State of California
AIR RESOURCES BOARD

Resolution 92-71

October 16, 1992

Agenda Item No.: 92-16-2

WHEREAS, the Legislature has declared in section 39001 of the Health and Safety Code that the public interest shall be safeguarded by an intensive and coordinated state, regional, and local effort to protect and enhance the ambient air quality of the state;

WHEREAS, section 39606 of the Health and Safety Code requires the Air Resources Board (the "Board" or "ARB") to adopt ambient air quality standards, and sections 39003 and 41500 direct the Board to coordinate efforts throughout the state to attain and maintain these standards;

WHEREAS, the Legislature enacted the California Clean Air Act of 1988 (the "Act"; Stats. 1988, ch. 1568) and declared that it is necessary that the state ambient air quality standards be attained by the earliest practicable date to protect the public health, particularly the health of children, older people, and those with respiratory diseases;

WHEREAS, the Legislature has enacted AB 2783, effective January 1, 1993, which amends certain requirements of the Act as noted below where relevant, but makes few substantive changes to the plan requirements for the South Coast Air Basin;

WHEREAS, in order to attain these standards, the Act in Health and Safety Code sections 40910 et seq. mandates a comprehensive program of emission reduction measures and planning requirements for the state and local air pollution control districts ("districts") in areas where the standards are not attained for ozone, carbon monoxide, sulfur dioxide, and nitrogen dioxide;

WHEREAS, Health and Safety Code sections 40400 et seq. (referred to as the Lewis-Presley Act) place specific planning requirements on the South Coast Air Quality Management District;

WHEREAS, Health and Safety Code section 40460 gives responsibility to the Southern California Association of Governments (SCAG) for preparing and approving portions of the air quality plan related to regional demographic projections and integrated regional land use, housing, employment, and transportation programs, measures, and strategies; SCAG shall also analyze and provide emissions data related to its planning responsibilities;

WHEREAS, sections 40911 and 40913 of the Health and Safety Code require that each district must adopt a plan which is designed to achieve and maintain the state standards by the earliest practicable date;

WHEREAS, section 40914 of the Health and Safety Code requires that each district plan be designed to achieve a reduction in district-wide emissions of 5 percent or more per year for each nonattainment pollutant or its precursors (averaged every consecutive three year period beginning in 1988) unless the district is unable to achieve this goal despite the inclusion of every feasible measure in the plan and an expeditious adoption schedule;

WHEREAS, the Board is required to review and then approve, approve conditionally, or revise district attainment plans or portions thereof pursuant to sections 41500, 41503, and 41503.5 of the Health and Safety Code, and is responsible for ensuring district compliance with the Act;

WHEREAS, section 40924(a) of the Health and Safety Code requires that each year following the Board's approval of a district's attainment plan, the district shall prepare and submit a report to the Board summarizing its progress in meeting the schedules for developing, adopting, and implementing the control measures contained in the plan;

WHEREAS, section 40920(b) states a district's air pollution is to be designated as "severe" if the Board finds and determines that the district is unable to attain and maintain the applicable state standard until after December 31, 1997, or is unable to identify an attainment date;

WHEREAS, the South Coast Air Quality Management District (the "District") has classified itself as severe for ozone, carbon monoxide, and nitrogen dioxide;

WHEREAS, AB 2783 reclassified the South Coast Air Basin to "extreme" for ozone and "serious" for carbon monoxide, based on design values rather than projected attainment dates but does not significantly change applicable plan requirements;

WHEREAS, section 40919(a) of the Health and Safety Code requires each district classified as a serious nonattainment area to include the following in its attainment plan:

(1) a permitting program designed to achieve no net increase in emissions of nonattainment pollutants or their precursors from all permitted new or modified stationary sources;

(2) application of the best available retrofit control technology (BARCT) to existing stationary sources;

(3) provisions to develop area source and indirect source control programs;

(4) provisions to develop and maintain an emissions inventory system;

(5) provisions for public education programs to promote actions to reduce emissions from transportation and areawide sources;

(6) transportation control measures to substantially reduce the rate of increase in passenger vehicle trips and miles traveled per trip;

(7) reasonably available transportation control measures;

WHEREAS, section 40920(a) of the Health and Safety Code requires each district classified as a severe nonattainment area to include in its attainment plan all measures required for serious areas and, in addition, the following:

(1) transportation control measures to achieve an average during weekday commute hours of 1.5 or more persons per passenger vehicle by 1999, and no net increase in vehicle emissions after 1997;

(2) measures to achieve the use of a significant number of low-emission motor vehicles by operators of motor vehicle fleets;

(3) measures sufficient to reduce overall population exposure to ambient pollutant levels in excess of the standard by at least 25 percent by December 31, 1994, 40 percent by December 31, 1997, and 50 percent by December 31, 2000;

WHEREAS, because the South Coast Air Basin has been identified as contributing to exceedances of the state ozone standard in the downwind areas of the South Central Coast Air Basin, San Diego Air Basin, and the Southeast Desert Air Basin, transport mitigation measures are required pursuant to section 39610 of the Health and Safety Code as specified in Title 17, California Code of Regulations, section 70600;

WHEREAS, sections 40913(b) and 40922(a) of the Health and Safety Code require each plan to include an assessment of the cost-effectiveness of available and proposed control measures, to contain a list which ranks the control measures from the least cost-effective to the most cost-effective, and to be based on a determination by the district board that the plan is a cost-effective strategy to achieve attainment of the state standards by the earliest practicable date;

