

08-5-2  
Brent Newell



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

MAY 6 2008

James Goldstene  
Executive Officer  
California Air Resources Board  
1001 I Street, P.O. Box 2815  
Sacramento, CA 95812

Re: Adequacy Status of 8-hour Ozone and PM<sub>2.5</sub> Motor Vehicle Emissions Budgets in  
2007 South Coast State Implementation Plan

Dear Mr. Goldstene:

We have found adequate for transportation conformity purposes certain 8-hour ozone and PM<sub>2.5</sub> motor vehicle emissions budgets in the 2007 South Coast State Implementation Plan (2007 South Coast SIP). As a result of our adequacy finding, the Southern California Association of Governments and the U.S. Department of Transportation must use these budgets in future transportation conformity determinations once the findings become effective.

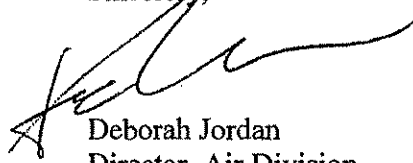
The California Air Resources Board (CARB), through its April 30, 2008 submittal, replaced the original set of motor vehicle emissions budgets in the 2007 South Coast SIP with two sets of motor vehicle emissions budgets, referred to as "SIP-based" budgets and "baseline" budgets.

We have found the 8-hour ozone and PM<sub>2.5</sub> "baseline" motor vehicle emissions budgets in the 2007 South Coast SIP adequate for transportation conformity purposes. In addition, we have found the 8-hour ozone and PM<sub>2.5</sub> "SIP-based" motor vehicle emissions budgets in the 2007 South Coast SIP inadequate for transportation conformity purposes. Please refer to the enclosure for the regulatory reasoning behind our findings. We will work with you and your staff to resolve these issues to enable us to approve "SIP-based" budgets in the future.

A copy of this letter and its enclosures will soon be posted at:  
<http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>. We will also announce the findings of adequacy and inadequacy in the Federal Register. The findings will become effective 15 days after the Federal Register notice is published.

If you have any questions regarding these adequacy findings, please call me or Matt Haber at (415) 947-4154.

Sincerely,

A handwritten signature in black ink, appearing to read 'Deborah Jordan', written over a horizontal line.

Deborah Jordan  
Director, Air Division

Enclosures

cc: Hasan Ikhrata, SCAG  
Jonathan Nadler, SCAG  
Barry Wallerstein, SCAQMD  
Sue Kiser, FHWA  
Ted Matley, FTA

Adequacy Status of 8-hour Ozone and PM<sub>2.5</sub> Motor Vehicle Emissions Budgets in 2007 South Coast State Implementation Plan

We have found adequate for transportation conformity purposes certain 8-hour ozone and PM<sub>2.5</sub> motor vehicle emissions budgets in the 2007 South Coast State Implementation Plan (2007 South Coast SIP), as amended on April 30, 2008. As a result of our adequacy findings, the Southern California Association of Governments (SCAG) and the U.S. Department of Transportation must use the adequate budgets in future transportation conformity determinations once the findings become effective.

By letter dated November 28, 2007, the California Air Resources Board (CARB) submitted the 2007 South Coast SIP to EPA as revisions to the California State Implementation Plan. On February 1, 2008, CARB submitted supplemental technical information related to RFP for the 8-hour ozone NAAQS. On February 12, 2008, we announced receipt of the plans on the Internet and requested public comment by March 13, 2008. We received one set of public comments from Coalition for Clean Air, Earthjustice, and Natural Resources Defense Council. Our responses to these comments are contained in an attachment to this letter.

On March 25, 2008, CARB proposed revisions to the 8-hour ozone and PM<sub>2.5</sub> motor vehicle emissions budgets in the 2007 South Coast SIP and posted these revised budgets on its website. In its March 26, 2008 letter to EPA, CARB indicated that the proposed motor vehicle emissions budgets would replace the motor vehicle emissions budgets in the 2007 South Coast SIP and requested that EPA parallel process its adequacy review of the revised motor vehicle emissions budgets. On March 27, 2008, we announced our adequacy review of the revised budgets and requested public comment by April 28, 2008. CARB adopted the budgets as proposed, and submitted them to EPA on April 30, 2008. We received one set of comments during the second comment period from Robert E. Yuhnke, Adrian Martinez, and Michael Replogle (representing the Coalition for Clean Air, Coalition for a Safe Environment, Endangered Habitats League, Environmental Defense Fund, East Yard Communities for Environmental Justice, and the Natural Resources

Defense Council). Our responses to these comments are contained in the enclosure.

