oxides of nitrogen; PM = particulate matter; CO = carbon monoxide; SO_x = oxides of sulfur; VOC = volatile organic compounds; SO_2 = sulfur dioxide.*

** *CCR = California Code of Regulations; AQMD = Air Quality Management District; APCD = Air Pollution Control District.*

Ambient Air Quality Monitoring/Data System [CAA Section 110(a)(2)(B)]

> *This section of the CAA requires states to monitor, compile, and analyze ambient pollutant concentrations and provide the data to U.S. EPA.*

California's air monitoring program began during the 1960s and over the last five decades, has developed into one of the largest and most comprehensive programs in the world. In most cases, California's monitoring program far exceeds the minimum federal requirements. In addition to the on-going program, recent changes to the federal NO_2 and $PM_{2.5}$ standards point to the need to establish near-roadway monitoring sites to better determine the impact of motor vehicles on local air quality. ARB and district staff are working together to identify the best locations for the additional required monitors, so they can be deployed in a timely manner.

Discussion

Under H&SC Section 39602, ARB is designated as the air pollution control agency responsible for ensuring compliance with federal law. This includes ensuring the collection of ambient air monitoring data and subsequent submittal of those data, in conformance with federal requirements. Furthermore, State law authorizes ARB to establish a program to collect air quality data and to monitor air pollutants in cooperation with the districts and other agencies (H&SC Sections 39607(a) and 39607(c)). In response to this directive, ARB, local districts, private contractors, and other government entities (for example, the National Park Service) have established one of the most extensive air monitoring networks in the world.

A brief assessment of California's on-going monitoring network, as well as implementation of new monitoring requirements stemming from recent revisions to the federal lead, NO_2, $PM_{2.5}$, and SO_2 standards are summarized in the following subsections. Implementation of the new monitoring requirements for lead and NO_2 were described previously in the Infrastructure SIP revisions submitted for those pollutants. Thus, the current descriptions for lead and NO_2 are limited to an update of recent activities.

On-Going Monitoring Requirements

California's overall monitoring network comprises more than 650 individual monitors operating at over 250 sites. Instruments at these sites collect data for a variety of air pollutants and air pollutant precursors, as well as a number of meteorological parameters. Current information about California's air monitoring program, including information about individual monitoring sites, is available on ARB's website (http://www.arb.ca.gov/aqd/aqmoninca.htm). Data collected at the individual monitoring sites are compiled, analyzed, and reported to U.S. EPA's Air Quality System and are also available on ARB's website (http://www.arb.ca.gov/adam).

Annually, per federal regulations, ARB and local districts evaluate the adequacy of the State monitoring network to meet federal monitoring requirements. A more thorough assessment is conducted every five years. ARB prepares and submits an annual monitoring network report that covers 23 of California's 35 districts. Each of the remaining 12 districts prepare and submit their own report. U.S. EPA uses these reports as the mechanism for approving the State's overall monitoring program and identifying areas where monitoring can be improved. Annual air monitoring network reports for all areas of California are available on the web. Links to these reports are included in Attachment 3.

The annual monitoring network reports document the existing State and Local Air Monitoring sites, National Core (NCore) multi-pollutant monitoring stations, Chemical Speciation Network sites, Special Purpose Monitoring sites, and Photochemical Assessment Monitoring sites operated by ARB and the districts, as well as other data providers such as the National Park Service. In addition, the reports describe proposed changes (additions, relocations, and terminations) in the ambient air monitoring network that are anticipated within an 18 month period following submittal of the report to U.S. EPA.

California air quality data used for federal purposes are measured using U.S. EPA-approved methods with either Reference or Equivalent monitors. These monitors are subject to the quality assurance requirements of 40 CFR 58, Appendix A and are located at sites that meet the minimum siting requirements of 40 CFR 58, Appendix E. The resulting data are submitted to U.S. EPA's Air Quality System in accordance with the schedule prescribed by U.S. EPA in 40 CFR 58.

California has more than 30 Core Based Statistical Areas (CBSA), and overall, the State ambient air monitoring network is generally adequate. However, because of recent changes to the monitoring network in the Bakersfield CBSA, ARB and the San Joaquin Valley Air Pollution Control District (APCD) are engaged in on-going work to assess the monitoring needs in this part of the San Joaquin Valley.

New Federal Monitoring Requirements

Lead Monitoring: Implementation of monitoring requirements adopted with the 2008 lead standard was described in ARB's October 6, 2011, Infrastructure SIP submittal (http://www.arb.ca.gov/planning/sip/infrasip/lead_infsip.pdf). At that time, deployment of a lead monitor at the Sacramento-Del Paso Manor NCore site was pending. A lo-vol sampler has since been deployed at the site, and lead data are available, starting April 1, 2012.

The October 6, 2011, Infrastructure SIP submittal also described the five California airports that would participate in a 12-month pilot program to monitor lead concentrations near general aviation airports where leaded aviation gas could cause elevated concentrations. Data collected at these airports show lead concentrations above the federal three-month average standard of 0.15 micrograms per cubic meter ($\mu g/m^3$) at two locations: San Carlos Airport (0.33 $\mu g/m^3$) and McClellan-Palomar Airport (0.17 $\mu g/m^3$). Concentrations at the remaining three airports are below the standard. However, consistent with U.S. EPA requirements, any California airport site measuring a three-month average lead concentration greater than half the level of the federal standard will continue monitoring for lead after the pilot program ends.

Nitrogen Dioxide Monitoring: Implementation of monitoring requirements adopted with the 2010 NO_2 standard was described in ARB's December 12, 2012, Infrastructure SIP submittal (http://www.arb.ca.gov/desig/no2isip.pdf). ARB and the affected districts are continuing work to identify appropriate locations for the new near-roadway monitors. An update as to the likely location of these monitors is provided in Table 4. The phased deployment of these near-roadway monitors begins January 2014, and extends through January 2017 (78 FR 16184). In addition to the near-roadway monitors, the revised NO_2 standard also requires U.S. EPA to collaborate with states to identify a subset of at least 40 NO_2 monitors nationwide, to help protect communities that are susceptible and vulnerable to NO_2-related health impacts. Seven of these 40 sites have been identified for California. They include sites in Bakersfield, Long Beach, Los Angeles, Oakland, Parlier, San Bernardino, and San Diego. Tentative sites are identified in Parlier and Bakersfield, while the remaining five sites are currently deployed.

TABLE 4
Required California Monitors for the 2010 Federal NO_2 Standard

District*	Core Based Statistical Area	Counties Included	City Location	Near-Road Monitor**	Area-Wide Monitor***
Bay Area AQMD	San Francisco-Oakland-Fremont	Alameda, Contra Costa, San Francisco, San Mateo, Marin	Oakland, Berkeley	2	1
	San Jose-Sunnyvale-Santa Clara	Santa Clara	San Jose	1	1
Sacramento Metropolitan AQMD	Sacramento-Arden Arcade-Roseville	Sacramento, Placer	Sacramento	1	1
San Diego County APCD	San Diego-Carlsbad-San Marcos	San Diego	San Diego	2	1
San Joaquin Valley APCD	Bakersfield	Kern	Bakersfield	1	not required
	Fresno	Fresno	Fresno	1	not required
	Modesto	Stanislaus	not identified	1	not required
	Stockton	San Joaquin	not identified	1	not required
South Coast AQMD	Los Angeles-Long Beach-Santa Ana	Los Angeles, Orange	Anaheim, Diamond Bar	2	1
	Riverside-San Bernardino-Ontario	Riverside, San Bernardino	Fontana, Ontario	2	1
Ventura County APCD	Oxnard-Thousand Oaks-Ventura	Ventura	Thousand Oaks	1	not required

* *AQMD = Air Quality Management District; APCD = Air Pollution Control District.*

** *The estimated number of near-roadway monitors is based on conditions specified in the NO_2 final rule using 2008 Census Bureau data and data from the 2007 Highway Performance Monitoring System maintained by the U.S. Department of Transportation Federal Highway Administration. The number of required monitors may not reflect current conditions.*

*** *The estimated number of area-wide monitors is based on 2008 data. A sufficient number of area-wide monitors already operate as part of the long-term statewide NO_2 monitoring network. Thus, no new monitors are needed.*

Fine Particulate Matter Monitoring: The 2012 $PM_{2.5}$ standard includes a new requirement for near-roadway $PM_{2.5}$ monitors. A small number of monitors will be required near heavily traveled roads in CBSAs with a population of 1,000,000 or more. To meet this requirement, U.S. EPA anticipates relocating existing monitors to the selected near-roadway locations over a two-year period, beginning in 2015. ARB and the local districts will work with U.S. EPA to determine the appropriate locations. In addition to the near-roadway monitors, federal regulations require $PM_{2.5}$ monitors at all NCore sites and, depending on the severity of the $PM_{2.5}$ problem, require one or more monitors in CBSAs with a population of at least 50,000. Currently, California meets or exceeds the minimum requirements for $PM_{2.5}$ monitors at NCore sites and in CBSAs with a population of 50,000 or more.

Sulfur Dioxide Monitoring: The 2010 SO_2 standard includes requirements for several types of monitors. First, SO_2 monitors are required at NCore sites. California has a total of seven NCore sites (six urban sites and one rural site), and SO_2 monitors are currently operating at all seven. The second type of SO_2 monitor is based on a Population Weighted Emissions Index (PWEI) calculated for each CBSA. The PWEI is calculated by multiplying the CBSA population by the CBSA SO_2 emissions and dividing the result by one million. Three SO_2 monitors are required in CBSAs with a PWEI of 1,000,000 or more; two monitors in CBSAs with a PWEI greater than 100,000 but less than 1,000,000; and one monitor in CBSAs with a PWEI greater than 5,000 but less than 100,000. Table 5 summarizes the PWEI-required monitors for California. As shown in Table 5, the number of SO_2 monitors currently in operation exceeds the number of PWEI-required monitors.

TABLE 5
Required California SO_2 Monitors Based on Population Weighted Emissions Index

CBSA	Counties in CBSA	SO_2 Emissions (tpy)*	Population (2009)	PWEI (million persons-tpy)	Required SO_2 Monitors	Existing SO_2 Monitors
Los Angeles-Long Beach-Santa Ana	Los Angeles, Orange	13,498	12,874,797	173,785	2	5
Riverside-San Bernardino-Ontario	Riverside, San Bernardino	2,478	4,143,113	10,266	1	4
San Francisco-Oakland-Fremont	Alameda, Contra Costa, Marin, San Francisco, San Mateo	12,669	4,317,853	54,702	1	9

∗ *tpy = tons per year; PWEI = Population Weighted Emissions Index.*

Finally, although U.S. EPA has not yet finalized SO_2 area designations, the agency has indicated that additional monitoring or modeling may be needed to evaluate near-source impacts. U.S. EPA expects to issue a rule in the next year to define these requirements. ARB and districts will collaborate with U.S. EPA in siting additional monitors, if any are required in California.

Programs for Enforcement, PSD, and NSR [CAA Section 110(a)(2)(C)]

> *This section of the CAA contains three requirements. First, it requires states to enforce stationary source control measures. Second, it requires states to issue preconstruction permits to major sources and major modifications in areas designated as attainment or unclassifiable for a federal standard (Prevention of Significant Deterioration (PSD) program). Finally, it requires states to regulate new and modified minor sources and minor modifications of major sources (minor New Source Review (NSR) program).*

ARB and districts have comprehensive enforcement programs in place that cover not only stationary sources, but mobile and area-wide sources, as well. At the local level, each of California's 35 districts is responsible for its own stationary source permitting programs, which comprise comprehensive sets of applicable rules and regulations. Currently, ten districts have SIP-approved PSD programs, and three districts operate PSD programs with partial delegation. PSD programs in the remaining districts are administered by U.S. EPA; however, a number of these districts are in the process of obtaining PSD authority from U.S. EPA. In addition to PSD programs, all California districts currently administer minor NSR programs.

Discussion

Enforcement of Stationary Source Control Measures

California H&SC Section 40000 gives districts the authority to control air pollution from stationary sources. This includes authority to adopt and enforce district rules and regulations needed to achieve and maintain the federal standards. The overall stringency of district rules can vary, depending on the nature and severity of the local air pollution problem. In addition to the above authority with respect to district rules, State law gives districts responsibility to enforce all applicable provisions of State and federal law (H&SC Section 40001(a)). If a district fails to meet its responsibilities, ARB is authorized to act in its stead (H&SC Section 39002).

PSD and NSR Permitting Programs

The authority given to districts under H&SC Section 40000 extends to the adoption and enforcement of relevant PSD and minor NSR permitting programs. The type of permitting programs required for stationary source projects are determined by the attainment status of an area. PSD permits are required in areas that are designated as attainment or unclassifiable for a federal standard. In contrast, NSR permits are generally required in areas designated as nonattainment. In practice, stationary source permitting programs are quite complex, and permits can cover multiple pollutants, some

of which require NSR permits and others that require PSD permits. The same source may require both types of permits, because the designation status for the different pollutants can differ within a particular area. The CAA specifies the emission thresholds that trigger the permitting requirements. Furthermore, for major source NSR permits, the requirements can become increasingly more stringent, based on an area's classification. For example, major source NSR requirements in an extreme ozone nonattainment area can be more stringent than requirements in a moderate ozone nonattainment area.

In addition to the above requirements, stationary source projects with emissions below the trigger levels for PSD and NSR permits may be subject to a minor NSR permitting program. Minor NSR is intended to prevent the construction of sources that would interfere with attainment or maintenance of a federal standard in an area, or would violate the control strategy in a nonattainment area. Minor NSR permit requirements often contain conditions designed to limit a source's emissions, in order to avoid PSD or NSR permits.

In California, major and minor NSR permits are issued by local districts, while PSD permits are issued either by local districts, U.S. EPA, or a combination of the two. Major NSR permit requirements are beyond the scope of the Infrastructure SIP and therefore, are not included here. They are however, included as part of an area's nonattainment SIP.

PSD Permitting Programs: PSD permitting programs address the construction or modification of stationary sources so they do not cause or contribute to a violation of federal standards. In addition, PSD programs must also apply to stationary sources that emit greenhouse gases (GHG), in accordance with U.S. EPA's Tailoring Rule. PSD applies in areas designated as unclassifiable or attainment. As noted previously, all areas of California are designated as unclassifiable/attainment for NO_2, SO_2, and CO. Thus, PSD applies statewide for these pollutants. PSD applies in selected areas for the remaining pollutants: ozone, $PM_{2.5}$, and lead. U.S. EPA's Infrastructure SIP Guidance[2] states that "… each infrastructure SIP submission … would need to demonstrate that the air agency has a complete PSD permitting program in place covering the requirements for all regulated pollutants, including greenhouse gases …" Currently in California, PSD programs are

(1) fully implemented by a district,
(2) partially implemented by a district, or
(3) wholly implemented by U.S. EPA.

Ten California districts have authority to fully implement their SIP-approved PSD permitting program for all relevant pollutants, thus satisfying the requirements of CAA Section 110(a)(2)(C). Table 6 lists these districts, along with their qualifying rules, the effective date of U.S. EPA approval, and the Federal Register approval citation. The

[2] Memorandum from Stephen D. Page, Director, U.S. EPA Office of Air Quality Planning and Standards, to Regional Air Directors, U.S. EPA Regions 1-10, dated September 13, 2013; Subject: Guidance on Infrastructure State Implementation Plan (SIP) Elements Under Clean Air Act Sections 110(a)(1) and 110(a)(2); referred to in this document as the Infrastructure SIP Guidance.

SIP-approved PSD programs in these districts also apply to GHG emissions, in accordance with U.S. EPA's Tailoring Rule. In addition to the districts with SIP-approved PSD programs, three California districts, the Bay Area AQMD, the San Diego County APCD, and the South Coast AQMD, operate their PSD programs with partial delegation authority. Those portions of their PSD programs that have not been delegated are administered by U.S. EPA.

TABLE 6
California Districts with SIP-Approved PSD Programs

District	*Applicable District Rule*	*Delegation Status*	*Effective Date*	*Federal Register Citation**
Bay Area Air Quality Management District	Rule 2.2	Partial Delegation**	03/08/11	---
Eastern Kern Air Pollution Control District	Rule 210.4	PSD Rule in SIP	02/08/13	77 FR 73391
Imperial County Air Pollution Control District	Rule 904	PSD Rule in SIP	02/08/13	77 FR 73391
Mendocino County Air Quality Management District	Rule 220	PSD Rule in SIP	08/30/85	50 FR 30942
Monterey Bay Unified Air Pollution Control District	Rule 207	PSD Rule in SIP	02/04/00	65 FR 5433
North Coast Unified Air Quality Management District	Rule 220	PSD Rule in SIP	08/30/85	50 FR 30941
Northern Sonoma County Air Pollution Control District	Rule 220	PSD Rule in SIP	08/30/85	50 FR 30943
Placer County Air Pollution Control District	Rule 518	PSD Rule in SIP	02/08/13	77 FR 73391
Sacramento Metropolitan Air Quality Management District	Rule 203	PSD Rule in SIP	07/20/11	76 FR 43183
San Diego County Air Pollution Control District	Rule 20.3	Source-Specific Delegation	04/23/13	---
San Joaquin Valley Air Pollution Control District	Rule 2410	PSD Rule in SIP	11/26/12	77 FR 65305
South Coast Air Quality Management District	Reg XVII	Partial Delegation**; PSD for GHG in SIP	07/25/07; 01/09/13	--- 77 FR 73320
Yolo-Solano Air Quality Management District	Rule 3.24	PSD Rule in SIP	02/08/13	77 FR 73391

* *Partial or source-specific delegation is done via an agreement between the District and U.S. EPA. Thus, there is no Federal Register citation.*

** *The delegation does not extend to any PSD permit containing a Plantwide Applicability Limit or PAL. In addition, the South Coast AQMD delegation does not extend to modifications seeking to determine PSD applicability based on the additional calculation methodologies set forth in 40 CFR 52.21.*

PSD permitting programs in the remaining California districts are wholly administered by U.S. EPA under the provisions of a Federal Implementation Plan, or FIP. Thus, major stationary sources within these districts are subject to the federal PSD permitting requirements in 40 CFR 52.21. Although PSD permitting programs for these districts are currently administered by U.S. EPA, a number of these districts are at various stages in developing and submitting rules so they can implement the program locally. The current status of these district rules is summarized in Table 7.