WHEREAS, section 41503(b) of the Health and Safety Code requires that control measures for the same emission sources shall be uniform throughout the air basin to the maximum extent feasible, unless specified demonstrations are made by the district;

WHEREAS, section 40915 of the Health and Safety Code requires that each district plan contain contingency measures to be implemented upon a finding by the Board that the district is failing to achieve interim goals or maintain adequate progress toward attainment and further requires that any regulations to implement such measures be adopted by the district within 180 days following the Board's finding of inadequate progress;

WHEREAS, the legislature has enacted AB 1054, effective January 1, 1993, which establishes requirements applicable to market-based incentive programs such as the proposed Regional Clean Air Incentives Market (RECLAIM) program in order to achieve the greatest air quality improvement while strengthening the state's economy and preserving jobs;

WHEREAS, AB 1054, in section 39620(d)(1) of the Health and Safety Code, requires an attainment plan or plan revision which includes a market-based incentive program as an element of the plan and which is submitted to the Board prior to January 1, 1993, to be designed to achieve equivalent emission reductions and reduced cost and job impacts compared to the "command and control" regulations which would otherwise have been adopted, and requires the state board to determine whether the program complies with these requirements;

WHEREAS, the California Environmental Quality Act (CEQA) requires that no project which may have significant adverse environmental impacts may be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts, unless specific overriding considerations are identified which outweigh the potential adverse consequences of any unmitigated impacts;

WHEREAS, the South Coast Air Quality Management District's 1991 Air Quality Management Plan (the "Plan"or "AQMP") was adopted by the District Board on July 12, 1991, in Resolution No. 91-23, and was officially transmitted by the District to ARB on August 28, 1991; was subsequently amended on July 10, 1992, in Resolution No. 92-21, and the amendments were officially transmitted by the District to ARB on August 3, 1992;

WHEREAS, a public hearing has been conducted in accordance with sections 41502 and 41503.4 of the Health and Safety Code;

WHEREAS, the Board has reviewed and considered the Plan as amended along with the environmental impact report (EIR) prepared for the Plan and the Supplemental EIR prepared for the July 10 amendments, as submitted by the District, as well as the significant issues raised and oral and written comments presented by interested persons and Board staff;

WHEREAS, the Plan includes the following major components:

1. a projection of attainment of all national ambient air quality standards by 2010, the planning horizon of the 1991 AQMP as amended;

2. a projection of attainment of the state one-hour and eight-hour carbon monoxide standards, and the state one-hour nitrogen dioxide standard by the year 2000;

3. a detailed emission inventory, which projects air quality trends based on growth in population, employment, industrial/commercial activity, travel, and energy use;

4. commitments to adopt retrofit measures for 30 stationary source categories between 1991 and the year 1994, of which 20 would be subsumed in a marketable permit program known as the Regional Clean Air Incentives Market (RECLAIM) for those sources in the RECLAIM program. The 20 subsumed measures would be classified as contingency measures, to be automatically reinstated if the associated RECLAIM rules are not in place by July 1, 1993;

5. a commitment to adopt Best Available Retrofit Control Technology at the time of rulemaking;

6. commitments to adopt control measures for 22 area source categories between 1991 and the year 1994;

7. a commitment to adopt three indirect source control measures, between 1991 and the year 1994;

8. a commitment to adopt fourteen mobile source measures between 1991 and the year 1994 for sources under the District jurisdiction;

9. a commitment to adopt ten transportation control measures between 1991 and the year 1994;

10. a cost-effectiveness ranking for mobile, transportation, indirect source control, stationary and area source control measures;

11. population exposure assessments for ozone, carbon monoxide and nitrogen dioxide;

WHEREAS, Section 41502(c) requires the Board to adopt written findings which explain its actions and which address the significant issues raised by interested persons;

WHEREAS, the findings set forth in this Resolution are supplemented by and based on the more detailed analysis set forth in the Board Staff Report for the Plan, which is incorporated by reference herein, and by the Board's and staff's responses to comments on the record;

WHEREAS, based upon the Plan, the EIR, the Supplemental EIR, the information presented by the Board staff, and the written and oral public testimony received prior to and at the hearing, the Board finds as follows:

1. The state health-based ambient air quality standards for ozone, carbon monoxide, PM10, and nitrogen dioxide, are exceeded in the South Coast Air Basin;

2. The Board concurs with the District's inability to project an attainment date for ozone and PM10 at this time, based on the extremely high levels of these pollutants in the South Coast Air Basin;

3. The District's attainment demonstrations for CO and NO2 are based on adequate data and methodology, as known at the time of the plan's initial adoption, and the attainment classifications are appropriate;

4. The District is in compliance with the "no net increase" requirement for new and modified permitted stationary sources as the District has adopted the required New Source Review rule on June 28, 1990, and amended it on May 3, 1991 to accomplish full compliance with the requirements;

5. The District's proposal to adopt 52 stationary and area source rules between 1991 to 1994 is a significant increase in regulatory activity over recent years and represents an expeditious adoption schedule;

6. That expeditious progress toward attainment can be maintained with the RECLAIM program, provided the district adopts rules to implement RECLAIM that result in at least equivalent emission reductions with reduced costs and job impacts, on an equally expeditious schedule, as the existing and future rules replaced by RECLAIM;

7. The Plan includes provisions for continuing public education about air quality issues;

8. The District is in compliance with the Act's requirements and the ARB's regulations for transport mitigation;

9. Although the Plan includes the best available population exposure assessments for ozone, carbon monoxide and nitrogen dioxide, some

issues remain with regard to overall performance of the model and firm quantitative results;