Through its April 30, 2008 submittal, CARB has replaced the original set of motor vehicle emissions budgets in the 2007 South Coast SIP with two sets of motor vehicle emissions budgets, referred to as "SIP-based" budgets and "baseline" budgets. CARB states that the "SIP-based" budgets are consistent with the 8-hour ozone and PM<sub>2.5</sub> attainment and reasonable further progress demonstrations submitted to EPA on November 28, 2007, but are not identical to the original motor vehicle emissions budgets in the 2007 South Coast SIP. The "SIP-based" motor vehicle emissions budgets differ from the original budgets in two ways. First, emissions reductions attributable to the State's strategy have been removed from the 2008 8-hour SIP's ozone motor vehicle emissions budgets and the 2009 PM<sub>2.5</sub> SIP's motor vehicle emissions budgets. Second, the budgets, originally calculated using the South Coast Air Quality Management District's CEPA emission factor model, were re-calculated using EMFAC2007. EPA approved the EMFAC2007 model for SIP and conformity purposes on January 18, 2008 (73 FR 3464); EPA has not approved CEPA for SIP development or transportation conformity analyses.

The "baseline" motor vehicle emissions budgets reflect emissions reductions from rules that were adopted as of October 2006 but, in contrast to the "SIP-based" budgets, do not include new emissions reductions from the State's strategy as reflected in the 2007 South Coast SIP. The "baseline" motor vehicle emissions budgets are also based on EMFAC2007.

The State requests that EPA gives primary consideration to the "SIP-based" budgets in its adequacy review, and only find the "baseline" budgets to be adequate if EPA cannot find the "SIP-based" budgets adequate in their entirety. Both sets of motor vehicle emissions budgets, as submitted on April 30, 2008, are shown in the following tables:

| <u>"Baseline" 8-hour Ozone Motor Vehicle Emissions Budgets</u> |   |            |
|--|---|------------|
| <u>Budget Year</u>   | <u>8-hour ozone - summer average tons per day (tpd)</u> |            |
|  | <u>ROG</u>  | <u>NOx</u> |
|  |   |            |

| <u>"Baseline" 8-hour Ozone Motor Vehicle Emissions Budgets</u> |     |     |
|--|-----|-----|
| 2008   | 215 | 427 |
| 2011   | 176 | 354 |
| 2014   | 150 | 287 |
| 2017   | 131 | 232 |
| 2020   | 116 | 190 |

| <u>"Baseline" PM<sub>2.5</sub> Motor Vehicle Emissions Budgets</u> |   |            |                         |
|--|---|------------|-------------------------|
| <u>Budget Year</u>   | <u>PM<sub>2.5</sub> - annual average tons per day (tpd)</u> |            |                         |
|  | <u>ROG</u>  | <u>NOx</u> | <u>PM<sub>2.5</sub></u> |
| 2009   | 196   | 413        | 38                      |
| 2012   | 163   | 337        | 38                      |

| <u>"SIP-based" 8-hour Ozone Motor Vehicle Emissions Budgets</u> |   |            |
|---|---|------------|
| <u>Budget Year</u>  | <u>8-hour ozone - summer average tons per day (tpd)</u> |            |
|   | <u>ROG</u>  | <u>NOx</u> |
| 2008  | 215   | 427        |
| 2011  | 162   | 320        |
| 2014  | 125   | 196        |
| 2017  | 111   | 167        |
| 2020  | 101   | 145        |
| 2023  | 93  | 128        |

| <u>"SIP-based" PM<sub>2.5</sub> Motor Vehicle Emissions Budgets</u> |   |            |                         |
|---|---|------------|-------------------------|
| <u>Budget Year</u>  | <u>PM<sub>2.5</sub> - annual average tons per day (tpd)</u> |            |                         |
|   | <u>ROG</u>  | <u>NOx</u> | <u>PM<sub>2.5</sub></u> |
| 2009  | 196   | 413        | 38                      |
| 2012  | 139   | 276        | 37                      |
| 2014  | 122   | 201        | 33                      |
| 2023  | 89  | 131        | 37                      |
| 2030  | 75  | 121        | 39                      |

This transmits our decision that the 8-hour ozone and PM<sub>2.5</sub> reasonable further progress "baseline" motor vehicle emissions budgets in the 2007 South Coast SIP, as amended on April 30, 2008, are adequate for transportation conformity purposes. These "baseline" budgets are consistent with the State's reasonable further progress demonstrations for 8-hour ozone and PM<sub>2.5</sub>, and these budgets are based adopted control measures that have already been implemented. The budgets also meet the other adequacy criteria, including being precisely quantified and clearly related to the overall SIP. Therefore, these budgets meet the transportation conformity adequacy criteria found in 40 CFR 93.118(e) (4).