TABLE 7
Status of District PSD Program Development and Approval

District	*District Rule Number*	*Status*
Antelope Valley Air Quality Management District	---	Rule under development
Butte County Air Quality Management District	1107	Adopted Rule submitted to U.S. EPA
Feather River Air Quality Management District	10.10	Adopted Rule submitted to U.S. EPA
Great Basin Unified Air Pollution Control District	221	Adopted Rule submitted to U.S. EPA
Mojave Desert Air Quality Management District	---	Rule under development
San Luis Obispo County Air Pollution Control District	220	Submitted Rule returned to District for revision
Santa Barbara County Air Pollution Control District	810	Adopted Rule awaiting submittal to U.S. EPA
Ventura County Air Pollution Control District	26.1	Submitted Rule returned to District for revision

Minor NSR Permitting Programs: Generally, NSR programs are subdivided into major NSR and minor NSR. Minor NSR permitting programs apply in areas designated as nonattainment for a federal standard, as well as in areas designated as attainment or unclassifiable. In contrast, major NSR applies only in nonattainment areas. U.S. EPA has determined that states do not need to address major NSR programs in their Infrastructure SIP, because they are beyond the scope of the Infrastructure SIP. However, states must include information about minor NSR programs.

The purpose of a minor NSR program is to prevent the construction of stationary sources that would interfere with attainment or maintenance of a federal standard or would violate the control strategy in a nonattainment area. In contrast to PSD programs, minor NSR programs address pollutants from stationary sources with lower emission levels than those triggering PSD. In addition, minor NSR programs often establish permit conditions that limit a source's emissions, in order to avoid PSD or nonattainment area NSR.

As mentioned previously, local districts are responsible for regulating stationary sources in California (H&SC Sections 39002 and 40000). This includes responsibility for adopting and enforcing rules and regulations to achieve and maintain the federal standards in all areas affected by emission sources under their jurisdiction and for enforcing all applicable provisions of federal law (HS&C Section 40001(a)). This responsibility extends to implementing a minor NSR program. Each of California's 35 local districts administers its own minor NSR program. Local districts have been issuing stationary source permits since the 1970s, and local NSR programs are at least as stringent, or more stringent, than federally required. U.S. EPA maintains a list of district minor NSR program contacts on the web (http://www.epa.gov/nsr/live/ca.html). In addition, ARB maintains a comprehensive listing of district NSR rules, also available on the web (http://www.arb.ca.gov/nsr/dtvr.htm). Many of these NSR rules are SIP-approved. Additional information about the approval status of district NSR rules is available from U.S. EPA.

***Interstate and International Transport Provisions* [CAA Section 110(a)(2)(D)]**

> *This section of the CAA prohibits the transport of pollutants from one state to another, where the pollutant could contribute significantly to violations of a federal standard, interfere with maintenance of a federal standard, or contribute to reduced visibility.*

California has longstanding programs to reduce pollutant and precursor emissions from all types of sources as part of the statewide strategy to attain the federal standards. These programs also reduce the potential for interstate and international transport of California emissions that would contribute to violations or interfere with maintenance of a federal standard in another area. In addition to nonattainment and maintenance issues, pollutants can impact visibility. California's approved Regional Haze SIP mitigates any potential visibility impacts.

Discussion

CAA Section 110(a)(2)(D) contains two subsections: (D)(i)(I) and (D)(i)(II). Subsection (D)(i)(I) addresses any emissions activity in one state that contributes significantly to nonattainment or interferes with maintenance of a federal standard in another state. These requirements are generally referred to as "Prong 1" (significant contribution to nonattainment) and "Prong 2" (interference with maintenance).

Subsection (D)(i)(II) requires SIPs to include provisions prohibiting any emissions activity in one state from interfering with measures required of any other state to prevent significant deterioration of air quality or from interfering with measures required of any other state to protect visibility. These requirements are generally referred to as "Prong 3" (interference with PSD) and "Prong 4" (interference with visibility protection).

Significant Contribution to Nonattainment (Prong 1) and Interference with Maintenance (Prong 2)

As a result of litigation, the District of Columbia Circuit Court ruled in *EME Homer City Generation v. EPA* that states do not need to address Prong 1 or Prong 2 until U.S. EPA quantifies each state's transport obligation. Thus, ARB is not addressing these prongs for the following federal standards: 2008 ozone standard, 2006 and 2012 $PM_{2.5}$ standards, and 2010 SO_2 standard.

In contrast to these standards, ARB previously addressed prongs 1 and 2 for the 1997 ozone standard and 1997 $PM_{2.5}$ standard in its November 16, 2007, Infrastructure SIP submittal. U.S. EPA approved these elements on July 15, 2011 (76 FR 34872). In addition, ARB addressed prongs 1 and 2 for the 2008 lead standard in its October 6, 2011, Infrastructure SIP submittal. This submittal has been deemed complete, but U.S. EPA has not yet acted on it. Because the impacts of lead are localized and lead sources in California are limited, transport is not an issue. Therefore, ARB will let this portion of the lead Infrastructure SIP stand.

ARB also addressed prongs 1 and 2 relative to the 2010 NO_2 standard in its December 12, 2012, Infrastructure SIP submittal. This submittal has been deemed complete, but U.S. EPA has not yet acted on it. The discussion in the NO_2 Infrastructure SIP submittal focused on NO_2 concentrations within California. Since then, ARB has evaluated NO_2 concentrations measured during 2010 through 2012 at sites located outside of California. This evaluation focused on sites located within 65 kilometers of the State borders. Concentrations measured at the relevant sites are summarized in Table 8. As shown in Table 8, concentrations at these sites do not exceed the federal 1-hour or annual NO_2 standards. This information is provided as a supplement to the

TABLE 8
Summary of NO_2 Concentrations Measured at Sites Located Within 65 Kilometers of the California Border

State	*Monitoring Site**	*Distance from CA Border*	*Year*	*Maximum 1-Hour NO_2 (ppb)***	*1-Hour NO_2 Design Value (ppb)*	*Annual NO_2 Design Value (ppb)*
Nevada	Reno 301 A State Street	17 kilometers	2010	81	59	16
			2011	71.1	60	17
			2012	61.5	55	14
	Las Vegas 1301 B East Tonopah	63 kilometers	2010	64.9	56	13
			2011	69	53	13
			2012	67.8	54	14
	Las Vegas 6651 W Azure Avenue	63 kilometers	2010	44.4	43	6
			2011	46.2	42	5
			2012	45.8	42	5

* *One additional site, Las Vegas-2501 Sunrise Avenue, started operating in November 2012; data for this site are not listed because the statistics are not valid.*

** *ppb = parts per billion; federal 1-hour NO_2 standard = 100 ppb; federal annual NO_2 standard = 53 ppb.*

evaluation ARB provided for prongs 1 and 2 in the December 12, 2012, NO_2 Infrastructure SIP submittal and provides additional evidence that NO_2 does not represent a transport issue relative to California emissions.

Interference with PSD (Prong 3) and Interference with Visibility Protection (Prong 4)
Previous California Infrastructure SIP submittals have also addressed Prong 3 (interference with PSD) and Prong 4 (interference with visibility protection). U.S. EPA approved California's submittals addressing Prong 3 (76 FR 48002) and Prong 4 (76 FR 34608) for the 1997 ozone and 1997 $PM_{2.5}$ standards. With respect to the other standards, the Infrastructure SIP Guidance indicates that Prong 3 is satisfied by SIP-approved PSD and NSR permitting programs. This is because SIP-approved PSD and NSR programs fully consider source impacts on air quality in other states. As described in the previous section titled Programs for Enforcement, PSD, and NSR [CAA Section 110 (a)(2)(C)], ten California districts implement fully-approved PSD permitting programs. Three districts have partial delegation and share implementation of their PSD program with U.S. EPA, while PSD programs in the remaining districts are wholly administered by U.S. EPA under the provisions of a FIP.

In contrast to PSD, which is implemented in attainment and unclassified areas to ensure that areas with good air quality continue to maintain good air quality, NSR is implemented in nonattainment areas to ensure that ambient air quality does not deteriorate further. Each California nonattainment district has adopted rules to implement federal NSR. Overall, these rules are as stringent, or more stringent, than federally required, and many of the rules have been approved as part of California's SIP. Current information about district NSR programs is available on U.S. EPA's website (http://www.epa.gov/oar/urbanair/sipstatus/reports/ca_elembypoll.html). Regardless of how the PSD and NSR programs are implemented, programs in all California districts generally meet U.S. EPA requirements and therefore satisfy the Prong 3 requirements with respect to interference with PSD in other states.

Finally, the Infrastructure SIP Guidance states that Prong 4 (interference with visibility protection) is satisfied with an approved Regional Haze SIP. U.S. EPA fully approved California's Regional Haze SIP in June 2011 (76 FR 34608). A copy of the Regional Haze SIP is available on the ARB website (http://www.arb.ca.gov/planning/sip/sip.htm) and satisfies the Prong 4 requirements for ozone, $PM_{2.5}$, NO_2, and SO_2. In addition, U.S. EPA approved California's previous Infrastructure SIP submittals for the 1997 ozone and 1997 $PM_{2.5}$ standards with respect to Prong 4 (76 FR 34608). Although the Regional Haze SIP does not address lead, the Infrastructure SIP Guidance states that the impacts of lead on visibility are negligible. This is discussed in more detail in ARB's October 6, 2011, lead Infrastructure SIP submittal.

In addition to California's responsibilities specified under CAA Section 110(a)(2)(D), CAA Section 126 allows other states to petition the Administrator for a finding that any major source or group of stationary sources emits or would emit any air pollutant in violation of CAA Section 110(a)(2)(D)(ii). No such petitions have been filed for California. Furthermore, under CAA Section 115, the U.S. EPA Administrator may find that air pollutant(s) emitted in the United States cause or contribute to air pollution which may

reasonably be anticipated to endanger public health or welfare in a foreign country. The Administrator has not made any such findings for California.

Adequate Personnel, Funding, Authority, Conflict of Interest, and Board Composition [CAA Section 110(a)(2)(E)]

> *This section of the CAA requires states and local districts to maintain adequate legal authority, funding, and personnel to implement their SIP and to comply with the conflict of interest and public interest requirements of CAA Section 128.*

A majority of ARB and district budgets go toward meeting federal CAA mandates. Much of this funding comprises fees collected from regulated emission sources and dedicated to air pollution control activities. Additional funding comes from special program funds specifically earmarked for air quality efforts. ARB and districts have requirements in place that govern the conflict of interest and public interest requirements of CAA Section 128.

Discussion

Legal Authority, Funding, and Personnel

ARB is designated as the air pollution control agency that is ultimately responsible for all purposes set forth in federal law and thus, has authority to carry out all SIP-related obligations (H&SC Section 39602). This authority extends to implementing control activities in areas where local or regional authority fails to meets its responsibilities under State law (H&SC Section 39002).

Each year, the California State Legislature approves ARB's funding and staff resources for carrying out CAA-related programs. Similarly, each year, district governing boards approve district budgets. The annual budget process provides a periodic update that enables ARB and the districts to adjust funding and personnel needs. Although it is not legally possible for ARB and the districts to provide specific commitments relative to future-year funding, the annual budget appropriations process undertaken by the California State Legislature enables ARB to present a request for resources required to meet the mandates of the CAA. These mandated programs have received State funding for more than three decades, and there is consistently strong public support in California for providing clean air. Therefore, it is reasonable to assume that implementation of CAA mandates will continue to be funded at an appropriate level.

Over the last several years, a majority of ARB's budget has gone toward meeting CAA mandates. Furthermore, the majority of ARB's budget comprises dedicated fees collected from regulated emission sources and other sources such as vehicle registration fees and vehicle license plate fees. These funds can only be used for air pollution control activities. Districts receive funding from fees paid by regulated businesses, motor vehicle registration fees, State and federal grants, and other local revenue sources. Collectively, the 2009-2010 ARB and district budgets totaled $1.2 billion, with 3,422.4 full-time equivalent staff positions.

Compliance with CAA Section 128

CAA Section 128(a) requires that SIPs contain legal requirements that any board approving permits or enforcement orders have a majority of members that "represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders" and that those members, and the heads of executive agencies with similar powers, must disclose any potential conflicts of interest.

To satisfy Section 128(a), California submits the following California statutes and regulations for inclusion in the SIP: California Government Code Sections 82048, 87103, and 87302 and California Code of Regulations (CCR), Title 2, sections 18700 and 18701 (refer to Attachment 2). In the aggregate, these statutes and rules satisfy the requirements of CAA Section 128(a) as detailed below.

Under Government Code Section 82048, a "public official" is "every member, officer, employee, or consultant of a state or local government" (Government Code Section 82048(a)). CCR, Title 2, section 18701 explains that "member," within the meaning of Government Code Section 82048, includes "salaried or unsalaried members of committees, boards, or commissions with decision making authority" who make "governmental decisions" (CCR, Title 2, section 18701(a)(1)(A)). Under this broad definition, those who approve permits or enforcement orders within California (e.g. hearing board members, local district board members, or air pollution control officers) are "public officials" under California law.

Under CCR, Title 2, section 18700, "public officials" may not "make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest" (CCR, Title 2, section 18700(a)). A conflict of interest exists if "the decision will have a reasonably foreseeable material financial effect on one or more of his/her economic interests…" (*Ibid*.). Section 18700's limitations on a public official's actions are on-going, and a public official must abide by them throughout his or her time as a public official.

Government Code Section 87103 defines a public official's "financial interest in a decision" as a situation where it is "reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, [or] a member of his or her immediate family." Section 87103 also provides that a public official has a financial interest in a decision if it involves: a business or property in which they have $2,000 or more invested; any source of income amounting to $500 or more within a year; any business where they are a director, officer, trustee, employee, or manager; or any donor who has given them $250 or more within a year (Government Code Section 87103(a) through (e)).

A board member's obligation to disclose potential conflicts of interest flows from Government Code Section 87302. Such disclosure is accomplished by the regular filing of a "Form 700" statement (CCR, Title 8, section 16430) of their economic interests. These statements are made public by the California Fair Political Practices Commission.

Together, these five statutes and regulations function to satisfy both the board composition and conflict of interest disclosure requirements of CAA Section 128(a).

***Stationary Source Monitoring and Reporting* [CAA Section 110(a)(2)(F)]**

> *This section of the CAA calls for states to require owners and operators of stationary sources to install, maintain, and replace equipment for monitoring stationary source emissions, to provide periodic reports on these emissions, and to correlate these reports with emission limits.*

Local districts are responsible for developing stationary source emission monitoring and reporting requirements. In many cases, these monitoring and reporting requirements are part of the source operating permit and go beyond federal requirements.

Discussion

Districts are responsible for monitoring emissions from stationary sources. Under the H&SC, districts must adopt and enforce rules and regulations to achieve the federal standards and must enforce all applicable provisions of federal law, which includes determining source-specific emissions (H&SC Sections 40001(a) and 41511). Furthermore, districts are given the right of entry for the purpose of inspecting emission sources, including securing samples of emissions or securing records required to be maintained (H&SC Section 41510).

The following subsections provide information on monitoring stationary source emissions, reporting stationary source emissions, and correlating emission reports with emission limits in permits and rules. In addition to a general discussion, each subsection includes examples of applicable rules that address the requirements. The cited examples are only a sampling of the relevant rules currently in place in California. California has 35 local districts, and each of these districts may have dozens of industry-specific rules that include emissions monitoring and reporting requirements. Although this Infrastructure SIP includes only a few examples of applicable rules, lists of SIP-approved rules implemented in each local district are available on the web.[3]

Monitoring Stationary Source Emissions

California districts are responsible for implementing stationary source emission monitoring requirements. The federal stationary source emission monitoring requirements are set forth in 40 CFR 51.212, and the emission thresholds for sources subject to the emission monitoring requirements are specified in U.S. EPA's Air Emissions Reporting Requirements (AERR) Rule, which is codified in 40 CFR 51, Subpart A (http://www.epa.gov/ttn/chief/aerr/final_published_aerr.pdf).

[3] California's district rules may be accessed at the District Rules Database maintained on ARB's website (http://www.arb.ca.gov/drdb/drdb.htm). U.S. EPA-approved versions of the rules are largely available on Region 9's website (http://yosemite.epa.gov/r9/r9sips.nsf/Casips?readform&count=100&state=California).

Stationary source emissions reported under the AERR Rule include lead, oxides of nitrogen (NO_x), $PM_{2.5}$, SO_2, volatile organic compounds (VOC), and ammonia. Stationary sources subject to the annual and three-year AERR Rule reporting cycles are defined in 40 CFR 51.50, based on their level of emissions. Furthermore, the specified emission levels vary by pollutant. For example, the AERR Rule requires facilities emitting 2,500 tons per year (tpy) or more of NO_x to report their emissions annually, while facilities emitting from 100 to 2,499 tpy of NO_x report once every three years. In contrast, reporting requirements for $PM_{2.5}$ sources are much lower. Facilities emitting only 250 tpy or more of $PM_{2.5}$ must report their emissions annually, while facilities emitting from 100 to 249 tpy report once every three years.