10. The Plan satisfies the requirements of section 41503(d) of the Health and Safety Code because although the District is unable to specify an attainment date for ozone, the Plan contains all feasible control measures to ensure that progress towards attainment is maintained;

11. The Plan satisfies the requirement for no net increase in vehicle emissions after 1997 on the basis of current information; however, the District needs to reassess its compliance with this performance standard, after the updated inventory data on vehicle miles traveled (VMT) based on the 1990 census becomes available;

12. The Plan contains provisions to adopt new control measures for stationary and area sources within the District; steps are being taken to make existing rules uniform within the South Coast Air Basin to the maximum extent feasible;

13. The District's accelerated rule adoption approach for satisfying the requirement that the Plan contain contingency measures needs further details as to how it will be effectively implemented;

14. The Plan contains all reasonably available transportation control measures given the circumstances which prevail in the District, but additional factual detail is needed before some of these measures can be fully approved, as specified in Appendix B of the Staff Report;

15. That it is generally inappropriate to categorize freeway and highway construction projects as transportation control measures because of the potential of some of those projects to increase rather than decrease emissions;

16. Modification of Measure 13 (Freeway and Highway Enhancements) is needed to reassess the measure as a baseline planning assumption rather than as a transportation control measure;

17. The Plan includes provisions to develop an indirect source control program;

18. The District has included in the Plan all feasible stationary, transportation, area, and indirect source control measures;

19. The combination of state and local measures in the Plan falls short of the 5 percent per year reductions for all nonattainment pollutants and their precursor emissions, and the Plan instead indicates an average annual reduction of hydrocarbon emissions

of 5.6%, nitrogen oxides emissions of 3.5%, and CO emissions of 5.7% from the year 1988 through 1994; 2.8% for hydrocarbons, 4.5% for nitrogen oxides, and 2.9% for CO from the year 1995 through 1997; and 6.4% for hydrocarbons, 3.7% for nitrogen oxides, and 2.4% for carbon monoxide from the year 1998 through 2000;

20. Although the Plan achieves annual emission reductions of less than five percent, it satisfies the requirements of Health and Safety Code sections 40914(b) and 41503.1 because it provides for the full implementation of existing rules and the expeditious adoption of all feasible control measures, given the circumstances which prevail in the District;

21. The RECLAIM program committed to by the District, in concept, will achieve equivalent emission reductions with reduced cost and job impacts compared to the current "command and control" regulations which are in place or planned for adoption and which would apply in lieu of RECLAIM;

22. The substitution of the RECLAIM program for a number of new and existing measures for those sources included in the program is an acceptable alternative, provided that the district adopts rules to implement RECLAIM that result in at least equivalent enforceable emission reductions without increased costs or job impacts, on an equally expeditious schedule as the existing and future rules replaced by RECLAIM;

23. The Plan does not currently satisfy the requirement of a 1.5 person average person vehicle occupancy by the year 1999, and additional information will be required from the District and SCAG to provide a basis for assessing compliance;

24. Based on the information available at the time of the original 1991 AQMP adoption, the Plan demonstrated compliance with the requirement that the rate of growth of vehicle miles traveled and trips be significantly reduced; however, the District needs to complete an analysis of its compliance with this performance standard after an inventory with revised VMT data is available;

25. The Final and Supplemental EIRs prepared and certified for the Plan and the Plan amendment meet the requirements of the California Environmental Quality Act, and environmental documentation for individual measures will be prepared as necessary as each measure is considered for adoption;

26. The EIRs have adequately addressed feasible alternatives and mitigations measures; however, approval of the Plan by the Board will result in some adverse environmental impacts which cannot be mitigated to insignificant levels. For purposes of this planning

activity, the District's findings and supporting statements of fact regarding such significant effects, as set forth in the District's Resolution No. 91-23, dated July 12, 1991, and Resolution No. 92-21, dated July 10, 1992, and the District's statement of Overriding Considerations and Mitigation Monitoring plan set forth in attachment 1 of Resolution 92-21 are hereby incorporated by reference herein as the findings which this Board is required to make pursuant to Public Resources Code section 21081 and CEQA guidelines;

27. The Plan is in compliance with the cost-effectiveness requirement in the Act;

28. The Plan is in compliance with the transport mitigation requirements in the Act and ARB regulations;

29. The District is in compliance with the exposure reduction targets for 1994, 1997, and 2000;

30. The Plan is in conformance with the uniformity requirement within the South Coast Air Basin and the Board acknowledges that in the Southeast Desert Air Basin because of variable meteorological conditions and different transport impacts within the air basin, an exception to the uniformity requirement must be considered;

WHEREAS, the Board has prepared additional findings in response to the significant issues which have been raised by public comments, set forth in Attachment A hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT RESOLVED, that the Board approves those portions of the South Coast Air Quality Management District 1991 Air Quality Management Plan, as amended, which, as identified in the Staff Report, meet the requirements of the Act; and directs the District to proceed with the implementation of the control measures included in the plan.

BE IT FURTHER RESOLVED, that the Board directs the District to take such actions as identified in the Staff Report for those plan provisions where further actions are needed to comply with the Act, and directs staff to compile a list of such actions in a letter to the District.

BE IT FURTHER RESOLVED, that the Board approves the nitrogen dioxide attainment demonstration and finds that the year 2000 represents the earliest practicable attainment date for the state nitrogen dioxide standard.

BE IT FURTHER RESOLVED, that the Board conditionally approves the attainment demonstration for the 1-hour carbon monoxide standard, pending more in-depth staff review of the District's latest CO analysis, and requests that the District revise its attainment demonstration for the 8-hour carbon monoxide

standard as part of its submittal of a plan to meet the federal CO standards.