This also transmits our finding that the 8-hour ozone and PM<sub>2.5</sub> "SIP-based" motor vehicle emissions budgets in the 2007 South Coast SIP are inadequate for transportation conformity purposes. The "SIP-based" budgets include estimated emission reductions associated with a number of commitments for future rule adoption that lack specificity. As such, SCAG will not be able to accurately quantify future emission reductions associated with the commitments. Without additional specificity, it is also unclear how the "SIP-based" budgets are precisely quantified or related to the overall emissions inventory and other measures. Therefore, these "SIP-based" budgets do not meet the adequacy criteria found in 40 CFR 93.118(e) (4).

We have detailed our findings in additional enclosure. A copy of the transmittal letter, this, and the transmittal letter's other enclosures will soon be posted on the Internet at <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>. We will also announce the findings of adequacy and inadequacy in the Federal Register. The findings will become effective 15 days after the Federal Register announcement pursuant to 40 CFR 93.118(f).

Enclosure 1

**Transportation Conformity Adequacy Review  
2007 South Coast SIP [Reasonable Further Progress (RFP) and Attainment Demonstrations for  
8-Hour Ozone and PM<sub>2.5</sub>]**

Adopted September 27, 2007 (2007 South Coast SIP), November 15, 2007 (original motor vehicle budgets), April 24, 2008 (revised motor vehicle budgets); Submitted November 28, 2007 (2007 South Coast SIP, including original budgets), February 1, 2008 (supplemental material related to eight-hour ozone RFP), April 30, 2008 (revised motor vehicle budgets).

| Adequacy Review Criteria<br>(40 CFR part 93)   | Is<br>Criterion<br>Satisfied? | Reference in SIP document/comments   |
|--|-------------------------------|--|
| Sec. 93.118(e)(4)(i)<br>The plan was endorsed by the Governor (or designee) and was subject to a public hearing by the State.  | Y                             | The November 28, 2007 transmittal letter submitting the 2007 South Coast SIP with the original budgets was sent by CARB's Executive Officer, James Goldstene, the governor's designee. CARB held a public hearing on September 27, 2007 on the plans and on November 15, 2007 on the original motor vehicle emissions budgets. The April 30, 2008 transmittal letter submitting the revised motor vehicle emissions budgets was sent by CARB's Executive Officer, James Goldstene, the governor's designee. CARB held a public hearing on April 24, 2008 on the revised motor vehicle emissions budgets.   |
| Sec. 93.118(e)(4)(ii)<br>The plan was developed through consultation with federal, state and local agencies; full plan implementation documentation was provided to EPA and EPA's stated | Y                             | Documentation accompanying the plan describes a public and agency outreach effort. See, e.g., the SCAQMD's Response to Comments on the Draft 2007 Air Quality Management Plan (February 2007), submitted by CARB on November 28, 2007 as enclosure I-E, describing nine regional workshops held from October 24 through December 6, 2006 to discuss the draft 2007 Air Quality Management Plan (AQMP) released on October 10, 2006. The sequence of public meetings held to discuss the elements of the draft State Strategy for California's 2007 SIP (State Strategy) is described in the CARB staff report developed for the CARB Board's consideration prior to adoption of the State Strategy. The State Strategy, adopted by CARB on September 27, 2007, and submitted to EPA on November 28, 2007, is relied upon by the 2007 South Coast SIP. EPA received a copy of the draft 2007 AQMP and draft State Strategy, and EPA's comments were addressed. The revised motor vehicle emissions budgets adopted by |