Rules applicable in California require stationary source owners and operators to determine the amount of pollutants emitted by their facilities. Districts typically fulfill the stationary source monitoring requirements by adopting regulations that establish emission limits and other requirements, including emission reporting, for each industrial and commercial activity that significantly contributes federal standard-relevant air pollution in a given area. This includes any source emitting pollutants at rates above the AERR Rule thresholds. Once adopted, the district rules may be submitted to U.S. EPA for approval. The rules listed in Table 9 provide some examples of U.S. EPA-approved rules that fulfill the stationary source emission monitoring and reporting requirements. Some of the rules are generally applicable to all emission sources, while others are tied to specific stationary source categories and/or emission thresholds. Many of these rules contain requirements to make the data publically available. If not specified, public availability is generally covered under State law.[4]

The data resulting from such stationary source emission monitoring rules can be used for a variety of compliance purposes, including use as credible evidence to assess penalties in the event of an emissions limit violation, consistent with CAA Section 113(e) – Penalty Assessment Criteria.

[4] California Government Code, Title 1, Division 7, Chapter 3.5, Inspection of Public Records, Article 1, § 6254.7, subdivision (b) provides for public availability of emissions data. Under subdivision (b), "All air or other pollution monitoring data, including data compiled from stationary sources, are public records" (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=6254.7).

TABLE 9
Examples of Rules Requiring Continuous Stationary Source Emissions Monitoring

*District**	*Rule Number*	*Description*	*Federal Register Citation*
Bay Area AQMD	Regulation 2 Rule 1-501	Specifies that Continuous Emission Monitoring Systems (CEMS) required by the District to measure or analyze source emissions or ground-level concentrations of air contaminants at stationary sources must comply with the Bay Area AQMD's Manual of Procedures, Volume V, Continuous Emission Monitoring Policy and Procedures (49 FR 18822), which in turn includes requirements for equipment installation, maintenance, testing, record retention, reporting, and notification of violations and equipment breakdown.	64 FR 3850
Placer County APCD	Rule 233	Section (500) requires facilities to install, calibrate, operate, and maintain CEMS in accordance with applicable requirements in 40 CFR Part 60, Appendices B and F for oxides of nitrogen (NO_x). The rule also requires quarterly reporting of excess emissions and monitoring systems performance to the District's Air Pollution Control Officer (APCO) and specifies approved emissions test methods for NO_x, including calculation procedures to correlate measured emissions with applicable emissions standards.	78 FR 53249
San Diego County APCD	Rule 69.3	Section (e) requires continuous monitors for the operational characteristics of the unit and of any NO_x emissions reduction system, record retention, and that such records be made available to San Diego County APCD upon request. Rule 69.3 also requires the performance of annual compliance testing using ARB test method 100, which includes calculation procedures to correlate measured emissions with applicable emissions standards.	62 FR 32691
San Diego County APCD	Rule 175	Section (A)(2) specifies that all air or other pollution monitoring data, including data compiled from stationary sources, are public records.	42 FR 23805
Santa Barbara County APCD	Rule 328	Section (C) requires fossil fuel fired steam generators to be continuously monitored for NO_x, oxygen or carbon monoxide (CO), sulfur dioxide (SO_2), and opacity, new nitric acid plants to be monitored for NO_x, sulfuric acid plants to be monitored for SO_2, and fluid bed catalytic cracking units to be monitored for SO_2 and opacity.	46 FR 27116
South Coast AQMD	Rule 1146**	Requires industrial, institutional, and commercial boiler, steam generator, and process heater units greater than or equal to 40 million British thermal units (Btu)/hour and an annual heat input greater than 200 x 10^9 Btu/year to install a CEMS to monitor NO_x emissions.	67 FR 16640
South Coast AQMD	Rule 1110.2**	Requires CEMS for NO_x and CO for certain size gaseous-fueled and liquid-fueled engines.	74 FR 18995
San Joaquin Valley APCD	Rule 4354	Section (5.9) requires CEMS for NO_x, CO, volatile organic compounds, and oxides of sulfur (SO_x) from Glass Melting Furnaces under certain conditions. Section (6.2.3) requires the facility operator to maintain records and make them available or submit them on request to the APCO, ARB, or U.S. EPA.	78 FR 6740
Yolo-Solano AQMD	Rule 2.42	Section (303) requires a CEMS for NO_x emissions from nitric acid production facilities. Section (500) requires that records of NO_x emissions be made available on request.	75 FR 25778
Bay Area AQMD	Regulation 11 Rule 1-500	Requires lead emission sources to provide, install, and maintain monitoring equipment.	46 FR 43968

* *AQMD = Air Quality Management District; APCD = Air Pollution Control District.*

** *CEMS required under Rules 1146 and 1110.2 are also subject to South Coast AQMD Rule 218 – Continuous Emission Monitoring and Rule 218.1 – Continuous Emission Monitoring Performance Specifications. Rule 218 requires CEMS to generate the required data in the units of the applicable standard and provides that emission summaries submitted to the South Coast AQMD be available for public inspection (75 FR 32293).*

Reporting Stationary Source Emissions

Federal requirements for stationary source emission data reporting are set forth in 40 CFR 51.211, 40 CFR 51.321, and the AERR Rule. Stationary source owners and operators are responsible for reporting emission data to the local district, consistent with the district's stationary source emission monitoring regulations (refer to previous discussion). Some districts have separate stationary source emission reporting requirements, as described in the examples cited in Table 10.

As stated previously, the examples cited in Table 10 are only a small sampling of the relevant rules currently in place in California. In addition, districts generally have other rules incorporated into the SIP that also require emission reporting for stationary sources. These include requirements that are part of a permit program and are often more stringent than the AERR Rule requirements. For example, the reporting requirements for the Ventura County APCD and the South Coast AQMD (http://www.vcapcd.org/title_v.htm and http://www.aqmd.gov/titlev/WhatIsTV.html) specify emission monitoring thresholds of 25 tpy and 10 tpy for both NO_x and VOC for stationary sources located in all or some of the district's area, respectively.[5] These levels are lower than those required in the AERR Rule.

[5] Revisions to Ventura County APCD and South Coast AQMD Title V Programs were approved on September 5, 2012 (77 FR 54383). For Ventura County APCD, see Rule 33 sections A and B.2 and Rule 33.3 section A.3. Ventura County APCD is classified as a "serious" ozone nonattainment area for the 1997 and 2008 8-hour standards (40 CFR 81.305). CAA Sections 182(c) and (f) define a major stationary source in serious ozone nonattainment areas as one that emits or has the potential to emit at least 50 tpy of VOC or NO_x. However, Ventura County APCD Rule 26.1 (New Source Review – Definitions), section 18 defines a major source at a more stringent level of 25 tpy of NO_x or VOC. Rule 26.1 was SIP-approved on January 11, 2010 (75 FR 1284). For South Coast AQMD, see Rule 3001 (Applicability, Title V Permits), and Rule 3004 (Permit Types and Content), sections (a)(4) and (b)(2). South Coast AQMD's Title V program was originally approved on December 7, 2001 (66 FR 63503), and the latest revision was approved on September 5, 2012 (77 FR 54383).

TABLE 10
Examples of Rules Governing Stationary Source Emission Reporting Requirements

*District**	*Rule Number*	*Description*	*U.S. EPA Approval Citation*
Bay Area AQMD	Regulation 2 Rule 1-429	Requires sources that emit or may emit volatile organic compounds (VOC) or oxides of nitrogen (NO_x) and subject to the Rule to provide the District a written statement showing actual emissions from the source. Bay Area Manual of Procedures, Volume 4 (Source Test Policy and Procedures; 47 FR 29231), section (1.6) states that [stationary] source test records are public information, but proprietary information is not.	60 FR 16799
Santa Barbara County APCD	Rule 212	Section (C) requires stationary sources subject to the Rule to provide the District with a written statement each year showing the actual emissions of reactive organic compounds and NO_x at the facility during the preceding calendar year.	69 FR 29880
Santa Barbara County APCD	Rule 608	Specifies that the District shall make daily summaries of air monitoring data in such a form as to be understandable by the public and that the summaries shall be publically available records. This requirement applies to all pollutants.	47 FR 26618
San Diego County APCD	Rule 19.3	Section (c)(3) requires stationary sources that emit 25 tons/year or more of VOC or NO_x to submit Emissions Statement Forms to the District, annually. Under District Rule 175 (42 FR 23805), all air pollution monitoring data, including data from stationary sources, are public records.	65 FR 12472
South Coast AQMD	Rule 1420.1	Section (m) specifies that the owner or operator of a large lead-acid battery recycling facility shall keep daily records, including documentation of the amounts of lead-containing materials processed, results of ambient air lead monitoring, housekeeping and maintenance activities, control device inspection and maintenance, and unplanned shutdowns and corrective actions. These records must be maintained for a period of five years, at least two years onsite. Section (n) contains specific public notification provisions for activities such as unplanned shutdown of a control device and construction, renovation, or demolition activities.	78 FR 5305
Yolo-Solano AQMD	Rule 3.18	Section (301) requires stationary sources that emit or may emit VOC or NO_x and subject to the Rule to provide the District with a written statement showing actual emissions from the stationary source.[6] Under Yolo-Solano AQMD Rule 1.1(103), all air monitoring data, including data compiled from stationary sources, are public records (69 FR 13234).	69 FR 29880

∗ *AQMD = Air Quality Management District; APCD = Air Pollution Control District.*

[6] The local version of Yolo-Solano AQMD Rule 3.18, adopted July 28, 1993, is Rule 3.7 ("Emission Statements") and it retains the referenced emission reporting requirement under the same section number, section 301.

Correlating Stationary Source Emission Reports with Stationary Source Emission Limits

Federal requirements for correlating stationary source emission reports with the emission limits applicable to each source are set forth in 40 CFR 51.116, while requirements for making such reports available for public inspection are specified in the AERR Rule. Emission monitoring data provide a basis for determining whether facilities meet performance standards established in various rules. Furthermore, emission estimates for stationary sources rely in part, on accurate emission monitoring data. California H&SC Section 41511 authorizes ARB and local districts to adopt rules and regulations requiring any emission source owner or operator to take reasonable steps to determine the amount of emissions released from the source. This includes emissions that contribute to a violation of any federal standard. California's 35 districts address the requirement to correlate stationary source emission reports with stationary source emission limits through requirements embedded in their stationary source emission reporting rules and through their stationary source testing, inspection, and compliance programs.

To determine the amount of emissions coming from a particular source, districts have rules giving the Air Pollution Control Officer authority to request the installation, use, maintenance, and inspection of Continuous Emissions Monitoring Systems or CEMS equipment and to assess source compliance with applicable emission limits. These rules may include calculation procedures to correlate measured stationary source emissions with applicable stationary source emission standards. Some districts have rules that closely mirror the correlation requirement of 40 CFR 51.116(c). Several examples of such rules are provided below. These example rules apply to all air contaminants, including pollutants with federal standards and their precursors, and have been approved by U.S. EPA.

- Mendocino County AQMD Rule 240(e)(3) Permit to Operate – Compliance Verification (50 FR 30942) states that emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures and will be available to the public during normal business hours at the District Office, or submitted to U.S. EPA or ARB, upon request.

- Great Basin Unified APCD Rule 215(D) Public Availability of Emission Data (42 FR 28883) specifies that emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures and will be available to the public during normal business hours at the District's office.

In addition, all districts in California have federally-approved Title V permitting programs. Title V requires all major stationary sources and some minor stationary sources of air pollution to obtain an operating permit which specifies all air pollution requirements that apply to the source, including emission limits and monitoring, record keeping, and reporting requirements.

Emissions Inventory Responsibilities

ARB is responsible for compiling stationary source emissions data from the districts and reporting the information to U.S. EPA. In addition, ARB maintains an emissions inventory that includes VOC, NO_x, oxides of sulfur (SO_x), $PM_{2.5}$, lead, and ammonia emissions and comprises information for more than 14,000 stationary sources in California. The inventory exceeds federal CAA requirements, in that it includes emission data for sources that emit pollutants at rates lower than the AERR Rule reporting thresholds. The emissions inventory is publically available on the ARB website (http://www.arb.ca.gov/ei/disclaim.htm). In addition to emissions information for stationary sources, the inventory includes emissions data for other types of sources, including mobile sources (such as cars, trucks, and ocean going vessels), area-wide sources (such as residential water heaters, residential central furnaces, and managed burning and disposal), and wildfires. The emissions inventory is relevant to all pollutants with federal standards, including lead, NO_2, ozone, $PM_{2.5}$, and SO_2.

Contingency Plans for Emergency Episodes *[CAA Section 110(a)(2)(G)]*

> *This section of the CAA requires states to provide for authority comparable to that in CAA Section 303, to develop a contingency plan for emergency episodes (emergency episode plan), and to have adequate authority to implement the emergency episode plan in areas that meet specified threshold concentrations.*

State law grants ARB and the districts authority comparable to U.S. EPA's authority to halt pollutant emissions that could cause a public health emergency or nuisance. These laws apply to a variety of emission violations and specify penalties equivalent to or exceeding federal penalties for comparable violations.

To facilitate planning efforts, including emergency episode planning, U.S. EPA divided California into Intrastate Air Quality Control Regions (IAQCR) and classified each IAQCR as Priority I, II, or III with respect to emergency episode planning, based on threshold levels specified in the CFR. Priority I and II areas have specific emergency episode plan requirements that are designed to prevent ambient concentrations from reaching specified significant harm levels. Priority III areas have no plan requirements.

California air quality has improved substantially over the last four decades and in most cases, is now much better than the emergency episode plan threshold levels specified in the CFR. Therefore, ARB is requesting that U.S. EPA reclassify a number of areas with respect to emergency episode plan requirements, based on current air quality. One exception to this request is the Great Basin Valley IAQCR, which exceeds U.S. EPA's recommended threshold for developing a $PM_{2.5}$ emergency episode plan. The Great Basin Unified APCD is in the process of developing a compliant plan. After adoption, ARB will forward that plan to U.S. EPA for inclusion in California's SIP.

Discussion

Authority to Halt Pollutant Emissions

Under CAA Section 110(a)(2)(G), states are to provide for authority comparable to that in CAA Section 303, which gives U.S. EPA legal authority to halt the emission of air pollutants causing or contributing to injury of the public or welfare. U.S. EPA is further authorized to either bring a lawsuit in federal court or, if such civil action cannot assure prompt protection of public health or welfare, to issue such orders as may be necessary to protect public health, welfare, or the environment.

The authority granted to the U.S. EPA Administrator is vested in ARB and the districts under H&SC Section 42400, et seq. These sections of California law apply to a range of emissions violations and impose penalties that are equivalent to or exceed federal penalties for comparable violations. These penalties include the imposition of fines and/or imprisonment.

As described earlier (refer to section titled Emission Limits and Other Control Measures [CAA Section 110(a)(2)(A)]), ARB is responsible for controlling emissions from vehicular sources, while districts are responsible for controlling emissions from non-vehicular sources. Under H&SC Section 41700, sources are prohibited from emitting any pollutant(s) that cause injury, detriment, nuisance, or annoyance to the public or that endanger the comfort, repose, health, or safety of the public. Furthermore, H&SC Section 42450, et seq., gives districts specific authority to abate emissions from any source violating H&SC Section 41700 or any other order, rule, or regulation that prohibits or limits the discharge of pollutants, consistent with applicable notice and hearing requirements. Under H&SC Section 41509, ARB or other local agency rules cannot infringe upon a district's authority to declare, prohibit, or abate a nuisance, and California's Attorney General is authorized to enjoin any pollution or nuisance, either on his or her own, or by request.

Contingency Plans for Emergency Episodes

In the early 1970s, U.S. EPA defined IAQCRs under CAA Section 197 to facilitate air quality planning and compliance with federal standards. A table summarizing the general area included in each California IAQCR is provided in Table 11. The formal IAQCR boundary descriptions are codified in 40 CFR 81, Subpart B. After defining the IAQCRs, U.S. EPA classified the IAQCRs as Priority I (most severe), II, or III (least severe) for SO_x, NO_2, and ozone, based on air quality data available at the time and using the threshold levels specified in 40 CFR 51.150 (refer to Table 12).