BE IT FURTHER RESOLVED, that the Board directs the District to incorporate an attainment demonstration for the state ozone standard into the plan as soon as the earliest practicable attainment date for that standard can be determined;

BE IT FURTHER RESOLVED, that the Board approves the "severe" area classifications for the South Coast District.

BE IT FURTHER RESOLVED, that the Board directs the District to construct the permitting elements of RECLAIM in such a way that the "no net increase" requirement of Regulation XIII, or its equivalent, continues to be met for all new and modified stationary sources within the District.

BE IT FURTHER RESOLVED, that the Board has determined that the District has committed to design a RECLAIM program that will achieve equivalent emission reductions and reduced cost and job impacts compared to current and proposed "command and control" regulations that would otherwise have applied to those sources included in the RECLAIM program.

BE IT FURTHER RESOLVED, that the Board directs the District, when it adopts rules and regulations to implement RECLAIM,to ensure that such rules and regulations will result in at least equivalent emission reductions as the BARCT measures in place or in the Plan, without increased costs or job impacts, on an equally expeditious schedule as the existing and future rules replaced by RECLAIM for the sources to which RECLAIM is applicable.

BE IT FURTHER RESOLVED, that the Board directs the Executive Officer to continue to work with the District on RECLAIM to ensure that the Board's specific concerns are addressed and that the requirements of AB 1054 and the California Clean Air Act are complied with.

BE IT FURTHER RESOLVED, that the Board finds that the District plan contains provisions to develop an area source control program.

BE IT FURTHER RESOLVED, that the Board approves Measure M-H-1, Measure 6 and Measure 7 as indirect source control measures.

BE IT FURTHER RESOLVED, that the Board conditionally approves indirect source control measure M-H-3, and directs the District and SCAG to provide local government implementation commitments by July 1, 1993.

BE IT FURTHER RESOLVED, that the Board directs the District and SCAG to provide additional detail on Measure 17 to clarify how the measure relates to other similar TCM's in the Plan, and how compliance with the measure's VMT reductions will be determined.

BE IT FURTHER RESOLVED, that the Board approves the emission reductions claimed in the plan pertaining to the state's motor vehicle standards, fuel regulations, and inspection & maintenance program for motor vehicles.

BE IT FURTHER RESOLVED, that the Board conditionally approves the following mobile source measures and directs the District to provide further detail regarding the roles and responsibilities of the implementing agencies and their commitments to carry out such measures by July 1, 1993: M-G-6, M-G-7, M-I-1, and M-I-3.

BE IT FURTHER RESOLVED, that the Board directs the District to prepare and provide a workplan and schedule by July 1, 1993, along with complete legislative bill language for obtaining the necessary statutory authority to adopt and implement the following measures: M-G-8 and M-G-9.

BE IT FURTHER RESOLVED, that the Board directs the District to complete and submit to the Board a workplan and schedule by July 1, 1993, for completing memoranda of understanding or other such formal agreements between agencies with overlapping authority, for the purposes of adopting and implementing control plan measures.

BE IT FURTHER RESOLVED, that the Board directs the District to re-analyze the emissions reduction estimate for Measure 9 (Replacement of High-emitting Aircraft) by July 1, 1993, in consideration of various actions that might be taken to abate noise and their respective impacts on aircraft emissions.

BE IT FURTHER RESOLVED, that the Board finds that the Plan addresses all Reasonably Available Transportation Control Measures, and fully approves measures: M-H-5, M-H-4, M-H-2, M-H-1, 6, 7, 8.

BE IT FURTHER RESOLVED, that the Board conditionally approves and directs the District and SCAG to provide by July 1, 1993, additional documentation, implementation commitments, and secured funding for the following transportation control measures: 1a, 1b, 2a, 2b, 2d, 2e, 3a, M-H-6, 2f, 2g, 4, 5, 11, 12a, 12b, 14, M-G-1, M-H-3, and M-H-9.

BE IT FURTHER RESOLVED, that the Board recognizes that the District is considering changes to measures 1a, 1b, 2a, 2b, 2d, 2e, 17, M-H-3, 3a, M-H-2, M-H-5, and M-H-6 as part of its deliberations on the federal CO plan, and indicates its willingness to consider an alternative set of TCMs that are also sufficient to meet the requirements of state law.

BE IT FURTHER RESOLVED, that the Board directs the District and SCAG submit interim milestones of progress for 1994, 1997, and 2000, by July 1, 1993, so that implementation of the plan can be meaningfully monitored by the Board.

BE IT FURTHER RESOLVED, that the Board encourages the District to actively participate in the update of the Regional Mobility Plan and county congestion management programs, and encourages greater SCAG/SCAQMD

coordination in removing the overlap between the measures in Appendix IV-C and Appendix IV-E and increasing their specificity.

BE IT FURTHER RESOLVED, that the Board directs the District and SCAG to jointly update the transportation and land use portions of the Plan on a schedule consistent with revisions to the Regional Transportation and Regional Mobility Plans.

BE IT FURTHER RESOLVED, that the Board directs the District and SCAG to delete Measure 13 from the Plan as a TCM and to revise the baseline emission inventory of the plan to include the emission impacts of those projects.

BE IT FURTHER RESOLVED, that the Board encourages SCAG to use its discretion as the Metropolitan Planning Organization to place highest priority on TCM implementation when allocating available ISTEA funds.