|                        |  |     |  |
|------------------------|--|-----|--|
|                        | concerns, if any, were addressed.  |     | CARB on April 24, 2008, and submitted to EPA on April 30, 2008, included an interagency consultation process, in which EPA's comments on the draft revised motor vehicle emissions budgets were addressed.   |
| Sec. 93.118(e)(4)(iii) | The motor vehicle emissions budgets are clearly identified and precisely quantified.   | Y/N | Both the "SIP-based" and "baseline" budgets are clearly identified. The budgets are found at the following website: <a href="http://www.arb.ca.gov/planning/sip/sip.htm">http://www.arb.ca.gov/planning/sip/sip.htm</a> , and are located half way down the page at the section titled "2007 South Coast and Coachella Valley 8-hour Ozone and PM <sub>2.5</sub> Plans" (Attachments 1 and 2). The "SIP-based" budgets are not precisely quantified because the new emission reductions do not result from adequately specified control measures. In contrast, the "baseline" budgets reflect control measures that are already implemented and do not include new emission reductions attributed to general commitments; therefore, these budgets are precisely quantified.   |
| Sec. 93.118(e)(4)(iv)  | The motor vehicle emissions budgets, when considered together with all other emission sources, are consistent with the requirement to demonstrate reasonable further progress for eight-hour ozone (years 2008, 2011, 2014, 2017, and 2020) and PM <sub>2.5</sub> (years 2009 and 2012). With respect to ozone, this finding is based on review of the plan's ozone RFP demonstration, as supplemented on February 1, 2008, that reasonably demonstrates the required 3% annual rate of progress (averaged over each three year period) called for in EPA's eight-hour ozone implementation rule. With respect to PM <sub>2.5</sub> , this finding is based on review of the State's RFP modeled demonstration that reasonably identifies PM <sub>2.5</sub> precursor attainment targets and thus establishes approximate levels of emissions reductions necessary to achieve generally linear progress for the 2009 and 2012 PM <sub>2.5</sub> RFP milestones, as required by EPA's PM <sub>2.5</sub> Implementation Rule. EPA cannot determine that the "SIP-based" motor vehicle emissions budgets are consistent with the requirement to demonstrate attainment. The "SIP-based" motor vehicle emissions budgets incorporate new emission reductions that do not result from specified control measures that have been drafted or adopted in regulatory form (or have been adequately supported as a voluntary measure). | Y/N | EPA has preliminarily concluded that the "baseline" budgets, when considered together with all other emission sources, are consistent with the requirement to demonstrate reasonable further progress for eight-hour ozone (years 2008, 2011, 2014, 2017, and 2020) and PM <sub>2.5</sub> (years 2009 and 2012). With respect to ozone, this finding is based on review of the plan's ozone RFP demonstration, as supplemented on February 1, 2008, that reasonably demonstrates the required 3% annual rate of progress (averaged over each three year period) called for in EPA's eight-hour ozone implementation rule. With respect to PM <sub>2.5</sub> , this finding is based on review of the State's RFP modeled demonstration that reasonably identifies PM <sub>2.5</sub> precursor attainment targets and thus establishes approximate levels of emissions reductions necessary to achieve generally linear progress for the 2009 and 2012 PM <sub>2.5</sub> RFP milestones, as required by EPA's PM <sub>2.5</sub> Implementation Rule. EPA cannot determine that the "SIP-based" motor vehicle emissions budgets are consistent with the requirement to demonstrate attainment. The "SIP-based" motor vehicle emissions budgets incorporate new emission reductions that do not result from specified control measures that have been drafted or adopted in regulatory form (or have been adequately supported as a voluntary measure). |
| Sec. 93.118(e)(4)(v)   | The plan shows a clear relationship between the emissions budgets,   | Y/N | The emission inventories for all point, area, and mobile sources for 2002, 2014, 2020, and 2023 are contained in Chapter 3 of SCAQMD's Final 2007 Air Quality Management Plan (AQMP). The control strategy that is relied upon for the "SIP-based" budgets is set out in Chapter 4 of SCAQMD's Final 2007 AQMP and Appendix IV-A, and in CARB's Staff report   |