TABLE 11
General Area Included in California Intrastate Air Quality Control Regions

Intrastate Air Quality Control Region	*General Area Included**	*Code of Federal Regulations (CFR) Reference*
Great Basin Valley	Alpine, Inyo, and Mono counties	40 CFR 81.159
Lake County	Lake County	40 CFR 81.273
Lake Tahoe	Lake Tahoe Air Basin portion of El Dorado and Placer counties	40 CFR 81.275
Metropolitan Los Angeles	Orange and Ventura counties; South Coast Air Basin portion of Los Angeles, Riverside, and San Bernardino counties; coastal portion of Santa Barbara County	40 CFR 81.17
Mountain Counties	Amador, Calaveras, Mariposa, Nevada, Plumas, Sierra, and Tuolumne counties	40 CFR 81.274
North Central Coast	Monterey, San Benito, and Santa Cruz counties	40 CFR 81.160
North Coast	Del Norte, Humboldt, Mendocino, and Trinity counties; North Coast Air Basin portion of Sonoma County	40 CFR 81.161
Northeast Plateau	Lassen, Modoc, and Siskiyou counties; northeast portion of Shasta County	40 CFR 81.162
Sacramento Valley	Butte, Colusa, Glenn, Sacramento, Sutter, Tehama, Yolo, and Yuba counties; southwest portion of Shasta County; Sacramento Valley Air Basin portion of Solano County	40 CFR 81.163
San Francisco Bay Area	Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara counties; San Francisco Bay Area Air Basin portion of Solano and Sonoma counties	40 CFR 81.21
San Diego	San Diego County	40 CFR 81.164
San Joaquin Valley	Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare counties; San Joaquin Valley Air Basin portion of Kern County	40 CFR 81.165
South Central Coast	San Luis Obispo County; non-coastal portion of Santa Barbara County	40 CFR 81.166
Southeast Desert	Imperial County; Mojave Desert Air Basin portion of Kern, Los Angeles, and San Bernardino counties; Mojave Desert and Salton Sea air basin portions of Riverside County	40 CFR 81.167

* *Note that these descriptions are general in nature, and the IAQCR boundaries may not reflect current air basin boundaries because air basin boundaries have changed over time. The reader is referred to 40 CFR 81, Subpart B for the official IAQCR boundary descriptions.*

TABLE 12
Threshold Concentrations for Priority I and II Areas and Significant Harm Levels

Pollutant	***Averaging Time***	***Relevant Concentration for Averaging Time***		
		Priority I Area Threshold	***Priority II Area Threshold***	***Significant Harm Level***
Sulfur Oxides (measured as SO_2)	Annual Arithmetic Mean	0.04 ppm*	0.02 – 0.04 ppm	none specified
	24-Hour	0.17 ppm	0.10 – 0.17 ppm	1.0 ppm
	3-Hour	none specified	> 0.50 ppm	none specified
Nitrogen Dioxide	Annual Arithmetic Mean	0.06 ppm	none specified	none specified
	1-Hour	none specified	none specified	2.0 ppm
	24-Hour	none specified	none specified	0.5 ppm
Ozone	1-Hour	0.10 ppm	none specified	none specified
	2-Hour	none specified	none specified	0.6 ppm

** ppm = parts per million.*

Once classified, the CAA requires states to develop emergency episode plans designed to prevent air pollution in the IAQCRs from reaching significant harm levels (refer to Table 12). Under 40 CFR 51.152, the most comprehensive emergency episode plans are required for Priority 1 areas, and less rigorous plans are required for Priority II areas. No plans are required for Priority III areas. The original emergency episode priority classifications for all areas of California are codified in 40 CFR 52.221.

Since U.S. EPA originally established the priority classifications, California air quality has improved substantially and in most areas, is now much better than the specified threshold levels. Furthermore, the significant harm levels for SO_x, NO_2, and ozone have not been reached in California for decades. Therefore, ARB is requesting that U.S. EPA reclassify a number of original Priority I and II areas as Priority III, with no emergency episode plan requirements. The details of this request are summarized in Table 13 and described in the following subsections.

TABLE 13
New and (Original) Priority Classifications by Pollutant
for Emergency Episode Plan Requirements*

Intrastate Air Quality Control Region	***Pollutant***		
	Sulfur Oxides	***Nitrogen Dioxide***	***Ozone (Photochemical Oxidants)***
Great Basin Valley	III	III	III
Lake County	III	III	III
Lake Tahoe	III	III	III (I)
Metropolitan Los Angeles	III (II)	III (I)	I
Mountain Counties	III	III	III (I)
North Central Coast	III	III	III (I)
North Coast	III	III	III
Northeast Plateau	III	III	III
Sacramento Valley	III	III	III (I)
San Diego	III	III	III (I)
San Francisco Bay Area	III (II)	III	III (I)
San Joaquin Valley	III	III	I
South Central Coast	III	III	III
Southeast Desert	III	III	III (I)

** The requested change in priority classification is shown first, followed by the original priority classification, in parentheses. If only one priority classification is shown, no change is requested.*

Sulfur Oxides: Areas in California were originally classified as Priority II or III for SO_x, measured as SO_2. U.S. EPA revised the federal SO_2 standard in June 2010, but has not yet designated any area of California with respect to this standard. Subsequent to adoption of the revised standard, ARB submitted comprehensive analyses (based on 2007 through 2009 data) recommending that all areas of California be designated as attainment for SO_2. Based on more recent monitoring data (2010 through 2012 data), California's 33 site SO_2 monitoring network continues to show attainment of the SO_2 standard, with a statewide maximum 1-hour concentration of 0.073 ppm. This 1-hour maximum is well below the 3-hour and 24-hour thresholds specified for Priority II areas (refer to Table 12). It is also far below the specified significant harm level. In addition, California has attained the former annual arithmetic mean SO_2 standard throughout the State since the late 1980s. Thus, based on current SO_2 concentrations, ARB requests that U.S. EPA reclassify the Metropolitan Los Angeles and San Francisco Bay Area IAQCRs as Priority III for SO_x (refer to Table 13). With this change, there would be no SO_x emergency episode plan requirements for any area in California.

Nitrogen Dioxide: All sites in California continue to meet the federal NO_2 standards. California previously addressed the NO_2 emergency episode plan requirements in its December 12, 2012, NO_2 Infrastructure SIP submittal. In that submittal, ARB requested that U.S. EPA either exempt the Metropolitan Los Angeles IAQCR from the emergency episode plan requirements or reclassify the region as Priority III. ARB is now requesting

that U.S. EPA reclassify the region as Priority III, consistent with our requests for other pollutants (refer to Table 13). With this change, there would be no NO_2 emergency episode plan requirements for any area in California.

Ozone: Five California IAQCRs were originally classified as Priority III for ozone, and the remaining nine were classified as Priority I. It is important to note that these classifications are based on the former 1-hour ozone standard, and U.S. EPA has not classified areas for emergency episode planning purposes with respect to the 1997 or 2008 8-hour ozone standards. However, U.S. EPA has noted that the 1-hour ozone significant harm levels for emergency episode plans are appropriate for use with the 2008 8-hour ozone standard (78 FR 34178). Thus, the proposed reclassifications and emergency episode plans described below are appropriate not only for the former 1-hour ozone standard, but for the 1997 and 2008 8-hour ozone standards, as well.

While the original ozone priority classifications summarized in Table 13 were based on the specified 1-hour threshold concentration, two original Priority I areas (the Lake Tahoe and Mountain Counties IAQCRs) were never designated as nonattainment for the 1-hour standard. Furthermore, U.S. EPA has determined that a number of other original Priority I areas now attain the former 1-hour ozone standard:

- Eastern Kern County (69 FR 21731; part of Southeast Desert IAQCR)
- North Central Coast (62 FR 2597; North Central Coast IAQCR)
- Sacramento Metropolitan Area (77 FR 64036; includes portions of Sacramento Valley and Mountain Counties IAQCRs)
- San Diego County (67 FR 65043; San Diego IAQCR)
- San Francisco Bay Area (69 FR 21717; San Francisco Bay Area IAQCR),
- Santa Barbara County (67 FR 54963; coastal portion of County is part of Metropolitan Los Angeles IAQCR)
- Ventura County (74 FR 25153; part of Metropolitan Los Angeles IAQCR)

Ozone air quality also meets the former 1-hour ozone standard in the remaining portions of the Southeast Desert IAQCR, although the area has not been redesignated as attainment.[7] Based on all of the above information, ARB requests that U.S. EPA reclassify all IAQCRs that meet the 1-hour ozone standard as Priority III, under the provisions of 40 CFR 51.152(d)(1). These areas include the Lake Tahoe, Mountain Counties, North Central Coast, Sacramento Valley, San Diego, San Francisco Bay Area, and Southeast Desert IAQCRs. With these changes, only the Metropolitan Los Angeles and San Joaquin Valley IAQCRs would be required to have an ozone emergency episode plan. As summarized in Table 14, all portions of these two IAQCRs already have a SIP-approved plan in place, with adequate authority to implement the plan, if needed.

[7] Although ozone air quality in all parts of the Southeast Desert IAQCR now meets the former 1-hour federal ozone standard, these areas do have SIP-approved emergency episode plans in place (Antelope Valley (68 FR 10966); Coachella Valley (64 FR 1439); Eastern Kern County (45 FR 37698 and 47 FR 26619); Imperial County (46 FR 8472); Mojave Desert – Riverside County portion (43 FR 59489 and 45 FR 37428); Mojave Desert – San Bernardino County portion (45 FR 37428 and 47 FR 26618).

TABLE 14
SIP-Approved Emergency Episode Plans for the Metropolitan Los Angeles and San Joaquin Valley IAQCRs

Intrastate Air Quality Control Region	*Subarea*	*Regulation*	*Federal Register Citation*
Metropolitan Los Angeles	South Coast AQMD	Regulation 7 – Emergencies	64 FR 14391
	Santa Barbara County APCD	Regulation 6 – Emergencies	47 FR 26618
	Ventura County APCD	Regulation 8 – Emergency Action	64 FR 33351
San Joaquin Valley	San Joaquin Valley APCD	Regulation 6 – Air Pollution Contingency Plan	64 FR 13351
	Eastern Kern APCD	Regulation 6 – Air Pollution Emergency Contingency Plan	45 FR 37689 and 47 FR 26619

* *AQMD = Air Quality Management District; APCD = Air Pollution Control District.*

Lead: ARB addressed the emergency episode plan requirements for lead in its October 6, 2011, Infrastructure SIP submittal for lead. All areas of California continue to attain the federal lead standard except the Los Angeles County lead nonattainment area. Thus, ARB requests that U.S. EPA treat the nonattainment area as Priority I for lead and all remaining areas of the State as Priority III. Lead emergency episode plan provisions in the Los Angeles County nonattainment area are described in the South Coast AQMD lead nonattainment SIP, submitted to U.S. EPA on June 20, 2012 (referred to as contingency measures in the nonattainment plan). These contingency measures are triggered at lower levels than proposed in the emergency episode plan requirements described in ARB's October 6, 2011, Infrastructure SIP submittal for lead. U.S. EPA proposed approval of the South Coast AQMD's lead nonattainment SIP, including the contingency measures, on December 11, 2013 (78 FR 29583).

Fine Particulate Matter: Similar to lead, 40 CFR 51.150 does not specify any threshold concentration or significant harm level for $PM_{2.5}$. However, in their 2009 $PM_{2.5}$ Infrastructure SIP Guidance, U.S. EPA recommends using a 24-hour $PM_{2.5}$ concentration of 210.5 $\mu g/m^3$ and above to identify Priority 1 areas and a concentration range of greater than 140.4 $\mu g/m^3$ to 210.4 $\mu g/m^3$ to identify Priority II areas.[8] Based on data collected during 2010 through 2012, 24-hour $PM_{2.5}$ concentrations measured by Federal Reference Monitors in California have been no greater than 140.4 $\mu g/m^3$, except during one windblown dust event in the Great Basin Unified APCD. A 24-hour $PM_{2.5}$ concentration of 208 $\mu g/m^3$ was recorded at the Keeler-Cerro Gordo Road monitoring station in the Owens Lake area on December 1, 2011. Thus, ARB requests that U.S. EPA treat all areas of California except the Great Basin Valley IAQCR as Priority III with respect to $PM_{2.5}$. ARB further requests that U.S. EPA treat the Great Basin Valley IAQCR as Priority II.

[8] A copy of U.S. EPA's 2008 $PM_{2.5}$ Infrastructure SIP Guidance document is available on the web (http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf).

Priority II areas are required to develop emergency episode plans with contingency measures to be implemented should monitored $PM_{2.5}$ levels exceed 140.4 µg/m^3. Dust storm events, like the one that occurred at Keeler in December 2011, are caused by windblown dust from the anthropogenically-dried Owens Lake bed and are unique to the Great Basin Valley area. Best Available Control Measures are already in place in most of the dried emissive areas to control the fugitive dust events. Additional controls are required and will be implemented over the next few years. In addition, the Great Basin Unified APCD has an existing health advisory program to notify residents of the appropriate actions to reduce the adverse health effects of these high concentrations. Great Basin Unified APCD is working with U.S. EPA Region 9 staff to develop a rule committing to a districtwide notification program for the windblown dust events. The rule will address smoke-related impacts, as well. Great Basin Unified APCD is scheduled to present the rule to their Board in March 2014. Once the rule is adopted, ARB will transmit it to U.S. EPA for inclusion in the statewide SIP.

Future SIP Revisions *[CAA Section 110(a)(2)(H)]*

> *This section of the CAA requires states to revise their SIP when an air quality standard is promulgated or revised, new attainment methods become available, or U.S. EPA determines a SIP is either inadequate or does not meet revised CAA requirements.*

California has and will continue to submit revisions to its SIP, as mandated by U.S. EPA.

Discussion

H&SC Section 39602 designates ARB as the agency responsible for compliance with all purposes set forth in federal law. This includes responsibility for preparing and submitting SIP revisions in response to new or revised federal standards or improved methods for attaining those standards. It also includes responsibility for revising the SIP if U.S EPA finds the SIP inadequate for attaining the federal standards or inadequate with respect to meeting CAA requirements. ARB develops all SIP revisions in consultation with districts and other affected entities. In addition, all revisions are subject to public review and comment before being approved and submitted to U.S. EPA, as required by the CAA.

ARB is submitting this multi-pollutant Infrastructure SIP in compliance with federal law. In the future, ARB will continue to work with local districts to develop approvable SIPs as federal standards change or new standards are implemented, new attainment methods become available, or U.S. EPA determines an existing SIP is inadequate or does not meet revised CAA requirements. ARB maintains a collection of recent SIP documents on its website (http://www.arb.ca.gov/planning/sip/sip.htm).

Consultation with Government Officials, Public Notification, PSD, and Visibility Protection [CAA Section 110(a)(2)(J)]

> *This section of the CAA requires states to meet requirements of the CAA relating to consultation and public notification and to implement PSD and visibility protection programs for established federal standards.*

ARB and local districts comply with all federal regulatory requirements, including requirements for consultation, notification, comment, and adoption. Furthermore, ARB has information available on its website about ambient pollutant concentrations and the health impacts from exposure in the ambient air. As described earlier, in response to CAA Section 110(a)(2)(C), PSD requirements are addressed at the district level. Visibility issues are addressed in California's approved Regional Haze SIP.

Discussion

Consultation

CAA Section 121 requires states to provide a satisfactory process for consulting with general purpose local governments, designated organizations of elected local government officials, and any affected federal land manager in carrying out CAA requirements. H&SC Section 39602 designates ARB as the air pollution control agency for all purposes set forth in federal law. This authority extends to the preparation of the SIP and coordination of all district activities necessary to comply with the CAA. Consultation with local districts is a critical part of the SIP development process because districts provide local expertise and knowledge of local conditions. In addition, districts are, in part, responsible for enforcing SIP provisions. The districts are governed by Boards comprised primarily of elected officials, who also play a role in developing SIP provisions.

California's 35 districts come together under the California Air Pollution Control Officers Association (CAPCOA). CAPCOA promotes clean air and provides a forum for sharing knowledge, experience, and information among air quality regulatory agencies throughout the State. To help facilitate air quality progress, CAPCOA has organized a number of working groups that meet on an on-going basis to discuss air quality-related issues. To further coordinate air quality goals, CAPCOA meets regularly with State and federal air quality officials to develop statewide rules and to assure consistent application of rules and regulations. A list of California districts and the county or counties included in each one is provided in Table 15. Additional information about each district and the work CAPCOA facilitates is available through the CAPCOA website (http://www.capcoa.org/).