BE IT FURTHER RESOLVED, that the Board directs the District and SCAG, by April 1, 1993, to expand the average vehicle occupancy analysis to include non-work trips, and to determine whether the measures in the Plan are sufficient to achieve 1.5 AVO by 1999 when such trips are considered.

BE IT FURTHER RESOLVED, that the Board approves the District's emission accounting as consistent with state regulations, and approves the lesser rates of annual emission reductions portrayed in the District's Plan as the maximum reductions possible and as reflecting the expeditious adoption of all feasible measures.

BE IT FURTHER RESOLVED, that the Board approves the South Coast's proposed schedule for rulemaking and related activities as "expeditious," and directs the District to reevaluate its rulemaking/action calendar and revise it as necessary to reflect actual activity and RECLAIM by July 1, 1993.

BE IT FURTHER RESOLVED, that the Board directs the District to submit the rules and regulations implementing RECLAIM to the ARB for review to ensure that they comply with the requirements of state and federal law by July 1, 1993, or to submit a schedule for adopting and implementing the Phase I contingency measures in the most expeditious timeframe possible.

BE IT FURTHER RESOLVED, that the Board approves the population exposure analysis as the best information currently available and recommends that the District revisit the analysis for ozone as improved versions of the photochemical model become available.

BE IT FURTHER RESOLVED, that the Board approves an exception to the uniformity requirement of section 41503(b) of the Health and Safety Code within the Southeast Desert Air Basin, based on the variable meteorological conditions and differential transport impacts within that area, and directs the District and SCAG to monitor the effectiveness of delegated measures in achieving a uniform degree of emissions control, and to coordinate their

efforts so as to provide consistent and adequate guidance to local implementing agencies.

BE IT FURTHER RESOLVED, that the Board approves the Stage I contingency measures within the plan, and directs the District to advance the Stage II contingency measures to the pre-regulatory level, or to consider an alternative contingency process for accelerating rulemaking when the South Coast fails to meet interim goals or otherwise maintain expeditious progress toward attainment of the state ambient air quality standards.

BE IT FURTHER RESOLVED, that the Board approves the Plan's compliance with the California Environmental Quality Act and the mitigation monitoring efforts to be undertaken by the District pursuant to section 21081.6 of the Public Resources Code, and directs the District to include a report on the progress of these efforts in the first annual progress report to be submitted to the Board one year from the date of this resolution.

I hereby certify that the above is a true and correct copy of Resolution 92-71, as adopted by the Air Resources Board.

Pat Hutchens

Pat Hutchens, Board Secretary

ATTACHMENT A: ARB Findings in Response to Significant Issues

Issues raised by interested persons at the Board hearing are addressed in the following comments. Many of these and other comments are also discussed in more detail in staff testimony at the hearing, and the transcript of the hearing is incorporated by reference herein.

Significant Issues

Issue: Tier I control measures are supposed to be implemented but dates for achieving many of the measures have yet to be determined.

Response: All Tier I control measures included dates of adoption and implementation. ARB staff and District staff recognize that there has been some slippage of adoption/implementation dates committed to in the 1991 AQMP. The slippage of dates can be in part attributed to the development of the District's RECLAIM program and an overly ambitious rule adoption schedule. Because of the ambitious adoption/implementation schedule of the District, a certain amount of slippage can be tolerated, provided it does not seriously jeopardize the emission reductions committed to in the 1991 AQMP. The Board has directed the District to revise and update its adoption/implementation calendar to reflect a more realistic agenda.

Issue: With respect to Tier II and Tier III reductions, no implementation schedule, penalty structure, or enforcement mechanism relating to interagency cooperation and implementation are included in the Plan.

Response: Tier II and Tier III measures are long term commitments. The District has not only the most ambitious plan in the state, but also projects its control program the farthest into the future. Because the Tier II and Tier III measures are based on such long range projections, it is to be expected that not all of the requirements of enforceable control measures will be present. At future plan updates, the ARB expects the District to have improved measures. It is also expected that at the time of submittal the Tier II and Tier III rules will be evaluated for enforceability and other federal criteria required for SIP submittal.

Issue: The parking management measures are too vague. At what level (local, regional, or State) will they be developed and enacted?.

Response: SCAG Measure 2b, Parking Management, lacks implementation agreements and funding mechanisms. A comprehensive menu of actions is presented for local government action through general plan or parking code revisions, but none of these actions are specifically prescribed or currently committed to by most local governments. ARB staff have thus recommended "conditional approval" of Measure 2b, pending identification of implementation and monitoring agreements and funding sources.

Issue: Some of the measures relied upon in the Plan are desirable but unrealistic due to budget deficits (e.g., high speed rail and urban bus electrification).

Response: A high speed rail measure is included in the Future Studies Issues of the AQMP, but no emission reductions are currently claimed. See Final Appendix IV-E, pp. IV-26 to IV-31.

Funding for the 6 grade separations cited in Measure 11 is available from Prop. 116 and the Public Utilities Commission. Because full funding is not yet committed by Caltrans, this measure received conditional approval in the AQMP review.

Funding for SCAQMD Measure M-G-1, Zero Emission Urban Bus Implementation is not yet available, although the ISTEA has provided additional funding for transit capital expenditures. Because no funding is committed this measure received conditional approval in the AQMP review.

Issue: Of those indirect source projects, the Plan provides review for only those of Priority I and II. For example, office parks less than 250,000 square feet or residential developments with less than 500 units will not be reviewed. The result is the cumulative impact of hundreds of smaller developments will completely avoid scrutiny.