|  |   |   |
|--|---|---|
| <p>control measures and the total emissions inventory.</p> | <p>(<a href="http://www.arb.ca.gov/planning/sip/2007sip/southcoast/ssstaffreport.pdf">http://www.arb.ca.gov/planning/sip/2007sip/southcoast/ssstaffreport.pdf</a>) and appendices. The tables on pages ES-3 and ES-4 of the CARB Staff Report provides the on-road mobile source emission reductions for PM<sub>2.5</sub> and 8-hour ozone, respectively. On February 1, 2008, CARB submitted supplemental information concerning 8-hour ozone RFP. The plan, as supplemented on February 1, 2008, shows a clear relationship between the "baseline" budgets and the emissions inventory, but does not show a clear relationship between the "SIP-based" emissions budgets, control measures, and the total emissions inventory. The submittal dated April 30, 2008 made changes to the budgets to reflect the use of EMFAC2007, but the changes (relative to those calculated using SCAQMD's CEPA model) are minor and the emissions estimates remain consistent with the RFP demonstrations for 8-hour ozone or PM<sub>2.5</sub> in the 2007 South Coast SIP, as supplemented for 8-hour ozone RFP on February 1, 2008. The "off-model" adjustments to the baseline inventory, as referenced in the footnote to the motor vehicle emissions budgets, for the motor vehicle emission budgets, are available on pages 73 (NOx), 76 (ROG) and 79 (PM<sub>2.5</sub>) of Appendix A, the Emission Inventory Output Tables, of the May 7, 2007 update to the Revised Statewide Strategy for California's 2007 SIP. A link to the document can be found at:<br/><a href="http://www.arb.ca.gov/planning/sip/2007sip/2007sip.htm">http://www.arb.ca.gov/planning/sip/2007sip/2007sip.htm</a>The document is available at:<br/><a href="http://www.arb.ca.gov/planning/sip/2007sip/apr07draft/revdfrfiappa.pdf">http://www.arb.ca.gov/planning/sip/2007sip/apr07draft/revdfrfiappa.pdf</a>. The reductions are associated with the following rules adopted through December 31, 2006: Reflash, Public Fleets, Idling, AB1493, and the Carl Moyer Program. The emissions reductions associated with the Carl Moyer Program have been adjusted by 47% to reflect only the on-road reductions from Moyer programs. As stated elsewhere, the "SIP-based" motor vehicle emissions budgets incorporate new emission reductions from the State's strategy that do not result from specified control measures that have been drafted or adopted in regulatory form (or have been adequately supported as a voluntary measure).</p> | <p>The budgets found adequate in this action constitute a revision to budgets previously submitted on November 28, 2007. The revision, submitted on April 30, 2008, explains and documents all changes to previously submitted budgets.</p> |
| <p>Sec. 93.118(e)(4)(vi)</p>                               | <p>Revisions to previously submitted control strategy or maintenance plans explain and</p>  | <p>Y</p>  |

|                                |  |          |  |
|--------------------------------|--|----------|--|
|                                | <p>document any changes to any previous submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see 93.101 for definition), and reasons for the changes (including the basis for any changes to emission factors or estimates of vehicle miles traveled).</p> |          |  |
| <p>Sec. 93.118(e)(5)</p>       | <p>EPA has reviewed the State's compilation of public comments and response to comments that are required to be submitted with any implementation plan.</p>  | <p>Y</p> | <p>SCAQMD compiled public comments submitted during the June 1, 2007 public hearing and during the public comment periods. These comments and the responses are included in the February 2007 "Response to Comments" (<a href="http://www.aqmd.gov/aqmp/07aqmp/modified/Response_to_Comments.pdf">http://www.aqmd.gov/aqmp/07aqmp/modified/Response_to_Comments.pdf</a>). ARB compiled public comments submitted during the September 27, 2007, November 15, 2007, and the April 24, 2008 public hearings and during the public comment periods. These comments and the responses are included in adoption hearing transcripts (<a href="http://www.arb.ca.gov/board/meetings.htm">http://www.arb.ca.gov/board/meetings.htm</a>). We have reviewed the compilation of comments and responses and find SCAQMD's and CARB's responses to be acceptable. No issues that might have affected our adequacy findings remain unanswered.</p> <p>Date of Review: May 6, 2008</p> |
| <p>Reviewer: Rebecca Rosen</p> |  |          |  |

Enclosure 2

**Response to Comments**

Response to Comments from Coalition for Clean Air, Earth Justice, and Natural Resources Defense Council (Received: March 13, 2008)

**Comment 1:** The commenter requests that EPA deny approval of the budgets on the basis that the emissions budgets are built on the foundation of an unapprovable SIP. The commenter further notes that their comments on the deficiencies in the budgets also highlight several areas where California's 2007 State Implementation Plan (SIP) does not comply with the minimum requirements of the Clean Air Act.

**Response 1:** EPA appreciates the above comments and will consider all comments relevant to SIP approvability at the time of its comprehensive review of the SIP. EPA has considered all issues in the SIP that are relevant to its budget adequacy decision, and has determined the "SIP-based" budgets (except for the 2008 8-hour ozone and the 2009 PM<sub>2.5</sub> budgets) to be inadequate pursuant to 40 CFR 93.118(e). In contrast, the "baseline" budgets are consistent with the State's reasonable further progress demonstrations for 8-hour ozone and PM<sub>2.5</sub>, and these budgets are based on adopted control measures that have already been implemented. The budgets also meet the other adequacy criteria, including being precisely quantified and clearly related to the overall SIP. Therefore, these budgets meet the transportation conformity adequacy criteria found in 40 CFR 93.118(e)(4).