TABLE 15
California Districts and Jurisdictional Area

*District Name**	*County/Counties Included in Jurisdictional Area*
Amador County APCD	Amador County
Antelope Valley AQMD	Northeast Los Angeles County
Bay Area AQMD	Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara counties; west Solano County; south Sonoma County
Butte County AQMD	Butte County
Calaveras County APCD	Calaveras County
Colusa County APCD	Colusa County
El Dorado County AQMD	El Dorado County
Feather River AQMD	Sutter and Yuba counties
Glenn County APCD	Glenn County
Great Basin Unified APCD	Alpine, Mono, Inyo counties
Imperial County APCD	Imperial County
Eastern Kern APCD	East Kern County
Lake County AQMD	Lake County
Lassen County APCD	Lassen County
Mariposa County APCD	Mariposa County
Mendocino County AQMD	Mendocino County
Modoc County APCD	Modoc County
Mojave Desert AQMD	Northeast San Bernardino County; east Riverside County
Monterey Bay Unified APCD	Monterey, San Benito, Santa Cruz counties
North Coast Unified AQMD	Del Norte, Humboldt, Trinity counties
Northern Sierra AQMD	Nevada, Plumas, Sierra counties
Northern Sonoma APCD	North Sonoma County
Placer County APCD	Placer County
Sacramento Metro AQMD	Sacramento County
San Diego County APCD	San Diego County
San Joaquin Valley APCD	Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare counties; west Kern County
San Luis Obispo County APCD	San Luis Obispo County
Santa Barbara County APCD	Santa Barbara County
Shasta County AQMD	Shasta County
Siskiyou County APCD	Siskiyou County
South Coast AQMD	Orange County; southwest Los Angeles County; southwest San Bernardino County; central & west Riverside County
Tehama County APCD	Tehama County
Tuolumne County APCD	Tuolumne County
Ventura County APCD	Ventura County
Yolo-Solano AQMD	Yolo County; east Solano County

* *APCD = Air Pollution Control District; AQMD = Air Quality Management District.*

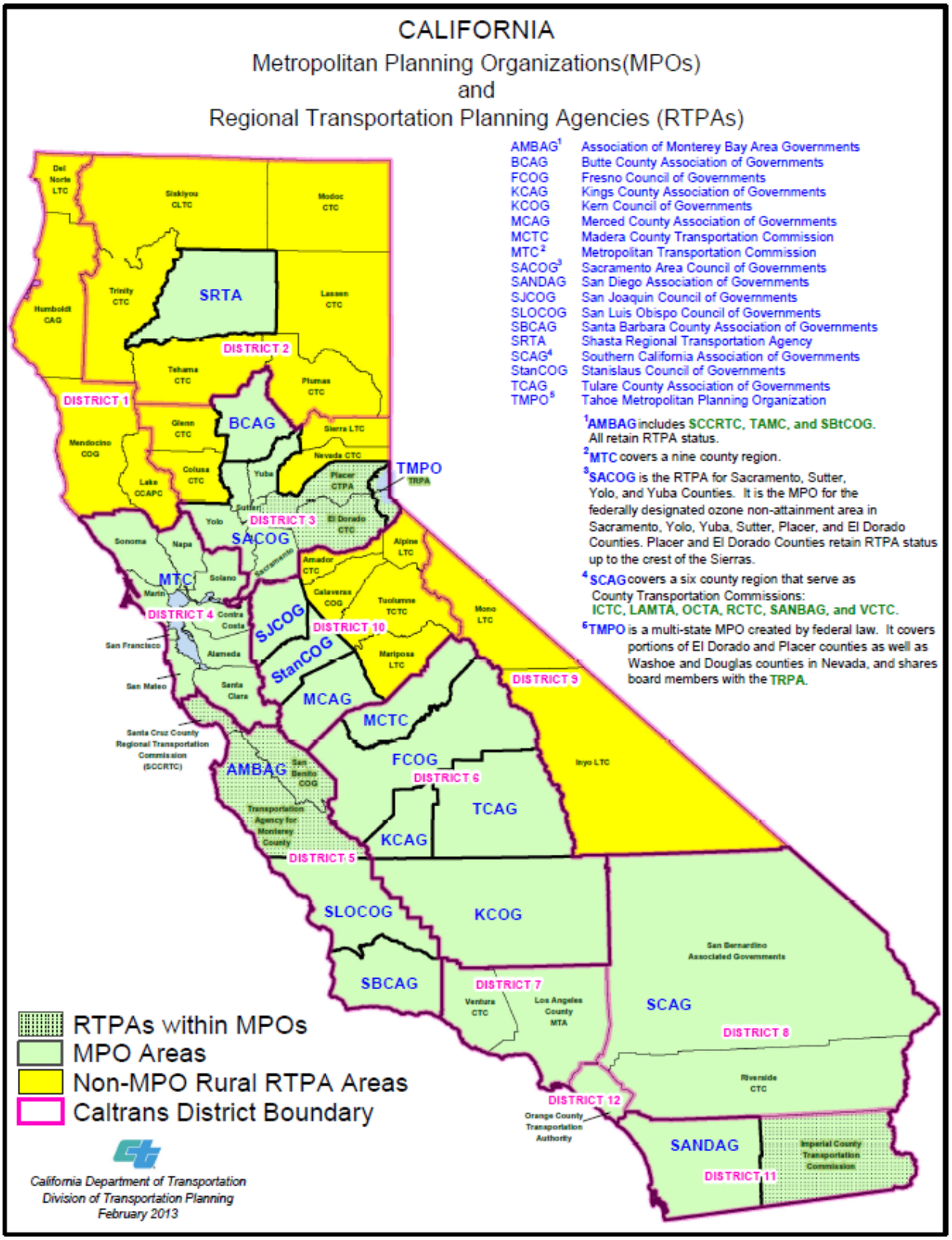
In addition to the districts, ARB has longstanding working relationships with a number of other local, State, and federal stakeholders in developing the SIP. A sampling of the stakeholders consulted during development of the 2007 California SIP revision and the 2009 Regional Haze SIP is shown in Table 16. Collaboration with these other stakeholders strengthens the SIP and ensures continued progress toward attainment of all federal standards.

TABLE 16
Sampling of Stakeholders Consulted During SIP Development Process

Stakeholder Group
California Metropolitan Planning Organizations*
California Bureau of Automotive Repair
California Department of Motor Vehicles
California Energy Commission
California Department of Transportation (CalTrans)
State Water Resources Control Board
Governor's Office of Planning and Research
Department of Forestry and Fire Protection
Federal Highway Administration
Federal Department of Energy
State of Nevada
Port of Los Angeles
Port of Long Beach
South Coast Air Quality Management Plan Advisory Group
San Joaquin Valley Citizens Advisory Committee
Central Valley Air Quality Coalition

* *A map of California Metropolitan Planning Organizations (MPOs) is shown in Figure 1.*

FIGURE 1


CALIFORNIA
Metropolitan Planning Organizations(MPOs)
and
Regional Transportation Planning Agencies (RTPAs)
AMBAG[1] Association of Monterey Bay Area Governments
BCAG Butte County Association of Governments
FCOG Fresno Council of Governments
KCAG Kings County Association of Governments
KCOG Kern Council of Governments
MCAG Merced County Association of Governments
MCTC Madera County Transportation Commission
MTC[2] Metropolitan Transportation Commission
SACOG[3] Sacramento Area Council of Governments
SANDAG San Diego Association of Governments
SJCOG San Joaquin Council of Governments
SLOCOG San Luis Obispo Council of Governments
SBCAG Santa Barbara County Association of Governments
SRTA Shasta Regional Transportation Agency
SCAG[4] Southern California Association of Governments
StanCOG Stanislaus Council of Governments
TCAG Tulare County Association of Governments
TMPO[5] Tahoe Metropolitan Planning Organization
[1]AMBAG includes SCCRTC, TAMC, and SBtCOG. All retain RTPA status.
[2]MTC covers a nine county region.
[3]SACOG is the RTPA for Sacramento, Sutter, Yolo, and Yuba Counties. It is the MPO for the federally designated ozone non-attainment area in Sacramento, Yolo, Yuba, Sutter, Placer, and El Dorado Counties. Placer and El Dorado Counties retain RTPA status up to the crest of the Sierras.
[4]SCAG covers a six county region that serve as County Transportation Commissions: ICTC, LAMTA, OCTA, RCTC, SANBAG, and VCTC.
[5]TMPO is a multi-state MPO created by federal law. It covers portions of El Dorado and Placer counties as well as Washoe and Douglas counties in Nevada, and shares board members with the TRPA.
DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5
DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10
DISTRICT 11
DISTRICT 12
SRTA
BCAG
TMPO
TRPA
SACOG
MTC
SJCOG
StanCOG
MCAG
MCTC
FCOG
TCAG
KCAG
AMBAG
SLOCOG
KCOG
SBCAG
SCAG
SANDAG
Del Norte LTC
Siskiyou CLTC
Modoc CTC
Trinity CTC
Lassen CTC
Humboldt CAG
Tehama CTC
Plumas CTC
Glenn CTC
Sierra LTC
Mendocino COG
Nevada CTC
Colusa CTC
Yuba
Placer CTPA
Lake OCAPC
Sutter
Yolo
El Dorado CTC
Sonoma
Napa
Alpine LTC
Amador CTC
Solano
Marin
Calaveras COG
Tuolumne TCTC
Mono LTC
Contra Costa
San Francisco
Alameda
Mariposa LTC
San Mateo
Santa Clara
Santa Cruz County Regional Transportation Commission (SCCRTC)
Inyo LTC
San Benito COG
Transportation Agency for Monterey County
Ventura CTC
Los Angeles County MTA
San Bernardino Associated Governments
Riverside CTC
Orange County Transportation Authority
Imperial County Transportation Commission
RTPAs within MPOs
MPO Areas
Non-MPO Rural RTPA Areas
Caltrans District Boundary
California Department of Transportation
Division of Transportation Planning
February 2013

After a draft SIP is developed, H&SC Section 41650, et seq., requires ARB to conduct public hearings and to solicit testimony from the public, as well as from districts and other air quality planning agencies, when adopting nonattainment plans for inclusion in the SIP. Additionally, the California Administrative Procedures Act, Government Code Section 11340, et seq., requires notification and provision of comment opportunities to all parties affected by proposed regulations. Similarly, H&SC Section 40725 requires districts to conduct public hearings when adopting, amending, or repealing any rule. ARB will continue the process of collaborating with local, State, and federal entities and officials in developing SIP elements, as required by the CAA, as well as soliciting public input to the process.

Once a SIP is submitted to U.S. EPA for approval, the process of consultation and collaboration is on-going. An example of this on-going collaboration is the Clean Air Technology Initiative. ARB, along with U.S. EPA, the South Coast AQMD, the San Joaquin Valley APCD, and the California Environmental Protection Agency, signed a memorandum of agreement (MOA) committing to the development and testing of new technologies, in an effort to accelerate progress in meeting current and future federal standards. The goal of the MOA is to improve air quality by aligning agency research resources, where possible and appropriate, to evaluate innovative technologies that have the potential to reduce emissions of pollutants and pollutant precursors, as well as to develop and assess new monitoring equipment that could improve the measurement of emissions from mobile and stationary sources of pollution. As part of this agreement, the agencies intend to coordinate research efforts with other public and private stakeholders, including other federal departments and agencies and other State and local entities, in order to utilize the resources and capacities of a wide sector of government and the business community in projects to develop, demonstrate, and assess new technologies that can help achieve clean air goals.

The creation of the Clean Air Technology Initiative, through which the partner agencies identify regionally important emission sources contributing to the region's attainment challenges, is a key element of the MOA. Both the South Coast AQMD and San Joaquin Valley APCD selected focus areas that are impacted by a mixture of mobile and stationary sources, especially sources representing major contributors to the SIP inventories and key air toxic exposures in the community. The partner agencies can then coordinate actions to align local, State, and federal resources to accelerate the identification and implementation of advanced clean technologies. Another example of on-going collaboration is ARB's Memorandum of Understanding with Union Pacific and Burlington Northern Santa Fe railroads to significantly reduce diesel emissions in and around rail yards in California.

Public Notification

In addition to consulting with government officials and other stakeholders, the CAA requires states to provide effective measures for notifying the public of instances or areas in which a federal standard was exceeded during the prior calendar year (CAA Section 127). Under H&SC Section 39607(a), ARB is required to collect air quality data in each air basin, statewide. ARB maintains these data and provides access to both current and historical data via the web (http://www.arb.ca.gov/aqmis2/aqmis2.php). In addition, H&SC Section 40718(a) requires ARB to publish maps showing areas that violate a federal standard, using the most recently available data. These maps are also available on ARB's website (http://www.arb.ca.gov/desig/statedesig.htm#current). Finally, ARB provides on its website, links to local district websites that provide the public with daily information about local air quality levels using the Air Quality Index (http://www.arb.ca.gov/aqmis2/MainPgLinks/aqi.php).

In addition to reporting air quality data, CAA Section 127 requires states to advise the public about the health hazards associated with air pollution and to enhance public awareness of measures to prevent violation of a standard. To comply with this requirement, ARB maintains webpages that provide relevant information about health impacts (http://www.arb.ca.gov/research/health/health.htm) and ways of reducing air pollution (http://www.arb.ca.gov/html/cando.htm).

PSD and Visibility Protection

With respect to PSD requirements, a number of districts in California administer fully SIP-approved or partially delegated PSD programs that comply with federal requirements. PSD programs in the remaining districts are administered by U.S. EPA through a federal stationary source permitting program under enabling authority in 40 CFR 52.21. However, several of these districts are currently in the process of developing or seeking U.S. EPA approval of their PSD programs. The status of PSD programs in California districts is described in more detail in the previous section titled Programs for Enforcement, PSD, and NSR [CAA Section 110(a)(2)(C)].

Finally, CAA Section 110(a)(2)(J) contains provisions for visibility protection. However, U.S. EPA guidance states that promulgation of a new or revised federal standard does not carry with it any new obligations with respect to visibility protection. Nevertheless, California has in place, an approved Regional Haze SIP (76 FR 34608). Provisions of the State's Regional Haze SIP will reduce the impact of air pollution on visibility, with the long-term goal of improving visibility in Class 1 areas. California's Regional Haze SIP is available on ARB's website (http://www.arb.ca.gov/planning/reghaze/reghaze.htm).

***Air Quality Modeling/Data* [CAA Section 110(a)(2)(K)]**

> *This section of the CAA requires states to use air quality models to predict the effect of pollutant and precursor emissions on ambient concentrations and to submit the modeling data to U.S. EPA when requested.*

ARB is well versed in the use of air quality models to predict the impact of emissions on air quality. ARB conducts modeling in compliance with U.S. EPA guidance, and ARB works closely with districts that conduct their own modeling to ensure similar compliance. Modeling results are available on request.

Discussion

The CAA requires states to conduct air quality modeling. For example, under CAA Section 182(C)(2)(a), attainment demonstrations for ozone nonattainment areas classified as serious, severe, or extreme must be based on photochemical grid modeling or another analytical method the Administrator determines to be at least as effective. Under State law, ARB is the agency responsible for complying with all purposes set forth in federal law (H&SC Section 39602). Thus, ARB has the authority to conduct air quality modeling as required under the CAA.

To implement the modeling requirements, ARB has established an air quality modeling group which has extensive experience related to modeling both primary and secondary pollutants. ARB's modeling work complies with U.S. EPA guidance on the use of models. In addition, ARB consults with and works closely with districts and other stakeholders that conduct their own air quality modeling, to ensure their work also complies with federal requirements.

ARB's website includes links to air quality and other modeling software, as well as relevant guidance documents (http://www.arb.ca.gov/html/soft.htm#modeling). Links include both U.S. EPA-approved and State-approved models and documentation. In addition, ARB and districts document their SIP-related modeling protocols and make this information available as part of the SIP review process. Examples of this protocol documentation for ozone and $PM_{2.5}$ are available on the San Joaquin Valley APCD website.[9] The purpose of documenting these protocols is to detail and formalize the procedures for conducting the photochemical modeling used in developing the SIP and thereby increase public awareness and transparency. Comments generated through the public review process are considered in developing the final plan. As required under the CAA, modeling results are made available to U.S. EPA and other stakeholders on request.

[9] Examples of ozone and $PM_{2.5}$ air quality modeling protocols: http://www.valleyair.org/Air_Quality_Plans/docs/AQ_Ozone_2007_Adopted/23%20Appendix%20F%20April%202007.pdf and http://www.valleyair.org/Workshops/postings/2012/12-20-12PM25/FinalVersion/16%20Appendix%20F%20Modeling%20Protocol.pdf.

***Permitting Fees* [CAA Section 110(a)(2)(L)]**

> *This section of the CAA requires states to assess stationary source owners or operators fees to cover the cost of reviewing and acting on a permit application. If a permit is granted, states must also assess fees to cover the cost of implementing and enforcing the permit.*

Districts are responsible for issuing stationary source permits. Each district has rules requiring fees to cover the cost of processing, implementing, and enforcing permits.

Discussion

U.S. EPA's Infrastructure SIP Guidance indicates that if a state's Title V program fees cover all CAA permitting, implementation, and enforcement for new and modified major sources, as well as for existing major sources, the Title V program satisfies the requirements of CAA Section 110(a)(2)(L). As described in the previous section titled Programs for Enforcement, PSD, and NSR [CAA Section110(a)(2)(C)], responsibility for issuing stationary source permits in California rests with the districts, and each local district has adopted rules requiring an additional fee for facilities subject to Title V requirements. Furthermore, U.S. EPA has fully approved Title V programs for all 35 California districts (40 CFR 70, Appendix A).

California H&SC Section 42311 authorizes local districts to adopt a schedule of fees for the evaluation, issuance, and renewal of permits to cover the cost of district programs related to permitted stationary sources. The mechanism for assessing these fees begins when an applicant applies for an Authority to Construct. Each applicant is assessed a fee for the district to process the application. Additional fees are assessed for some applications that may be more complex. Districts also assess fees when the facility applies for a Permit to Operate. Fee schedules are specific to each individual district. Some districts base their fees on allowable emissions, while others base fees on the type and quantity of facility equipment. Districts also collect fees during the annual renewal of the permit and may impose fees for observing sources test, as applicable. Districts review their fees on a regular basis and determine if any fee increases are needed to cover the cost of running the permitting program.

A general overview of the Title V requirements is available on the ARB website (http://www.arb.ca.gov/fcaa/tv/tvinfo/overview.htm). ARB's website also provides information to help facility owners/operators navigate the permitting process.[10] In addition, ARB maintains various email notification lists that provide subscribers with current, on-going email notification about updates and changes to permit-related programs. Information about subscribing to these lists is also available on the ARB website (http://www.arb.ca.gov/permits/permits.htm).

[10] *The following web links provide information to help facility owners/operators navigate the permitting process: http://www.arb.ca.gov/permits/airdisop.htm and http://www.arb.ca.gov/permits/permits.htm.*

Table 17 provides a summary of the district rules that implement the federal Title V requirements. The rules cited represent the district's primary implementation rule, and in some cases, there may be other district rules that are also relevant to the Title V process. The information in Table 17 is provided for information only, as Title V rules are not required to be part of an approved SIP.