Response: The District has recently adopted the final draft of a "CEQA Air Quality Handbook" that provides guidance and advice to local governments in reviewing and mitigating the air quality impacts of local land use projects and plans. This handbook establishes thresholds for a range of air pollutants and toxic substances that the district recommends apply to "new facilities, expansions or other change that could result in emissions exceeding the threshold or the secondary significance indicators."

Table 6-2 - "Projects of Potential Significance for Air Quality" lists the sizes of developments that would fall under the threshold level, including: 160 units of single family housing, 250 units of apartments, an office of 120,000 sq. ft., a 22,000 sq. ft. hardware store, etc . . .

It is true that numerous small projects, that fall under the CEQA review threshold, can be expected to negatively affect air quality due to their cumulative impacts. An effective way to address such impacts is by analyzing and mitigating them at the local community and/or general plan level, and the district's CEQA Handbook guidelines do address such plans. The law requires provisions to develop an ISR program, which the District has included in their plan, the law does not require that every project be fully mitigated on an individual basis.

Issue: The Plan claims construction of between 1344 and 1840 miles of new freeways and highways is an air quality benefit. A strategy of increasing highway capacity is contrary to other measures which are designed to make driving less attractive.

Response: ARB staff agrees with the comment as it applies to mixed-flow facilities, and has recommended that Measure 13 be deleted from the AQMP as a TCM, and added to the baseline emission inventory instead.

Issue: New HOV lanes will also result in increased travel and greater emissions.

Response: New high occupancy vehicle lanes on freeways indirectly increase mixed flow capacity on the remaining lanes. However, a high occupancy vehicle lane system which offers significant time savings for carpoolers and transit users should provide offsetting air quality benefit by enabling fewer trips in single occupancy vehicles. ARB staff have encouraged (1) conversion of existing mixed flow capacity to HOV capacity where demand warrants it, and (2) where highway expansion is needed, highest priority for funding and implementation be directed toward completion of an HOV system. SCAG Measure 2f provides for the latter, and staff has recommended conditional approval pending the provision of additional information.

Issue: That the Plan fails to demonstrate compliance with the transportation performance standards of significant reduction of VMT and trips, and the 1.5 AVO requirement, due to deficiencies in the TCM measures.

Response: Staff's analyses of the Plan's compliance with the performance standards were based on the TCMs ability to achieve the VMT and trip reductions committed to in the Plan. Staff recognizes that implementation commitments, secured funding and additional documentation are needed for TCM measures to ensure that VMT and trip reductions are achieved. Staff also recognizes the need for SCAG and the District to clarify the relationship of non-commute trips to the AVO analysis.

Issue: ARB approval of the TCMs should be delayed, pending reassessment of the regional CO plan.

Response: The existing TCMs are adequate to be approved or conditionally approved, and therefore, Board action is appropriate. In addition, the Board recognizes that alternative measures can be substituted for the existing TCMs.

Issue: The Board should not approve the RECLAIM program as part of the Plan because RECLAIM is not sufficiently developed to determine if it is enforceable, equitable, will protect public health, and will work as designed.

Response: The District is expending substantial time and resources in developing the RECLAIM program. The district has also committed to adopt a RECLAIM program which will achieve equivalent enforceable emission reductions with reduced cost and job impacts, compared to the current and planned "command and control" regulations which would apply in lieu of RECLAIM. We believe that it is appropriate to accept the District's commitment to develop the RECLAIM program in accordance with these

principles. Since AB 1054 requires the ARB to review and approve the actual regulations which will be developed to implement RECLAIM, these future proceedings will provide an opportunity to determine if the District program has met these commitments and the requirements of AB1054.

> Issue: The socioeconomic analysis underestimates industry compliance costs.

Response: The socioeconomic analysis included in the plan is the best comprehensive estimate available for the plan as a whole. Socioeconomic analyses for the individual measures in the plan will be prepared during the District's rulemaking process. As required by state law, the analysis must include costs of the proposed rule, including costs to industry.

> Issue: The ARB definition of "all feasible measures" is subjective, conclusory, vague, and not in compliance with the law. In the alternative, an objective standard for determining what measures are feasible should be employed. If a measure is included in a plan submitted by any district and the Board has accepted its inclusion, or if a measure is mentioned in ARB's guidance documents, such a measure should be deemed presumptively "feasible" for the South Coast AQMD and put into place immediately.

Response: We do not agree with the commenter's proposed definition of "all feasible measures".

We have consistently embraced the philosophy that "feasible" requires not only consideration of technological factors, but also consideration of the social, environmental, economic, and energy factors which prevail in each district along with the resources realistically available to the district to adopt, implement and enforce the measures. This is especially important for measures which are dependent for their success on public acceptability and circumstantial appropriateness, such as transportation control measures (TCMs) and indirect source measures. It would not be fruitful to have Butte County, for example, explain why it has not adopted the measures determined feasible in the South Coast, or to expect the San Joaquin Valley to benefit from the same type of TCMs proposed by the San Francisco Bay Area. Instead, we expect each district to defend the measures it has selected first and foremost in the context of expeditious progress towards clean air, as well as in consideration of the other factors which the Act requires the ARB and the districts to consider.

The Act supports our interpretation and our review methodology. The "every feasible measure" criterion is closely related to the plan components required by sections 40918-40920 of the Health and Safety Code. That is, the legislature has already enunciated the parameters of several measures presumed to be feasible--a "no net increase" permit program, reasonably available control technology for all existing sources, area and indirect source control programs, and reasonably available transportation controls. To the extent these represent categories of control measures, we believe all the district plans will need to include one or more measures from each

category unless both expeditious attainment and a 5% annual reduction in emissions can be demonstrated without resorting to such measures. However, informed judgments regarding the number and type of measures within each category which are considered feasible and the timing for their adoption will be made on the basis of the criteria set forth in the Act, ARB guidance, and the peculiar circumstances of each district.

