



December 9, 2019

Chair Nichols and Members of the Board, CARB  
1001 "I" Street  
Sacramento, CA 95814

**Re: Agenda Item 19-12-3 – Draft Final Contingency Measure Plan**

Dear Chair Nichols and Members of the Board:

On behalf of Earthjustice, Sierra Club, the Natural Resources Defense Council, and the Center for Community Action & Environmental Justice, we submit comments on the Draft Final Contingency Measure Plan for the South Coast Air Basin ("South Coast"). As this Board is well aware, the South Coast continues to struggle with unhealthy air that far exceeds what the United States Environmental Protection Agency ("EPA") and the State of California have determined is safe to breathe. Air planning plays a critical role in creating a path to finally attaining any ozone standard. Now, we have four years to achieve 108 tons per day ("tpd") of Nitrogen Oxide ("NOx") emissions reductions to close the emissions gap created by the section 182(e)(5) measures ("black box"). Given the decades of promises to close the "black box" in air plan after air plan, we ask that the California Air Resources Board ("California ARB") work with the South Coast AQMD to finally create a real ozone attainment strategy to meet the 1997 ozone standard. This plan does not do this, and as such, it should be amended to include more commitments to emissions reductions. The following sections outline places where additional reductions could be achieved.

***South Coast Commitments***

There are several positive commitments by the Air District in this contingency measure plan. For example, we strongly support achieving 2 additional tpd of NOx from the RECLAIM transition to Best Available Retrofit Control ("BARCT") rules by 2023. However, there are places where the plan can and should be strengthened. We appreciate the acknowledgment of the "opportunities" in the Residential and Commercial sectors to achieve additional reductions.<sup>1</sup> But, the California ARB should direct the AQMD staff to pursue amendments on its regulations covering appliances that emit in this sector, in addition to including a numeric emissions reduction commitment in the contingency measure plan. The California ARB should also direct the Air District to examine how implementation of zero-emission requirements in the industrial sector through BARCT rules could achieve additional emissions reductions.

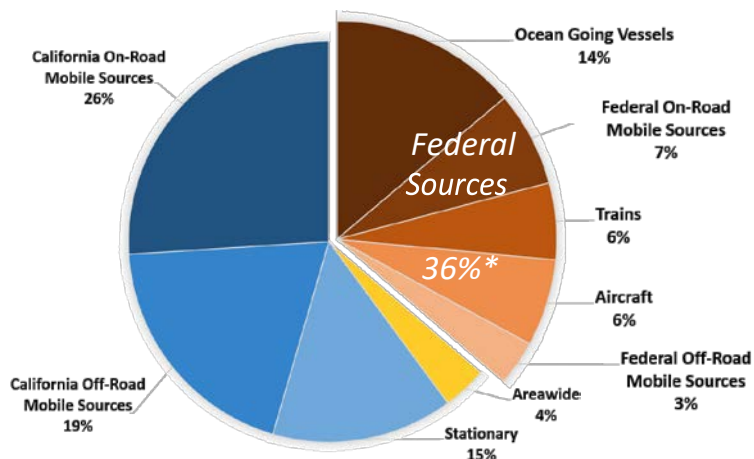
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<sup>1</sup> Contingency Measure Plan, at p. 47.

## California ARB Commitments

The California ARB must do more to achieve emissions reductions from mobile sources in this plan. We appreciate the additional commitments to achieve emissions reductions from the Heavy-Duty Inspection and Maintenance Program and reductions from statewide portable engines, but the California ARB must do more above and beyond the 2017 mobile sources strategy. In fact, while federal sources do amount to a large portion of emissions in 2023 (~ 36%), California has authority over 46% of the emissions.

**Figure 1:** Contribution of Federal Sources for NO<sub>x</sub> Emissions in 2023



Given that the California ARB has authority of the largest percentage of emissions (~46%), we were surprised to see CARB committing to the smallest amount of emissions reductions in the contingency measure plan (compare 9.15 (CARB) to 10.2-12.2 (AQMD)).

Measures Description	Agency	NO <sub>x</sub> Reductions (tpd)
<b>RECLAIM BARCT Rules</b>	South Coast AQMD	2
<b>Ports MOU</b>	South Coast AQMD	3.2 – 5.2
<b>Airports MOU</b>	South Coast AQMD	0.5
<b>Metrolink Locomotives</b>	South Coast AQMD	3
<b>Funding Incentives (Expected Future Funding)</b>	South Coast AQMD	1.5
<b>Low Carbon Fuel Standard and Alternative Diesel Fuels Regulation</b>	CARB	1.7
<b>ATCM for Portable Engines, and the Statewide Portable Equipment Registration Program</b>	CARB	0.25
<b>HD Inspection and Maintenance (I/M) Program</b>	CARB	4.2
<b>Innovative New Measures</b>	CARB	3.0
<b>South Coast AQMD Subtotal</b>		<b>10.2-12.2 tpd</b>
<b>CARB Subtotal</b>		<b>9.15 tpd</b>
<b>Total Reductions Towards 182(e)(5) Commitment*</b>		<b>24-26 tpd</b>

And even part of the California ARB's 9.15 tpd seems speculative. The California ARB has a provision called "Innovative New Measures" as a subset of its 9.15 tpd commitment. This commitment sounds like nothing more than a new "black box." Identifying and executing "innovative new measures" was what the Clean Air Act allowed in section 182(e)(5). Allowing the California ARB to take credit for another round of currently unidentified "innovative new measures" would just perpetuate this kick the can down the road mentality that clearly is not working. Accordingly, we recommend the California ARB articulate with specificity what measures will achieve what emissions reductions and submit those as measures into this contingency measure plan.

Finally, strengthening regulations with emissions reduction commitments like the Advanced Clean Truck and other regulatory measures could be an especially effective strategy for tackling harmful NOx emissions. As such, the South Coast AQMD and the California ARB should work together to identify other mobile source measures that could finally close the "black box."

#### ***Additional Incentive Funding***

We do not understand why so much of this plan is simply additional incentive funding. In the past when EPA has proposed to approve incentive measures into the State Implementation Plan, EPA has hinged the approval on back up measures if the incentives do not actually result in the anticipated emissions reductions. Here, there are no back up measures. Thus, the contingency measures plan does not include the back up plan for this large portion of the plan. The plan would be better served by committing to emissions reductions via additional actually enforceable regulations of mobile sources.

We appreciate your consideration of these comments. Please do not hesitate to reach out to us if you have any questions.

Sincerely,



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