TABLE 17
California District Title V Rules and Permit Fee Information

District*	***District Implementing Rule***
Amador County APCD	Rule 500 (Issuing Permits to Operate for Title V Sources)
Antelope Valley AQMD	Regulation XXX (Title V Permits)
Bay Area Air AQMD	Rule 2-6 (Major Facility Review)
Butte County APCD	Rule 1101 (Title V – Federal Operating Permits)
Calaveras County APCD	Regulation X (Issuing Permits to Operate for Title V Sources)
Colusa County APCD	Rule 3.17 (Permits to Operate for Title V Sources)
Eastern Kern APCD	Rule 201.1 (Permits to Operate for Title V Sources)
El Dorado County APCD	Rule 522 (Title V - Federal Operating Permit Program)
Feather River AQMD	Rule 10.3 (Federal Operating Permits)
Glenn County APCD	Article VIII (Issuing Permits to Operate for Title V Sources)
Great Basin Unified APCD	Rule 217 (Issuing Permits to Operate for Title V Sources)
Imperial County APCD	Rule 900 (Issuing Permits to Operate for Title V Sources)
Lake County AQMD	Chapter XII (Issuing Permits to Title V Sources)
Lassen County APCD	Regulation VII (Permits to Operate for Title V Sources)
Mariposa County APCD	Regulation X (Issuing Permits to Operate for Title V Sources)
Mendocino County APCD	Regulation 5 (Issuing Permits to Operate for Title V Sources)
Modoc County APCD	Rule 2.13 (Issuing Permits to Operate for Title V Sources)
Mojave Desert AQMD	Regulation XII (Federal Operating Permits)
Monterey Bay Unified APCD	Rule 218 (Title V: Federal Operating Permits)
North Coast Unified AQMD	Regulation V (Issuing Permits to Operate for Title V Sources)
Northern Sierra AQMD	Rule 522 (Title V Federal Operating Permits)
Northern Sonoma County APCD	Regulation V (Issuing Permits to Operate for Title V Sources)
Placer County APCD	Rule 507 (Federal Operating Permit Program)
Sacramento Metro AQMD	Rule 207 (Title V – Federal Operating Permit Program)
San Diego County APCD	Regulation XIV (Title V Operating Permits)
San Joaquin Valley APCD	Rule 2520 (Federally Mandated Operating Permits)
San Luis Obispo County APCD	Rule 216 (Federal Part 70 Permits)
Santa Barbara County APCD	Regulation XIII (Part 70 Operating Permit Program)
Shasta County AQMD	Rule 5 (Issuing Permits to Operate for Title V Sources)
Siskiyou County APCD	Rule 2.13 (Issuing Permits to Operate for Title V Sources)
South Coast AQMD	Regulation XXX (Title V Permits)
Tehama County APCD	Regulation VII (Federal Operating Permit Program)
Tuolumne County APCD	Rule 500 (Issuing Permits to Operate for Title V Sources)
Ventura County APCD	Rule 33 (Part 70 Permits)
Yolo-Solano AQMD	Rule 3.8 (Federal Operating Permits)

∗ *APCD = Air Pollution Control District; AQMD = Air Quality Management District.*

Consultation/Participation by Affected Local Entities [CAA Section 110(a)(2)(M)]

This section of the CAA requires states to consult with and allow local political subdivisions affected by the SIP to participate in the development process.

ARB coordinates on a regular basis with the State's 35 local districts. State law requires ARB to conduct a public hearing and solicit input from affected agencies and the public when developing any SIP document.

Discussion

California is divided into 35 local districts, comprising county or regional local government authorities. These districts have responsibility for controlling stationary source emissions. H&SC Section 39602 designates ARB as the air pollution control agency for all purposes set forth in federal law. Furthermore, ARB is designated as the State agency responsible for preparing the SIP and, to this end, shall coordinate the activities with all districts necessary to comply with that act. The structure of California's local districts was described in the previous section titled Consultation with Government Officials, Public Notification, PSD, and Visibility Protection [CAA Section110(a)(2)(J)]. A map of district boundaries (http://www.arb.ca.gov/capcoa/dismap.htm), as well as links to local district webpages (http://www.arb.ca.gov/capcoa/roster.htm), is available on ARB's website.

ARB routinely consults and provides liaison with all districts and provides for frequent and regular communication and consultation with management and staff of these districts, particularly as it relates to SIP items. Because district boards are composed of local elected officials, this framework provides for regular consultation with and participation by local government entities (cities and counties) affected by the SIP. Furthermore, H&SC Section 41650, et seq., requires ARB to conduct a public hearing and to solicit testimony from districts, air quality planning agencies, and the public when adopting SIP-related documents. The districts have a similar process for soliciting participation and comment with respect to proposed regulatory actions. Additionally, the California Administrative Procedures Act, Government Code Section 11340, et seq., requires notification and provision for comment opportunities to all parties affected by proposed regulations. Similarly, H&SC Section 40725 requires districts to conduct public hearings when adopting, amending, or repealing any rule. ARB is committed to continuing the process of collaborating with local entities and officials in developing SIP elements, as well as soliciting public input to the process.

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ATTACHMENT 1

RELEVANT CALIFORNIA HEALTH AND SAFETY CODE SECTIONS INCLUDED FOR INFORMATION ONLY AND NOT TO BE INCLUDED IN CALIFORNIA'S STATE IMPLEMENTATION PLAN

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TABLE OF CONTENTS

ATTACHMENT 1
Relevant California Health and Safety Code Sections Included for Information Only and not to be Included in California's State Implementation Plan

Section 39002. Agencies responsible for pollution control

Local and regional authorities have the primary responsibility for control of air pollution from all sources other than vehicular sources. The control of vehicular sources, except as otherwise provided in this division, shall be the responsibility of the State Air Resources Board. Except as otherwise provided in this division, including, but not limited to, Sections 41809, 41810, and 41904, local and regional authorities may establish stricter standards than those set by law or by the state board for nonvehicular sources. However, the state board shall, after holding public hearings as required in this division, undertake control activities in any area wherein it determines that the local or regional authority has failed to meet the responsibilities given to it by this division or by any other provision of law.

Section 39602. Designated air pollution control agency; Compliance with federal law

The state board is designated the air pollution control agency for all purposes set forth in federal law.

The state board is designated as the state agency responsible for the preparation of the state implementation plan required by the Clean Air Act (42 U.S.C., Sec. 7401, et seq.) and, to this end, shall coordinate the activities of all districts necessary to comply with that act.

Notwithstanding any other provision of this division, the state implementation plan shall only include those provisions necessary to meet the requirements of the Clean Air Act.

Section 39602.5. Adoption of rules and regulations

(a) The state board shall adopt rules and regulations pursuant to Section 43013 that, in conjunction with other measures adopted by the state board, the districts, and the United States Environmental Protection Agency, will achieve ambient air quality standards required by the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) in all areas of the state by the applicable attainment date, and to maintain these standards thereafter. The state board shall adopt these measures if they are necessary, technologically feasible, and cost effective, consistent with Section 43013.

(b) If necessary to carry out its duties under this section, the state board shall adopt and enforce rules and regulations that anticipate the development of new technologies or the improvement of existing

technologies. The rules and regulations shall require standards that the state board finds and determines can likely be achieved by the compliance date set forth in the rule.

Section 39607(a). Gathering air pollution information

The state board shall:

(a) Establish a program to secure data on air quality in each air basin established by the state board.

Section 39607(c). Gathering air pollution information

The state board shall:

(c) Monitor air pollutants in cooperation with districts and with other agencies to fulfill the purpose of this division.

Section 40000. Legislative finding and declaration

The Legislature finds and declares that local and regional authorities have the primary responsibility for control of air pollution from all sources, other than emissions from motor vehicles. The control of emissions from motor vehicles, except as otherwise provided in this division, shall be the responsibility of the state board.

Section 40001(a). Rules and regulations

(a) Subject to the powers and duties of the state board, the districts shall adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction, and shall enforce all applicable provisions of state and federal law.

Section 40718. Pollutant maps

(a) Not later than January 1, 1990, the state board shall publish maps identifying those cities, counties, or portions thereof which have measured one or more violations of any state or federal ambient air quality standard. The state board shall produce at least one separate map for each pollutant.

Section 40725. Notice of public hearing

(a) A district board shall not adopt, amend, or repeal any rule or regulation without first holding a public hearing thereon.

(b) Notice of the time and place of a public hearing to adopt, amend, or repeal any rule or regulation shall be given not less than 30 days prior thereto to the state board, which notice shall include a copy of the rule or

regulation proposed to be adopted, amended, or repealed, as the case may be, and a summary description of the effect of the proposal, and by publication in the district pursuant to Section 6061 of the Government Code. In addition, in the case of a district which includes portions of more than one county, the notice shall be published in each county not less than 30 days prior to the date of the hearings.

(c) Notice published pursuant to subdivision (b) shall invite written public comment and indicate the name, address, and telephone number of the district officer to whom these comments are to be addressed, and the date by which comments are to be received.

Section 41311. Fees

(a) A district board may adopt, by regulation, a schedule of annual fees for the evaluation, issuance, and renewal of permits to cover the cost of district programs related to permitted stationary sources authorized or required under this division that are not otherwise funded. The fees assessed under this section shall not exceed, for any fiscal year, the actual costs for district programs for the immediately preceding fiscal year with an adjustment not greater than the change in the annual California Consumer Price Index, as determined pursuant to Section 2212 of the Revenue and Taxation Code, for the preceding year. Any revenues received by the district pursuant to the fees, which exceed the cost of the programs, shall be carried over for expenditure in the subsequent fiscal year, and the schedule of fees shall be changed to reflect that carryover. Every person applying for a permit, notwithstanding Section 6103 of the Government Code, shall pay the fees required by the schedule. Nothing in this subdivision precludes the district from recovering, through its schedule of annual fees, the estimated reasonable costs of district programs related to permitted stationary sources.

(b) The district board may require an applicant to deposit a fee in accord with the schedule adopted pursuant to subdivision (a) prior to evaluating a permit application, if the district accounts for the costs of its services and refunds to the applicant any significant portion of the deposit which exceeds the actual, reasonable cost of evaluating the application.

(c) Except as provided in Section 42313, all the fees shall be paid to the district treasurer to the credit of the district.

(d) This section does not apply to the south coast district board which is governed by Section 40510.

(e) In addition to providing notice as otherwise required, before adopting a regulation establishing fees pursuant to this section, the district board shall hold at least one public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the

information required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the district board. Any written request for the mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for the mailed notices shall be filed on or before April 1 of each year. The district board may establish a reasonable annual charge for sending the notices based on the estimated cost of providing that service. At least 10 days prior to the meeting, the district board shall make available to the public information indicating the amount of cost, or estimated cost, required to provide the service for which the fee is charged and the revenue sources anticipated to provide the service. Any costs incurred by the district board in conducting the required meeting may be recovered from fees charged for the programs which were the subject of the meeting.

(f) In addition to any other fees authorized by this section, a district board may adopt, by regulation, a schedule of annual fees to be assessed against permitted nonvehicular sources emitting toxic air contaminants identified pursuant to the procedure set forth in Sections 39660, 39661, and 39662. A district board shall demonstrate that the fees assessed under this subdivision do not exceed the reasonable, anticipated costs of funding district activities mandated by Section 39666 related to nonvehicular source emissions. In making the demonstration, the district shall account for all direct and indirect costs of district activities related to each toxic air contaminant. If the district does not make this demonstration, it shall make reimbursement for that portion of the fee not determined to be reasonable.

(g) A district may adopt, by regulation, a schedule of fees to be assessed on areawide or indirect sources of emissions which are regulated, but for which permits are not issued, by the district to recover the costs of district programs related to these sources.

(h) A district board may adopt, by regulation, a schedule of fees to cover the reasonable costs of the hearing board incurred as a result of appeals from district decisions on the issuance of permits. However, the hearing board may waive all or part of these fees if it determines that circumstances warrant that waiver.

(i) Nothing in the amendments to this section enacted in 1988 limits or abridges any previously existing authority of a district to vary fees according to quantity of emissions, nor affects any pending litigation which might affect that previous authority.

Section 41509. Scope of division

No provision of this division, or of any order, rule, or regulation of the state board or of any district, is a limitation on:

(a) The power of any local or regional authority to declare, prohibit, or abate nuisances.

(b) The power of the Attorney General, at the request of a local or regional authority, the state board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any pollution or nuisance.
(c) The power of a state agency in the enforcement or administration of any provision of law which it is specifically permitted or required to enforce or administer.
(d) The right of any person to maintain at any time any appropriate action for relief against any private nuisance.

Section 41510. Right of entry for inspection

For the purpose of enforcing or administering any state or local law, order, regulation, or rule relating to air pollution, the executive officer of the state board or any air pollution control officer having jurisdiction, or an authorized representative of such officer, upon presentation of his credentials or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50), Part 3 of the Code of Civil Procedure, shall have the right of entry to any premises on which an air pollution emission source is located for the purpose of inspecting such source, including securing samples of emissions therefrom, or any records required to be maintained in connection therewith by the state board or any district.

Section 41511. Rules and regulations

For the purpose of carrying out the duties imposed upon the state board or any district, the state board or the district, as the case may be, may adopt rules and regulations to require the owner or the operator of any air pollution emission source to take such action as the state board or the district may determine to be reasonable for the determination of the amount of such emission from such source.

Section 41650. Adoption of nonattainment area plan

(a) The state board shall adopt the nonattainment area plan approved by a designated air quality planning agency as part of the state implementation plan, unless the state board finds, after a public hearing, that the nonattainment area plan will not meet the requirements of the Clean Air Act (42 U.S.C. Sec. 7401 et seq.).
(b) The primary responsibility for determining whether a control measure is reasonably available shall be vested in the public agency which has the primary responsibility for implementation of that control measure. The determination of reasonably available control measure by the public agency responsible for implementation shall be conclusive, unless the state board finds after public hearing that such determination will not meet the requirements of the Clean Air Act.

Section 41651. Hearing; Evidence

In addition to any other statutory requirements, at the public hearing held pursuant to Section 41650, the districts included, in whole or in part, within the nonattainment area, the designated air quality planning agency, and members of the public shall have the opportunity to present oral and written evidence. In addition, the districts and the agency shall have the right to question and solicit testimony of qualified representatives of the state board staff on the matter being considered. The state board may, by an affirmative vote of four members, place reasonable limits on the right to question and solicit testimony of qualified representatives of the state board staff.

Section 41652. Revision of plan

If, after the public hearing, the state board finds that the nonattainment area plan approved by the designated air quality planning agencies does not comply with the requirements of the Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the state board may adopt such revisions as necessary to comply with such requirements, except as otherwise provided in Article 5.5 (commencing with Section 53098) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code.

Section 41700. Prohibited discharges

(a) Except as otherwise provided in Section 41705, a person shall not discharge from any source whatsoever quantities of air contaminants or other material that cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public, or that cause, or have a natural tendency to cause, injury or damage to business or property.

(b) This section shall become operative on January 1, 2014.

Section 41712(b). Regulations to control volatile organic compounds in consumer products

(b) The state board shall adopt regulations to achieve the maximum feasible reduction in volatile organic compounds emitted by consumer products, if the state board determines that adequate data exists to establish both of the following:

(1) The regulations are necessary to attain state and federal ambient air quality standards.

(2) The regulations are commercially and technologically feasible and necessary.

Section 42400. Criminal penalty for violations

(a) Except as otherwise provided in Section 42400.1, 42400.2, 42400.3, 42400.3.5, or 42400.4, any person who violates this part, or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, adopted pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is guilty of a misdemeanor and is subject to a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than six months, or both.

(b) If a violation under subdivision (a) with regard to the failure to operate a vapor recovery system on a gasoline cargo tank is directly caused by the actions of an employee under the supervision of, or of any independent contractor working for, any person subject to this part, the employee or independent contractor, as the case may be, causing the violation is guilty of a misdemeanor and is punishable as provided in subdivision (a). That liability shall not extend to the person employing the employee or retaining the independent contractor, unless that person is separately guilty of an action that violates this part.

(c) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes actual injury, as defined in subdivision (d), to the health or safety of a considerable number of persons or the public is guilty of a misdemeanor and is subject to a fine of not more than fifteen thousand dollars ($15,000) or imprisonment in the county jail for not more than nine months, or both.

(d) As used in this section, "actual injury" means any physical injury that, in the opinion of a licensed physician and surgeon, requires medical treatment involving more than a physical examination.

(e) Each day during any portion of which a violation of subdivision (a) or (c) occurs is a separate offense.

Section 42400.1. Negligent emission of air contaminants; Operation of source of contaminants which causes actual injury; Criminal sanctions

(a) Any person who negligently emits an air contaminant in violation of any provision of this part or any rule, regulation, permit, or order of the state board or of a district pertaining to emission regulations or limitations is guilty of a misdemeanor and is punishable by a fine of not more than twenty-five thousand dollars ($25,000), or imprisonment in a county jail for not more than nine months, or by both that fine and imprisonment.

(b) Any person who negligently emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, is guilty of a misdemeanor and is punishable by a fine of not more than one hundred thousand dollars ($100,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(c) Each day during any portion of which a violation occurs is a separate offense.

Section 42400.2. Failure to take corrective actions; Criminal sanctions

(a) Any person who emits an air contaminant in violation of any provision of this part, or any order, rule, regulation, or permit of the state board or of a district pertaining to emission regulations or limitations, and who knew of the emission and failed to take corrective action within a reasonable period of time under the circumstances, is guilty of a misdemeanor and is punishable by a fine of not more than forty thousand dollars ($40,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(b) For purposes of this section, "corrective action" means the termination of the emission violation or the grant of a variance from the applicable order, rule, regulation, or permit pursuant to Article 2 (commencing with Section 42350). If a district regulation regarding process upsets or equipment breakdowns would allow continued operation of equipment which is emitting air contaminants in excess of allowable limits, compliance with that regulation is deemed to be corrective action.

(c) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, and who knew of the emission and failed to take corrective action within a reasonable period of time under the circumstances, is guilty of a misdemeanor and is punishable by a fine of not more than two hundred fifty thousand dollars ($250,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(d) Each day during any portion of which a violation occurs constitutes a separate offense.