**Comment 2:** The commenter asserts that the budgets must be adjusted to exclude benefits of the federal motor vehicle control program. The commenter notes that the revised reasonable further progress (RFP) demonstration submitted by the SCAQMD purports to include some credit for the federal program, but that the budgets have not been, and must be, revised to reflect these changes to the RFP demonstration.

**Response 2:** EPA understands this comment to pertain only to 8-hour ozone Reasonable Further Progress. Additional information provided by the state demonstrates that RFP for South Coast is met after adjusting for the non-creditable emission reductions from the pre-1990 California Motor Vehicle Control Program (MVCP) as required under section 182(b)(2)(D). The MVCP benefits are deducted from the total baseline emission inventory

and not the conformity budgets themselves. The additional information was provided to EPA by the State on February 1, 2008 and made available to the public through EPA's adequacy posting on March 27, 2008. EPA has made a preliminary review of this information to support its adequacy finding today. Further details regarding the specifics of the RFP demonstration are outside the scope of the adequacy process, and would be considered during EPA's SIP review.

**Comment 3:** The commenter asserts that the budgets should be adjusted to reflect the unenforceability of marine vessel controls given that the Pacific Merchant Shipping Association succeeded in *PMSA v. Goldstene*, No. 07-16695 (9th Cir. 2008) challenging CARB's Auxiliary Engine Rule and thereby undermining the basis for the associated SOx emissions reductions included in the emissions budgets for the South Coast. The commenter also has concerns about certain emissions reductions claimed in the plan, including the 10 tpd of NOx emissions reductions in 2014 from EPA controls on locomotives. If the Federal emissions reductions are uncertain, then the commenter believes that the budgets cannot assume them.

**Response 3:** The first part of the comment is outside the scope of EPA's adequacy review. The State did not establish SO<sub>2</sub> motor vehicle emissions budgets in its PM<sub>2.5</sub> SIP, since on-road SO<sub>2</sub> emissions are not a significant source of emissions for the PM<sub>2.5</sub> attainment demonstration. Therefore, the comment related to the 9<sup>th</sup> Circuit court decision on marine vessel control measures is not relevant to EPA's adequacy review. EPA will consider this comment, as appropriate, during its review of the State's PM<sub>2.5</sub> attainment demonstration.

Second, EPA is finding the 2014 PM<sub>2.5</sub> motor vehicle emissions budget inadequate for transportation conformity purposes, in part because CARB relies on additional locomotive NOx reductions from federal rules to demonstrate PM<sub>2.5</sub> attainment in 2014. On March 13, 2008, the EPA adopted standards to reduce emissions of diesel particulate matter and NOx from locomotives and marine diesel engines. Although EPA's 2008 final rule establishes new emissions standards for locomotives and marine diesel emissions that will require aftertreatment devices for marine vessels, the final rule does not require that the implementation of these controls occur in the timeframe necessary to meet the 10 tpd of NOx emissions reductions assumed by CARB in the South Coast PM<sub>2.5</sub> attainment demonstration for the year 2014.

**Comment 4:** The commenter is also concerned about the inclusion of emissions reductions for the Refinery Pilot Program.

**Response 4:** This comment is outside the scope of EPA's adequacy review. We appreciate the comments relating to the pilot program and we will examine, when we take rulemaking action on the plan, issues relating to the assignment of emission reductions to this measure. However, we believe that neither the RFP provisions nor the motor vehicle emissions budgets that we are finding adequate depend upon emissions reductions from the pilot program.

**Comment 5:** The commenter asserts that California's proposed use of "black box" measures in the 2007 SIP fails to meet the requirements and intent of the Clean Air Act. The commenter identifies three fundamental problems with the way California is using this allowance in the Clean Air Act: the magnitude of the black box (approximately 280 tons per day or 55% of the reductions needed from measures that still need to be adopted to attain federal air quality standards), the misuse of the "black box" to delay implementation of necessary and available measures needed from vehicle retirement, and the vagueness of the black box measures. In addition, the commenter believes that EPA should take into account the expected failure to attain the 1-hour ozone standard by applicable attainment date of 2010 and the purported lack of success by the State with respect to "black box" measures in previously-approved 1-hour ozone plans in reviewing the "black box" commitments in the current plan submittal. In sum, the commenter believes that EPA must direct CARB to extract from the black box needed reductions they know will not come from future technologies, reduce the overall size of the black box to a reasonable level, and better define where the remaining black box reductions are expected to come from.