Further discussion and analysis of these issues can be found in the March 2, 1992, letter to Joseph J. Brecher from ARB General Counsel Michael P. Kenny, which is incorporated by reference herein.

> Issue: "Conditional Approvals" are inconsistent with state law. The failure of numerous transportation control measures and other mobile source measures to contain provisions for implementation, monitoring, enforcement, and funding requires the ARB to notify the district of the deficiencies and require the district to correct them and submit a revised Plan.

Response: The CCAA requires the ARB to approve district plans which are designed to achieve and maintain the state standards by the earliest practicable date, and clearly distinguishes between "measures" and "rules and regulations." The plans are road maps consisting of a compilation of measures leading towards attainment, and as such these measures are not required to be as definitive as adopted rules and regulations. Since the TCMs and other mobile source measures are conceptually feasible and, in the aggregate, designed to provide for expeditious attainment, they substantially meet the requirements of the CCAA.

Rather than fully approve these measures, however, the Board has recognized the need for further definition and wishes to keep the district on track by directing it to provide work plans and schedules for obtaining enforceable funding and implementation commitments to ensure progress. The public interest is served more by conditionally approving these measures and getting on with their development and implementation than it would be by rejecting the measures as deficient and starting a new round of planning. We believe conditional approval is authorized by the CCAA as a subset of the approval which is clearly provided for, as well as by section 39600, which authorizes the state board to do such acts as may be necessary for the proper execution of its powers and duties.

> Issue: The Plan does not contain measures to substantially reduce the rate of increase in passenger vehicle trips and miles travelled per trip, nor do the TCMs demonstrate an average commute hour ridership of 1.5 or more persons per vehicle by 1999 and no net increase in vehicle emissions after 1997. This is because the transportation and land use measures relied upon to achieve these goals lack specificity and provisions for implementation, funding, monitoring, and enforcement. Accordingly, the transportation components of the Plan are inadequate and must be rejected.

Response: The transportation and land use measure in the plan are conceptually adequate to achieve the trip reduction and ridership goals expressed in the CCAA. The Board relies on the distinction in the Act between "measures" and fully-fleshed-out rules and regulations, which the Act requires to be adopted on an expeditious schedule. In order to ensure that the measures will in fact emerge as enforceable rules and regulations, the Board has directed the District to provide a schedule and work plan for achieving the definitiveness which is ultimately necessary. There is no requirement in the Act that the measures relied on to demonstrate compliance with sections 40919 and 40920 (a)(1) and (2) must be fully adopted and legally enforceable at this time.

Issue: The Plan does not comply with the 1.5 AVO requirement because of its failure to account for the effect of non-work trips taken during commute hours on vehicle occupancy.

Response: The planning process contemplated by the CCAA is an iterative process, with annual progress reports, triennial effectiveness assessments, and triennial review to correct for deficiencies in meeting interim measures of progress, and substantial opportunity for modification of control strategies and plan amendments. The Board needs more information and analysis to ascertain the effect, if any, of the non-work trips on meeting the 1.5 AVO requirement and has directed the District to perform the necessary analysis. Adjustments to the TCMs can be made during the next several years as they evolve from measures to fully-fledged rules and regulations if necessary to meet the AVO requirement.

Issue: Substitution of the market-based RECLAIM program for all Tier I source-specific stationary source control measures will result in failure to meet the implementation time-frame for the ROG rules contained in the 1991 AQMP and must be rejected.

Response: The ARB has been working with the District to develop its RECLAIM program. While the Board agrees that the variety of ROG chemical compounds and source categories, the large number of facilities, the difficulties of establishing technically sound and legally enforceable monitoring tools for ROG emissions, and other factors make the establishment of a ROG trading market more difficult than a NOx/SOx market, the ARB is not prepared to reject this aspect of the RECLAIM program based on existing evidence. AB 1054 (Sher; Sections 39620 and 40440.1), which becomes effective January 1993, authorizes the establishment of a market-based incentive program as long as specified criteria are met. The legislation designates the ARB a critical participant in the RECLAIM approval process. Because the RECLAIM program at this stage of its development is conceptually able to encompass a ROG trading market, the ARB declines to reject the proposal. However, the proposed and adopted source-specific stationary source control measures must remain in the Plan as backstop measures in the event the ROG (or NOx/SOx) portion of the RECLAIM program will not achieve equivalent emission reductions within the applicable timeframe and meet the other requirements of the CCAA and AB 1054.

Issue: Required revisions of the Plan deficiencies must take place on an expedited schedule as set forth in the Plan Review Protocol developed by the ARB and the District. That is, the Board must notice its intent to amend the Plan within 90 days if identified deficiencies are not corrected. [Michael Fitts, NRDC]

Response: As stated above, the Board has found the measures in the Plan to be in substantial compliance with the Act's requirements. The Act provides room for conditional approval in this context, and the public interest is also served by a procedure which facilitates rather than retards further development, adoption, and implementation of the measures. If the Board were to interpret the Act to require the rejection of measures which are conceptually feasible, both legally and technically, but lack provisions for funding, monitoring, enforcement, and implementation commitments, the Board could not possibly develop the measures to the extent urged by the commenter within the timeframe presented. Instead, conditional approval allows the board to require the submittal of additional detail from the District in order to flesh out the measures and establish a workplan which will ultimately result in enforceable rules, as opposed to a course of action which would effectively derail the process with another round of planning.