Section 42400.3. Willful and intentional emissions of air contaminant; Penalties

(a) Any person who willfully and intentionally emits an air contaminant in violation of any provision of this part or any rule, regulation, permit, or order of the state board or of a district, pertaining to emission regulations or limitations is guilty of a misdemeanor and is punishable by a fine of not more than seventy-five thousand dollars ($75,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(b) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, emits an air contaminant in violation of Section 41700 that results in any unreasonable risk of great bodily injury to, or death of, any person, is guilty of a public offense and is punishable by a fine of not more than one hundred twenty-five thousand dollars ($125,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment. However, if the defendant is a

corporation, the maximum fine may be up to five hundred thousand dollars ($500,000).

(c) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person emits an air contaminant in violation of Section 41700 that causes great bodily injury to, or death of, any person is guilty of a public offense, and is punishable by a fine of not more than two hundred fifty thousand dollars ($250,000), or imprisonment in a county jail for not more than one year, or both that fine and imprisonment, or is punishable by a fine of not more than two hundred fifty thousand dollars ($250,000), or imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both that fine and imprisonment. If the defendant is a corporation, the maximum fine may be up to one million dollars ($1,000,000).

(d) Each day during any portion of which a violation occurs constitutes a separate offense.

(e) This section does not preclude punishment under Section 189 or 192 of the Penal Code or any other provision of law that provides a more severe punishment.

(f) For the purposes of this section:

(1) "Great bodily injury" means great bodily injury as defined by Section 12022.7 of the Penal Code.

(2) "Unreasonable risk of great bodily injury or death" means substantial probability of great bodily injury or death.

Section 42400.3.5. Knowing violations; Penalties

(a) Any person who knowingly violates any rule, regulation, permit, order, fee requirement, or filing requirement of the state board or of a district, including a district hearing board, that is adopted for the control of toxic air contaminants pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, and for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subdivision (l) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted pursuant thereto, is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars ($10,000) or imprisonment in the county jail for not more than six months, or both.

(b) Any person who knowingly makes any false material statement, representation, or certification in any form or in any notice or report required by a rule or regulation adopted or permit issued for the control of toxic air contaminants pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, and for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subdivision (l) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted

pursuant thereto, or who knowingly renders inaccurate any monitoring device required by that toxic air contaminant rule, regulation, or permit is subject to a fine of not more than thirty-five thousand dollars ($35,000) or imprisonment in the county jail for not more than nine months, or both.

(c) Any person who, knowingly and with intent to deceive, falsifies any document required to be kept pursuant to any provision of this part, or any rule, regulation, permit, notice to comply, or order of the state board or of a district, is punishable as provided in subdivision (b).

(d) Subdivisions (a) and (b) shall apply only to those violations that are not otherwise subject to a fine of ten thousand dollars ($10,000) or more pursuant to Section 42400.1, 42400.2, or 42400.3.

Section 42400.4. Knowing violation of federally enforceable permit condition, fee, or filing requirement

(a) In any district where a Title V permit program has been fully approved by the federal Environmental Protection Agency, any person who knowingly violates any federally enforceable permit condition or any fee or filing requirement applicable to a Title V source is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars ($10,000).

(b) In any district in which a Title V permit program has been fully approved by the federal Environmental Protection Agency, any person who knowingly makes any false material statement, representation, or certification in any form or in any notice or report required of a Title V source of a federally enforceable permit requirement, or who knowingly renders inaccurate any monitoring device or method required of a Title V source, is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars ($10,000).

(c) The recovery of civil penalties pursuant to Section 42402, 42402.1, 42402.2, or 42402.3 precludes prosecution pursuant to this section for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to this article for the same offense.

(d) Each day during any portion of which a violation of subdivision (a) or (b) occurs is a separate offense.

(e) This section shall not become operative in a district until the federal Environmental Protection Agency fully approves that district's Title V permit program.

(f) This section applies only to violations described in subdivisions (a) and (b) that are not otherwise subject to a fine of ten thousand dollars ($10,000) or more pursuant to Section 42400.1, 42400.2, or 42400.3.

Section 42400.5. Cost of putting out unauthorized fires

In addition to the penalties, specified in Section 42400, the cost of putting out any unauthorized open outdoor fires may be imposed on any person violating Section 41800 or 41852.

Section 42400.6. Imposition of fine

A fine or monetary penalty specified in Section 39674; subdivision (a), (b), (d), or (e) of Section 42400; Section 42402; or subdivision (a) of Section 44381 of this code, that may be imposed as the result of conduct that is also subject to Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, may be collected either under those provisions of this code, or under that chapter of the Business and Professions Code, but not under both.

Section 42400.7. Effect of recovery of civil penalties; Injunction

(a) The recovery of civil penalties pursuant to Section 39674, 42401, 42402, 42402.1, 42402.2, 42402.3, or 42402.4 precludes prosecution under Section 42400, 42400.1, 42400.2, 42400.3, 42400.3.5, or 42400.4 for the same offense. When a district refers a violation to a prosecuting agency, the filing of a criminal complaint is grounds requiring the dismissal of any civil action brought pursuant to this article for the same offense.

(b) If the pending civil action described in subdivision (a) includes a request for injunctive relief, that portion of the civil action shall not be dismissed upon the filing of a criminal complaint for the same offense.

Section 42400.8. Determination of amount of fine

(a) In determining the amount of fine to impose pursuant to Sections 42400, 42400.1, 42400.2, 42400.3, 42400.3.5, and 42400.4, the court shall consider all relevant circumstances, including, but not limited to, the following:

(b) The extent of harm caused by the violation.

(c) The nature and persistence of the violation.

(d) The length of time over which the violation occurs.

(e) The frequency of past violations.

(f) The record of maintenance.

(g) The unproven or innovative nature of the control equipment.

(h) Any action taken by the person including the nature, extent, and time of response of any cleanup and construction undertaken, to mitigate the violation.

(i) The financial burden on the defendant.

(j) Any other circumstances the court deems relevant.

Section 42401. Violation of abatement order; Civil penalty

Any person who intentionally or negligently violates any order of abatement issued by a district pursuant to Section 42450, by a hearing board pursuant to Section 42451, or by the state board pursuant to Section 41505 is liable for a civil penalty of not more than twenty-five thousand dollars ($25,000) for each day in which the violation occurs.

Section 42402. Violation of emission limitations; Civil penalty

(a) Except as provided in Sections 42402.1, 42402.2, 42402.3, and 42402.4, any person who violates this part, any order issued pursuant to Section 42316, or any rule, regulation, permit, or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than one thousand dollars ($1,000).

(b) (1) Any person who violates any provision of this part, any order issued pursuant to Section 42316, or any rule, regulation, permit or order of a district, including a district hearing board, or of the state board issued pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is strictly liable for a civil penalty of not more than ten thousand dollars ($10,000).

(2) (A) If a civil penalty in excess of one thousand dollars ($1,000) for each day in which a violation occurs is sought, there is no liability under this subdivision if the person accused of the violation alleges by affirmative defense and establishes that the violation was caused by an act that was not the result of intentional nor negligent conduct.

(B) Subparagraph (A) shall not apply to a violation of federally enforceable requirements that occur at a Title V source in a district in which a Title V permit program has been fully approved.

(C) Subparagraph (A) does not apply to a person who is determined to have violated an annual facility emissions cap established pursuant to a market based incentive program adopted by a district pursuant to subdivision (b) of Section 39616.

(c) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes actual injury, as defined in subdivision (d) of Section 42400, to the health and safety of a considerable number of persons or the public, is liable for a civil penalty of not more than fifteen thousand dollars ($15,000).

(d) Each day during any portion of which a violation occurs is a separate offense.

Section 42402.1. Negligent emission of air contaminants; Operation of source of contaminants which cause actual injury; Civil penalties

(a) Any person who negligently emits an air contaminant in violation of this part or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, pertaining to emission regulations or limitations is liable for a civil penalty of not more than twenty-five thousand dollars ($25,000).

(b) Any person who negligently emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, is liable for a civil penalty of not more than one hundred thousand dollars ($100,000).

(c) Each day during any portion of which a violation occurs is a separate offense.

Section 42402.2. Failure to take corrective actions; Civil penalties

(a) Any person who emits an air contaminant in violation of any provision of this part, or any order, rule, regulation, or permit of the state board or of a district, including a district hearing board, pertaining to emission regulations or limitations, and who knew of the emission and failed to take corrective action, as defined in subdivision (b) of Section 42400.2, within a reasonable period of time under the circumstances, is liable for a civil penalty of not more than forty thousand dollars ($40,000).

(b) Any person who owns or operates any source of air contaminants in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, and who knew of the emission and failed to take corrective action, as defined in subdivision (b) of Section 42400.2, within a reasonable period of time under the circumstances, is liable for a civil penalty not to exceed two hundred fifty thousand dollars ($250,000).

(c) Each day during any portion of which a violation occurs is a separate offense.

Section 42402.3. Willful and intentional emission of air contaminant; Penalty

(a) Any person who willfully and intentionally emits an air contaminant in violation of this part or any rule, regulation, permit, or order of the state board, or of a district, including a district hearing board, pertaining to emission regulations or limitations, is liable for a civil penalty of not more than seventy-five thousand dollars ($75,000).

(b) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, emits an air contaminant in violation of Section 41700 that results in an unreasonable risk of great bodily injury

to, or death of, any person, is liable for a civil penalty of not more than one hundred twenty-five thousand dollars ($125,000). If the violator is a corporation, the maximum penalty may be up to five hundred thousand dollars ($500,000).

(c) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, is liable for a civil penalty of not more than two hundred fifty thousand dollars ($250,000). If the violator is a corporation, the maximum penalty may be up to one million dollars ($1,000,000).

(d) Each day during any portion of which a violation occurs is a separate offense.

Section 42402.4. Penalty for knowing falsification of document

Any person who knowingly and with intent to deceive, falsifies any document required to be kept pursuant to any provision of this part, or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, is liable for a civil penalty of not more than thirty-five thousand dollars ($35,000).

Section 42402.5. Administrative civil penalties

In addition to any civil and criminal penalties prescribed under this article, a district may impose administrative civil penalties for a violation of this part, or any order, permit, rule, or regulation of the state board or of a district, including a district hearing board, adopted pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, if the district board has adopted rules and regulations specifying procedures for the imposition and amounts of these penalties. No administrative civil penalty levied pursuant to this section may exceed five hundred dollars ($500) for each violation. However, nothing in this section is intended to restrict the authority of a district to negotiate mutual settlements under any other penalty provisions of law which exceed five hundred dollars ($500).

Section 42403. Civil actions; Determination of penalty

(a) The civil penalties prescribed in Sections 39674, 42401, 42402, 42402.1, 42402.2, and 42402.3 shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, or by the attorney for any district in which the violation occurs in any court of competent jurisdiction.

(b) In determining the amount assessed, the court, or in reaching any settlement, the district, shall take into consideration all relevant circumstances, including, but not limited to, the following:
    (1) The extent of harm caused by the violation.
    (2) The nature and persistence of the violation.
    (3) The length of time over which the violation occurs.
    (4) The frequency of past violations.
    (5) The record of maintenance.
    (6) The unproven or innovative nature of the control equipment.
    (7) Any action taken by the defendant, including the nature, extent, and time of response of the cleanup and construction undertaken, to mitigate the violation.
    (8) The financial burden to the defendant.

Section 42403.5. Discharge from idling engine of diesel-powered bus

(a) Notwithstanding Section 42407, any violation of Section 41700 resulting from the engine of any diesel-powered bus while idling shall subject the owner to civil penalties assessed under this article, which may be recovered pursuant to Section 42403 by the Attorney General, by any district attorney, or by the attorney for any district in which the violation occurs in any court of competent jurisdiction.

(b) There is no liability under subdivision (a) if the person accused of the violation establishes by affirmative defense that the extent of the harm caused does not exceed the benefit accrued to bus passengers as a result of idling the engine.

Section 42404. Civil actions; Precedence

An action brought pursuant to Section 42403 to recover such civil penalties shall take special precedence over all other civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

Section 42404.5. Commencement of limitation period

Any limitation of time applicable to actions brought pursuant to Section 42403 shall not commence to run until the offense has been discovered, or could reasonably have been discovered.

Section 42405. Payment of penalty

In an action brought pursuant to Section 42403 by the Attorney General on behalf of a district, one-half of the penalty collected shall be paid to the treasurer of the district on whose behalf judgment was entered, and one-half of the penalty collected shall be paid to the State Treasurer for deposit in the General Fund.

If the action is brought by the Attorney General on behalf of the state board, the entire penalty collected shall be paid to the State Treasurer for deposit in the General Fund.

If the action is brought by a district attorney or by an attorney for a district, the entire amount of the penalty collected shall be paid to the treasurer of the district on whose behalf judgment was entered.

Section 42405.1. Rewards for informants

(a) Any person who provides information that materially contributes to the imposition of a civil penalty or criminal fine against any person for violating any provision of this part or any rule, regulation, or order of a district pertaining to mobile source emission regulations or limitations shall be paid a reward pursuant to regulations adopted by the district under subdivision (f). The reward shall not exceed 10 percent of the amount of the civil penalty or criminal fine collected by the district, district attorney, or city attorney. The district shall pay the reward to the person who provides information that results in the imposition of a civil penalty, and the city or the county shall pay the reward to the person who provides information that results in the imposition of a criminal fine. No reward paid pursuant to this subdivision shall exceed five thousand dollars ($5,000).

(b) No informant shall be eligible for a reward for a violation known to the district, unless the information materially contributes to the imposition of criminal or civil penalties for a violation specified in this section.

(c) If there is more than one informant for a single violation, the first notification received by the district shall be eligible for the reward. If the notifications are postmarked on the same day or telephoned notifications are received on the same day, the reward shall be divided equally among those informants.

(d) Public officers and employees of the United States, the State of California, or districts, counties, and cities in California are not eligible for the reward pursuant to subdivision (a), unless reporting of those violations does not relate in any manner to their responsibilities as public officers or employees.

(e) An informant who is an employee of a business and who provides information that the business violated this part is not eligible for a reward if the employee intentionally or negligently caused the violation or if the employee's primary and regular responsibilities included investigating the violation, unless the business knowingly caused the violation.

(f) The district shall adopt regulations that establish procedures for a determination of the accuracy and validity of information provided and for the receipt and review of claims for payment of rewards. All decisions concerning the eligibility for a reward and the materiality of the provided information shall be made pursuant to these regulations. In each case brought under subdivision (a), the district, the office of the city attorney, or the district attorney, whichever office brings the action, shall determine whether the information materially contributed to the imposition of civil or criminal penalties for violating any provision of this part or any rule, regulation, or order of a district pertaining to emission regulations or limitations.

(g) The district shall continuously publicize the availability of the rewards pursuant to this section for persons who provide information pursuant to this section.

(h) Claims may be submitted only for those referrals made on or after January 1, 1989.

Section 42405.5. Reimbursement of government agency for cost and expenses incurred in preparing and prosecuting case

(a) If any state or local government agency provides assistance in the investigation, data collection, or monitoring, preparation, or prosecution of an action to recover civil penalties pursuant to Section 42401, 42402, 42402.1, or 42402.2, and that assistance is provided in coordination with the state board or a district prosecuting the action, that agency shall be reimbursed out of the proceeds of the penalty collected for its costs and expenses incurred in providing the assistance.

(b) If the penalty collected is insufficient to fully reimburse the state board or district for the costs and expenses incurred in preparing and prosecuting the case and another agency or agencies for the costs and expenses incurred in assisting in the case, the amount collected shall be prorated among the state board or district and the assisting agency or agencies, on the basis of costs and expenses incurred by each.

(c) This section does not apply where there is an express agreement between the state board or district and another agency or agencies regarding reimbursement for assistance services and expenses.

Section 42406. Lien on vessel

To secure a civil penalty imposed pursuant to this article on the operation of a vessel, the district shall have a lien on the vessel which may be recovered in an action against the vessel in accordance with the provisions of Article 3 (commencing with Section 490), Chapter 2, Division 3 of the Harbors and Navigation Code, except that no undertaking shall be required to be filed by the district board as a condition to the issuance of a writ of attachment.

Section 42407. Scope of article

Except as provided in Chapter 3.4 (commencing with Section 39640) of Part 2 and Sections 40720 and 42403.5, this article is not applicable to vehicular sources.

Section 42408. Tampering with air pollution monitoring equipment

(a) Any person who tampers with any ambient air monitoring equipment, including related recording equipment, owned or operated by a county, unified or regional air pollution control district, air quality management district, or by the State of California, is guilty of a misdemeanor, and is liable in a civil action for damages caused by the tampering to the owner or operator of the equipment.

(b) For purposes of this section, "tampering" means any unauthorized, intentional touching or other conduct affecting the operational status of monitoring equipment which has the potential to invalidate data collected from the monitoring activity.

Section 42409. List of potential violations

Every district shall publish in writing and make available to any interested party a list which describes potential violations subject to penalties under this article. The list shall also include the minimum and maximum penalties for each violation which may be assessed by a district pursuant to this article.

Section 42410. Administrative penalty as alternative to civil penalty; Limitations; Construction of section; Report to Governor and Legislature

(a) As an alternative to seeking civil penalties under Sections 39674, 42401, 42402, 42402.1, 42402.2, and 42402.3 for a violation of regulations of the state board, the state board may impose an administrative penalty, as specified in this section. Any administrative penalty imposed under this section shall be imposed as an alternative to, and not in addition to, a civil penalty imposed pursuant to this article. No administrative penalty imposed by the state board pursuant to this section shall exceed the amount that the state board is authorized to seek as a civil penalty for the applicable violation, and no administrative penalty imposed pursuant to this section shall exceed ten thousand dollars ($10,000) for each day in which there is a violation up to a maximum of one hundred thousand dollars ($100,000) per penalty assessment proceeding.