**Response 5:** This comment is outside the scope of EPA's adequacy review. EPA will consider these comments and the issues they raise when we take rulemaking action on the 8-hour ozone attainment demonstration for 2023. The question of whether the "black box" portion of the plan is approvable affects only the adequacy of the attainment year budgets, since the plan does not rely on "black box" measure reductions for RFP. As discussed elsewhere, we are determining that the 8-hour ozone attainment year budgets in the "SIP-based" budgets are inadequate for reasons documented elsewhere in EPA's adequacy finding. Please refer to other parts of today's finding for further information.

**Comment 6:** The commenter asserts that the control measures in the plan fail to satisfy the minimum CAA requirements. Commenter asserts that many of the control measures in California's SIP submittal must, but fail to, include the following elements, which commenter has compiled citing various EPA documents:

- (1) evidence of adoption of the measures in legally enforceable form or a binding schedule for adoption;
- (2) a description of each measure with "detail and clarity," identifying which entity is responsible for implementation and what "actions are to be taken;"
- (3) a "thorough demonstrate[ion] that the measures are capable of achieving the estimated emission reduction benefits;"
- (4) an emission reduction estimate for each measure;
- (5) provisions for monitoring and reporting on implementation and effectiveness; and
- (6) an "identification of and commitment to the financial and manpower resources necessary to carry out the plan."

**Response 6:** EPA has found the motor vehicle emissions budgets that include new emissions reductions from the general commitments submitted in the 8-hour ozone and PM<sub>2.5</sub> SIP to be inadequate for transportation conformity purposes. EPA has determined that these budgets are inadequate because these motor vehicle emissions budgets do not meet the adequacy criteria in 40 CFR 93.118(e)(4)(iii), (iv) and (v), as described elsewhere in today's finding. EPA will consider the comments on the control measures at the time that we review the SIP's attainment demonstration for PM<sub>2.5</sub> nonattainment areas and 8-hour ozone extreme areas.

**Comment 7:** The commenter states that EPA must require CARB and the SCAQMD to include new measures and strengthen existing measures to achieve additional reductions. The commenter asserts that the 2007 SIP does not include all feasible measures, and that several of the measures in the plan must be strengthened to achieve additional emissions reductions. Moreover, the commenter asserts that CARB continues to rely on more polluting diesel technologies rather than requiring the use of cleaner technologies and fuels to reach attainment sooner.

The commenter lists and describes nine new or revised measures that EPA should require CARB to pursue, including:

- (1) cleaner in-use off-road equipment;
- (2) cleaner in-use heavy duty truck rule;

- (3) smog check improvements, particularly related to accurate SIP accounting for the failure rates for vehicles shortly after being repaired for emissions problems and/or passing smog check, accelerating the use of remote monitoring of OBD systems to ensure that vehicle owners fix faulty emissions systems, and expanding the testing program to include PM;
- (4) commitment to developing an in-use monitoring emissions standard for PM for heavy-duty vehicles;
- (5) expanded proposal related to passenger vehicle retirement above and beyond natural fleet turnover;
- (6) improved measure related to consumer products in relation to magnitude, specificity, and apparent reliance on a relative reactivity approach;
- (7) expanded commitment to create emission standards for recreational boats to include lower limits for ROG and NOx, a tighter implementation schedule, and inclusion of evaporative emission limits;
- (8) better use of the SIP development and approval process to achieve synergies with State programs related to climate, lower carbon fuels, and advanced clean vehicles to achieve the greatest pollution reductions; and
- (9) improved commitment for off-road mobile agricultural equipment to address enforceability concerns.

With respect to the South Coast AQMD, the commenter lists and describes five new or revised measures, including:

- (1) certification and emission reductions from use of consumer products at institutional and commercial facilities, including such elements as tracking large-volume use of VOC emitting consumer products, developing and publicizing an inventory of the least VOC-forming cleaning products available in the market, and greatly accelerating the evaluation and certification of low- and non-polluting alternatives;
- (2) extended exchange program, including specific provisions as they relate to recreational boats within the SORE exchange program.
- (3) backstop measure for indirect source of emissions from ports and port-related facilities;
- (4) strengthened AB 923 light- and medium-duty vehicle high-emitter identification programs to include heavier vehicles, address particulate emissions, prioritize assistance to lower income participants, and increase public disclosure of the programs performance; and
- (5) tighter, and better defined, timeline for to achieve further SOx reductions for RECLAIM.

**Response 7:** EPA appreciates the commenters' thorough comments on specific control measures included in the SIP by CARB and SCAQMD, and will further consider these comments during its SIP review. EPA has considered whether the SIP demonstrates attainment for PM<sub>2.5</sub> or 8-hour ozone for purposes of its adequacy review of the SIP-based budgets. In taking action on the plan, EPA will consider whether any additional commitments would expedite attainment for these pollutants as well as other details related to the new commitments in the SIP (other than on-road mobile commitments). The budgets that we are finding adequate at this time are only those associated with the baseline emissions for RFP milestones, and neither the RFP provisions nor these motor vehicle emissions budgets depend upon new emissions reductions from the stationary, non-road, or area source commitments described in the above comment.