Issue: Many of the key strategies included in the Plan consist of mere promises to develop measures at a later unspecified date or delegate tasks to regional or local governments with no means for enforcement, contrary to the requirements of section 41001 of the Health and Safety Code that the District adopt rules and regulations which will result in attainment of the state standards.

Response: Section 40001 is a general exhortation to the districts to attain and maintain state and federal ambient standards and to enforce applicable provisions of state and federal law. No deadline is set forth in this section for the adoption of the rules and regulations which will lead to attainment. Rather, the CCAA puts flesh on the bones of section 40001 by requiring a long-term planning effort which will result in rule adoption or the use of other mechanisms to attain the standards "as expeditiously as practicable". The first step in the planning process is submittal of a plan which contains a panoply of measures and an "expeditious adoption schedule." Measures, as stated previously, are not rules and regulations, a distinction clearly established in the CCAA.

Thus, we view the plan as a commitment to continue to develop, fund, adopt, implement, and enforce the measures described therein. There is no requirement in the Act that the measures be legally enforceable or fully developed at the time of plan approval. Indeed, the act provides for frequent progress assessments and the opportunity for amending the Plan as long as "the modified strategy is at least as effective in improving air quality as the strategy which is being replaced" (section 40925(b)).

The Act, the Board, and the District also recognize and endorse the critical role played by SCAG and other regional and local governments in implementing many of the land use and transportation elements in the Plan. Their support

is essential, and it will take a continuing cooperative effort to obtain their commitments to the measures. The Board has directed the district to submit a work plan and schedule for obtaining the necessary funding and implementation commitments by a date certain. Thus, the measures included in the Plan substantially meet the requirements of the Act, and the Board's action will ensure progress in their implementation.

> Issue: The Plan makes no provision for the District to resume responsibility for developing, adopting, implementing, and enforcing measures if delegated agencies don't perform as promised.

Response: The Act does not provide for penalties for local agencies which renege on commitments made in the Plan. However, the District does remain responsible for making up for any deficiencies which are caused by local government inaction. In many cases the District has back-up measures which it commits to adopt and implement. In other cases, the Act's provisions for annual review and triennial updates allows the District and the ARB to analyze and monitor progress in making good on prior commitments, and modifying the Plan if necessary. The Board's direction to the District to supply workplans and schedules for obtaining legally enforceable commitments and funding assures accountability.

> Issue: The indirect source review provisions are totally inadequate to ensure that increases in emissions caused by growth are fully offset, as the Environmental Review Program gives the District no authority to reject projects or require adequate mitigation.

Response: The Environmental Review Program has been discussed and endorsed in ARB guidance on indirect source review programs. While obviously a permit requirement prohibiting construction of new indirect sources unless there is a net increase in emissions would accomplish a greater reduction in emissions than an enhanced CEQA program, the Act requires only what is feasible. The ARB has embraced a definition of feasibility which includes not only legal and technical components, but also socio-economic components. The District has determined that direct local action to regulate growth and indirect sources is preferable to a district permit program at this time. No other district has an adopted permit program either. The ARB believes the District's indirect source measure, along with the commitment to obtain local government commitment to growth management, complies with the Act's requirement to develop an indirect source control program which is feasible under the circumstances.

> Issue: The 5% emission reduction requirement should not be waived because the Plan does not contain all feasible measures.

Response: The District has committed itself to adopting a large number of control measures on an expeditious schedule. The Act does not require immediate adoption of all effective measures, because the realities of time and resources necessarily inject an element of selectivity into the planning and rule adoption process. "Feasible" encompasses the concept of what is "capable of being accomplished" into the planning equation.

Issue: The contingency measures should all be enacted at this time if the Plan is to contain all feasible measures.

Response: Contingency measures are required by section 90915 of the Health & Safety Code as backstop measures to be transmitted into regulations in the event adequate progress is not being maintained or interim goals achieved. Given that the District is working as hard as time and resources will allow to develop and adopt the measures committed to in the Plan, it is not physically possible to also work the contingency measures simultaneously through the complex and time-consuming regulatory process. The statute recognizes and endorses both our view that "feasibility" must have temporal and resource dimensions, and that contingency measures are necessary only in the event the primary measures committed to in the Plan are proven in time to be insufficient.

Issues: Choices among feasible measures cannot be permitted; rather, all measures currently included in any district plan or being implemented anywhere in the state must be deemed "feasible" and included in the Plan.

Response: In a world of unlimited resources and time, this approach of including every measure not shown specifically to be infeasible might be a sensible approach. However, given real world limitations, we believe the word "feasible" assumes consideration of the unique circumstances which prevail in the District. Thus, if the District presents a full plate of measures and if ARB analysis supports the district's determination that the most effective measures are being implemented expeditiously (i.e. no "end-loading" of the best measures), the ARB believes the Plan is approvable, regardless of what other districts have found to be feasible under their own circumstances.

While the Act requires uniformity for emission sources within an air basin to the extent practicable (section 41503(b)), there is no such requirement for Plans among air basins, and the ARB declines to impose this criterion. The District is doing more to reduce emissions than any other district in the state and has committed to the most ambitious control measures. Under the circumstances, it serves the goal of clean air more to approve the Plan and urge its expeditious implementation rather than to require tedious analysis of measures which may work in other districts but are precluded by time and resources from being implemented in addition to those in the Plan. Simply put, the District cannot implement every measure in the universe which may prove effective.