(b) Nothing in this section restricts the authority of the state board to negotiate mutual settlements under any other penalty provision of law that exceeds ten thousand dollars ($10,000) for each day in which there is a violation of one hundred thousand dollars ($100,000) per penalty assessment proceeding.

(c) The administrative penalties authorized by this section shall be imposed and recovered by the state board in administrative hearings established pursuant to Article 3 (commencing with Section 60065.1) and Article 4 (commencing with Section 60075.1) of Subchapter 1.25 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations, except that the hearings shall be conducted by an administrative law judge appointed by the Office of Administrative Hearings.

(d) Nothing in this section authorizes the state board to seek penalties for categories of violations for which the state board may not recover penalties in a civil action.

(e) If the state board imposes any administrative penalties pursuant to this section, the state board may not bring any action pursuant to, or rely upon, Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code.

(f) In determining the amount of any administrative penalty imposed pursuant to this section, the state board shall take into consideration all relevant circumstances, including, but not limited to, those factors specified in subdivision (b) of Section 42403.

(g) After an order imposing an administrative penalty becomes final pursuant to the hearing procedures identified in subdivision (c), and no petition for a writ of mandate has been filed within the time allotted for seeking judicial review of the order, the state board may apply to the Superior Court for the County of Sacramento for a judgment in the amount of the administrative penalty. The application, which shall include a certified copy of the final order of the administrative hearing officer, shall constitute a sufficient showing to warrant the issuance of the judgment.

(h) For any violation that is within the enforcement jurisdiction of both the state board and the districts, the state board may impose an administrative penalty pursuant to this section only if the district in which the violation has occurred has not commenced an enforcement action for that violation.

(i) This section is not intended, and shall not be construed, to grant the state board authority to assess an administrative penalty for any category of violation that was not subject to enforcement by the state board as of January 1, 2002.

(j) Any administrative penalty assessed pursuant to this section shall be paid to the State Treasurer for deposit in the General Fund.

(k) A party adversely affected by the final decision in the administrative hearing may seek independent judicial review by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure.

(l) This section shall only apply to violations that occur on or after January 1, 2002.

(m) On or before January 30, 2005, the state board shall prepare and submit to the Legislature and the Governor a report summarizing the

administrative penalties imposed by the state board pursuant to this section for calendar years 2002, 2003, 2004, and 2005.

Section 42450. Issuance by district board; Hearing

The district board may, after notice and a hearing, issue an order for abatement whenever it finds that any person is constructing or operating any article, machine, equipment, or other contrivance without a permit required by this part, or is in violation of Section 41700 or 41701 or of any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air. In holding such a hearing, the district board shall be vested with all the powers and duties of the hearing board. Notice shall be given, and the hearing shall be held, pursuant to Chapter 8 (commencing with Section 40800) of Part 3.

Section 42450.1. Application of article

This article applies to any order for abatement issued pursuant to a determination made under Section 42301.7.

Section 42451. Issuance by hearing board; Stipulated orders

(a) On its own motion, or upon the motion of the district board or the air pollution control officer, the hearing board may, after notice and a hearing, issue an order for abatement whenever it finds that any person is constructing or operating any article, machine, equipment, or other contrivance without a permit required by this part, or is in violation of Section 41700 or 41701 or of any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air.

(b) As an alternative to subdivision (a), the hearing board may issue an order for abatement pursuant to the stipulation of the air pollution control officer and the person or persons accused of constructing or operating any article, machine, equipment, or other contrivance without a permit required by this part, or of violating Section 41700 or 41701, or any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air, upon the terms and conditions set forth in the stipulation, without making the finding required under subdivision (a). The hearing board shall, however, include a written explanation of its action in the order for abatement.

Section 42452. Form of order

The order for abatement shall be framed in the manner of a writ of injunction requiring the respondent to refrain from a particular act. The order may be conditional and require a respondent to refrain from a particular act unless certain conditions are met. The order shall not have the effect of permitting a variance unless all the conditions for a variance, including limitation of time, are met.

Section 42453. Injunction against violations

A proceeding for mandatory or prohibitory injunction shall be brought by the district in the name of the people of the State of California in the superior court of the county in which the violation occurs to enjoin any person to whom an order for abatement pursuant to Section 42452 has been directed and who violates such order.

Section 42454. Injunction proceedings

Proceedings under Section 42453 shall conform to the requirements of Chapter 3 (commencing with Section 525), Title 7, Part 2 of the Code of Civil Procedure, except that it shall not be necessary to show lack of adequate remedy at law or to show irreparable damage or loss.

If, in any such proceeding, it shall be shown that an order for abatement has been made, that it has become final, and that its operation has not been stayed, it shall be sufficient proof to warrant the granting of a preliminary injunction.

If, in addition, it shall be shown that the respondent continues, or threatens to continue, to violate such order for abatement, it shall be sufficient proof to warrant the immediate granting of a temporary restraining order.

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ATTACHMENT 2

CALIFORNIA GOVERNMENT CODE AND CALIFORNIA CODE OF REGULATIONS SECTIONS SUBMTTED FOR APPROVAL AS PART OF CALIFORNIA'S STATE IMPLEMENTATION PLAN

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TABLE OF CONTENTS

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ATTACHMENT 2
California Government Code and California Code of Regulations Sections Submitted for Approval as Part of California's State Implementation Plan

Government Code Section 82048.

(a) "Public official" means every member, officer, employee or consultant of a state or local government agency.

(b) Notwithstanding subdivision (a), "public official" does not include the following:

(1) A judge or court commissioner in the judicial branch of government.

(2) A member of the Board of Governors and designated employees of the State Bar of California.

(3) A member of the Judicial Council.

(4) A member of the Commission on Judicial Performance, provided that he or she is subject to the provisions of Article 2.5 (commencing with Section 6035) of Chapter 4 of Division 3 of the Business and Professions Code as provided in Section 6038 of that article.

(5) A federal officer or employee serving in an official federal capacity on a state or local government agency.

Government Code Section 87103.

A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

(a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars ($2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars ($2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars ($500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars ($250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

Government Code Section 87302.

Each Conflict of Interest Code shall contain the following provisions:

(a) Specific enumeration of the positions within the agency, other than those specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.

(b) Requirements that each designated employee, other than those specified in Section 87200, file statements at times and under circumstances described in this section, disclosing reportable investments, business positions, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by Sections 87206 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments, business positions, interests in real property, and income. An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12 months before the effective date of the Conflict of Interest Code. Thereafter, each new designated employee shall file a statement within 30 days after assuming office, or if subject to State Senate confirmation, 30 days after being appointed or nominated, disclosing investments, business positions, and interests in real property held on, and income received during the 12 months before, the date of assuming office or the date of being appointed or nominated, respectively. Each designated employee shall file an annual statement, at the time specified in the Conflict of Interest Code, disclosing reportable investments, business positions, interest in real property and income held or received at any time during the previous calendar year or since the date the designated employee took office if during the calendar year. Every designated employee who leaves office shall file, within 30 days of leaving office, a statement disclosing reportable investments, business positions, interests in real property, and

income held or received at any time during the period between the closing date of the last statement required to be filed and the date of leaving office.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in the making, or using their official position to influence the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without his or her participation.

(d) For any position enumerated pursuant to subdivision (a), an individual who resigns the position within 12 months following initial appointment or within 30 days of the date of a notice mailed by the filing officer of the individual's filing obligation, whichever is earlier, is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position. Within 30 days of the date of a notice mailed by the filing officer, the individual shall do both of the following:

(1) File a written resignation with the appointing power.

(2) File a written statement with the filing officer on a form prescribed by the commission and signed under the penalty of perjury stating that the individual, during the period between appointment and resignation, did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

California Code of Regulations, Title 2, section 18700. Basic Rule; Guide to Conflict of Interest Regulations.

(a) No public official at any level of state or local government may make, participate in making or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest. A public official has a conflict of interest if the decision will have a reasonably foreseeable material financial effect on one or more of his/her economic interests, unless the public official can establish either: (1) that the effect is indistinguishable from the effect on the public generally, or (2) a public official's participation is legally required.

(b) To determine whether a given individual has a disqualifying conflict of interest under the Political Reform Act, proceed with the following analysis:

(1) Determine whether the individual is a public official, within the meaning of the Act. (See Government Code section 82048; 2 Cal. Code Regs. § 18701.) If the individual is not a public official, he or she does not have a conflict of interest within the meaning of the Political Reform Act.

(2) Determine whether the public official will be making, participating in making, or using or attempting to use his/her official position to influence a government decision. (See 2 Cal. Code Regs. § 18702.) If the public official is not making, participating in making, or using or attempting to use his/her official position to influence a government decision, then he or she does not have a conflict of interest within the meaning of the Political Reform Act.

(3) Identify the public official's economic interests. (See 2 Cal. Code Regs. § 18703.)

(4) For each of the public official's economic interests, determine whether that interest is directly or indirectly involved in the governmental decision which the public official will be making, participating in making, or using or attempting to use his/her official position to influence. (See 2 Cal. Code Regs. § 18704.)

(5) Determine the applicable materiality standard for each economic interest, based upon the degree of involvement determined pursuant to California Code of Regulations, title 2, section 18704. (See 2 Cal. Code Regs. § 18705.)

(6) Determine whether it is reasonably foreseeable that the governmental decision will have a material financial effect (as defined in California Code of Regulations, title 2, section 18705) on each economic interest identified pursuant to California Code of Regulations, title 2, section 18703. (See 2 Cal. Code Regs. § 18706.) If it is not reasonably foreseeable that there will be a material financial effect on any of the public official's economic interests, he or she does not have a conflict of interest within the meaning of the Political Reform Act. If it is reasonably foreseeable that there will be a material financial effect on any of the public official's economic interests, and the official does not participate in the decision, determine whether the official may segment the decision into separate decisions to allow his or her participation in subsequent decisions. (See 2 Cal. Code Regs. § 18709.)

(7) Determine if the reasonably foreseeable financial effect is distinguishable from the effect on the public generally. If the official can establish that the reasonably foreseeable material financial effect on his or her economic interest is indistinguishable from the effect on the public generally, he or she does not have a conflict of interest within the meaning of the Political Reform Act. If the reasonably foreseeable material financial effect on the public official's economic interest is distinguishable from the effect on the public generally, he or she has a conflict of interest within the meaning of the Political Reform Act. (See 2 Cal. Code Regs. § 18707.)

(8) Determine if the public official's participation is legally required despite the conflict of interest. If the official can establish that his or her participation is legally required, he or she may participate in the governmental decision despite the conflict of interest. (See 2 Cal. Code Regs. § 18708.)

California Code of Regulations, Title 2, section 18701. Public Official, Definitions.

(a) For purposes of Government Code section 82048, which defines “public official,” and Government Code section 82019, which defines “designated employee,” the following definitions apply:

(1) “Member” shall include, but not be limited to, salaried or unsalaried members of committees, boards or commissions with decisionmaking authority.

(A) A committee, board or commission possesses decisionmaking authority whenever:

(i) It may make a final governmental decision;

(ii) It may compel a governmental decision; or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto that may not be overridden; or

(iii) It makes substantive recommendations that are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency.

(B) A committee, board, or commission does not possess decisionmaking authority under subsection (a)(1)(A)(i) of this regulation if it is formed for the sole purpose of researching a topic and preparing a report or recommendation for submission to another governmental body that has final decisionmaking authority.

(2) “Consultant” means an individual who, pursuant to a contract with a state or local government agency:

(A) Makes a governmental decision whether to:

(i) Approve a rate, rule, or regulation;

(ii) Adopt or enforce a law;

(iii) Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;

(iv) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval;

(v) Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract;

(vi) Grant agency approval to a plan, design, report, study, or similar item;

(vii) Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof; or

(B) Serves in a staff capacity with the agency and in that capacity participates in making a governmental decision as defined in regulation 18702.2 or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code under Government Code section 87302.

(b) For purposes of Government Code section 87200, the following definitions apply:

(1) “Other public officials who manage public investments” means:

(A) Members of boards and commissions, including pension and retirement boards or commissions, or of committees thereof, who exercise responsibility for the management of public investments;

(B) High-level officers and employees of public agencies who exercise primary responsibility for the management of public investments, such as chief or principal investment officers or chief financial managers. This category shall not include officers and employees who work under the supervision of the chief or principal investment officers or the chief financial managers; and

(C) Individuals who, pursuant to a contract with a state or local government agency, perform the same or substantially all the same functions that would otherwise be performed by the public officials described in subdivision (b)(1)(B) above.

(2) “Public investments” means the investment of public moneys in real estate, securities, or other economic interests for the production of revenue or other financial return.

(3) “Public moneys” means all moneys belonging to, received by, or held by, the state, or any city, county, town, district, or public agency therein, or by an officer thereof acting in his or her official capacity, and includes the proceeds of all bonds and other evidences of indebtedness, trust funds held by public pension and retirement systems, deferred compensation funds held for investment by public agencies, and public moneys held by a financial institution under a trust indenture to which a public agency is a party.

(4) “Management of public investments” means the following nonministerial functions: directing the investment of public moneys; formulating or approving investment policies; approving or establishing guidelines for asset allocations; or approving investment transactions.

ATTACHMENT 3

2013 ANNUAL MONITORING NETWORK REPORTS INCLUDED FOR INFORMATION ONLY AND NOT TO BE INCLUDED IN CALIFORNIA'S STATE IMPLEMENTATION PLAN

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TABLE OF CONTENTS

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ATTACHMENT 3
2013 ANNUAL MONITORING NETWORK REPORTS
INCLUDED FOR INFORMATION ONLY AND NOT TO BE INCLUDED IN CALIFORNIA'S STATE IMPLEMENTATION PLAN

2013 Annual Network Reports

Annually, per federal regulations, the Air Resources Board (ARB) and local air pollution control and air quality management districts (local districts or districts) evaluate the adequacy of the State monitoring network to meet federal monitoring requirements. A more thorough assessment is conducted every five years. These assessments are documented in annual monitoring network reports that are generally prepared and submitted by the Primary Quality Assurance Organization, or PQAO. The PQAO is the umbrella under which monitoring agencies are organized to ensure that monitoring is conducted in accordance with a common set of procedures, uses common calibration facilities and standards, and is overseen by a single air quality organization.

Although the majority of California's districts are included in the ARB PQAO, the Bay Area Air Quality Management District, San Diego County Air Pollution Control District, and South Coast Air Quality Management District operate as separate individual PQAOs. Each of California's four PQAOs is responsible for its monitoring network and reports directly to the United States Environmental Protection Agency (U.S. EPA) on monitoring network requirements. The most recent annual monitoring network report for each California PQAO is available on the web. In addition, several local districts included in the ARB PQAO compile their own annual report. Links to all of these reports are included below. All reports have been submitted to U.S. EPA for approval.

- ARB PQAO: Annual Monitoring Network Report for Twenty-three Districts in California (July 2013)
  (*http://www.arb.ca.gov/aqd/amnr/amnr2013.pdf*)

- Great Basin Unified Air Pollution Control District: Draft 2013 Annual Air Quality Monitoring Network Plan (July 15, 2013)
  (*http://gbuapcd.org/Information/2013AQMNP.pdf*)

- Imperial County Air Pollution Control District: Ambient Air Monitoring Annual Network Plan (July 2013)
  (*http://www.co.imperial.ca.us/airpollution/Forms%20&%20Documents/MONITORING/2013%20FINAL%20ANNUAL%20AMNP%20JULY.pdf*)

- Monterey Bay Unified Air Pollution Control District: North Central Coast Air Basin California 2013 Annual Monitoring Network Plan (June 30, 2013)
  (*http://www.mbuapcd.org/mbuapcd/pdf/AirMonitor/2013_Annual_Network_Planred.pdf*)

- North Coast Unified Air Quality Management District: Air Monitoring Network Plan 2013 (*http://www.ncuaqmd.org/files/Air%20Data/NCUAQMD%20Air%20Monitoring%20Network%20Plan%202013.pdf*)

- Sacramento Metropolitan Air Quality Management District: 2013 Annual Monitoring Network Plan (July 1, 2013) (*http://airquality.org/notices/other/2013AnnualMonitoringNetworkPlan.pdf*)

- San Joaquin Valley Air Pollution Control District: Annual Air Monitoring Network Plan (July 25, 2013) (*http://www.valleyair.org/aginfo/Docs/2013/AnnualAirMonitoringNetworkPlanandAppendicesAthroughH.pdf*)

- San Luis Obispo County Air Pollution Control District: 2013 Ambient Air Monitoring Network Plan (May 2013) (*http://www.slocleanair.org/images/cms/upload/files/2013%20network%20plan.pdf*)

- Santa Barbara County Air Pollution Control District: Annual Air Monitoring Network Plan for Santa Barbara County (July 2013) (*http://www.sbcapcd.org/airdata/sbcapcd-air-monitor-plan-13.pdf*)

- Ventura County Air Pollution Control District: Ambient Air Monitoring Network Plan 2013 (*http://www.vcapcd.org/pubs/Monitoring/2013DraftMonitoringNetworkPlan.pdf*)

- Bay Area PQAO: 2012 Air Monitoring Network Plan (July 1, 2013) (*http://www.baaqmd.gov/~/media/Files/Technical%20Services/2012_Network_Plan.ashx*)

- San Diego PQAO: 2012 Ambient Air Quality Network Plan (July 19, 2013) (*http://www.sdapcd.org/air/reports/2012_network_plan.pdf*)

- South Coast PQAO: Annual Air Quality Monitoring Network Plan (July 2013) (*http://www.aqmd.gov/tao/AQ-Reports/AQMonitoringNetworkPlan/AQnetworkplan.htm*)