EPA will further consider the above comments when we act on the 8-hour ozone and PM<sub>2.5</sub> SIPs. As noted elsewhere, EPA's adequacy review process is separate from EPA's completeness review or any future SIP approvability actions.

EPA's adequacy process involves a cursory review of the SIP's motor vehicle emissions budgets according to the adequacy criteria at 40 CFR 93.118(e)(4). As described elsewhere in today's finding, EPA believes that the State's "baseline" budgets meet this adequacy criteria, including that budgets are precisely quantified and consistent with and clearly related to control measures (40 CFR 93.118(e)(4)(iii) and (v)). EPA has determined for its adequacy review that the Smog Check reductions in the "baseline" budgets are consistent with the Inspection and Maintenance (I/M) reductions included in the EMFAC2007 emissions factor model, which EPA approved this model for SIP development purposes on January 18, 2008 (73 FR 3464).

The technical support documents to EMFAC2007 reflect the most current information used to assess the effectiveness of the Smog Check program.

EPA notes that CARB uses the EMFAC motor vehicle emissions model to estimate emission reductions for the Smog Check program. The EMFAC model uses emission regimes to define the emission level for each vehicle. Vehicles that fail Smog Check and then get repaired are redistributed among the emission regimes according to an after-repair move matrix. The after-repair move matrices used in EMFAC are based on data collected by ARB during in-use vehicle studies. As part of the 2004 Smog Check Program



evaluation, Sierra Research analyzed data collected from roadside testing of vehicles. EPA will consider any results from this and other documentation in its future SIP action on the South Coast SIP.

Further, the commenters do not provide any quantification of the impact of these issues on the motor vehicle emissions budgets, nor do we have any other information regarding the magnitude of any potential miscalculation. Without this evidence, we are unable to consider the comment in our adequacy finding.

**Comment 8:** The commenter asserts that EPA should require CARB to achieve greater emissions reductions from the use of retrofits, especially tailpipe (after treatment) retrofits as has been mentioned in the International Sustainable Systems Research Center's report, and from requirements to use cleaner alternative fuels in the heavy-duty or light-duty vehicle sector.

**Response 8:** This comment is outside the scope of EPA's adequacy review. We appreciate the comments relating to retrofits and the use of cleaner alternative fuels and we will examine, when we take rulemaking action on the plan, whether the SIP sufficiently demonstrates attainment for PM<sub>2.5</sub> or 8-hour ozone. In this future rulemaking action, we will consider whether any additional measures will be needed to meet attainment for these pollutants. As documented elsewhere in this letter, EPA has found the 8-hour ozone and PM<sub>2.5</sub> attainment budgets to be inadequate for transportation conformity purposes.

**Comment 9:** The commenter asserts that EPA cannot allow the SCAQMD to assume a 100% rule effectiveness rate for its control measures and cites various EPA documents for support for this assertion.

**Response 9:** The comment primarily addresses SCAQMD's calculation of stationary and area source emissions, rather than the State's estimation of motor vehicle emissions. As such, this comment is not relevant to EPA's adequacy review of the motor vehicle emissions budgets. We intend to examine the issue raised by the commenters regarding the compliance rate assumptions in the plan as we undertake our rulemaking action on the SIP.

**Comment 10:** The commenter concludes that the contingency measures in the plan are based on an erroneous interpretation of the law, and asserts that EPA must require that California include legally adequate contingency measures.

**Response 10:** This issue is outside the scope of EPA's adequacy review of the budgets, which is separate from EPA's completeness and approval reviews. We will review the approvability of the contingency provisions when we undertake rulemaking on the plan.

**Comment 11:** Citing EPA's failure to adopt and implement necessary pollution reduction measures as an ongoing problem with the SIP process, the commenter states that EPA must contribute more pollution reductions and include those reductions in California's SIP. The commenter observes that EPA has authority to regulate certain sources of pollution that neither CARB nor the Air Districts have and that attainment of the NAAQS, EPA must exercise the authority it has or must delegate more authority to air quality agencies in California.

**Response 11:** This comment is outside the scope of today's decisions regarding the adequacy of the submitted motor vehicle emissions budgets. However, EPA notes the commenter's concerns regarding EPA's responsibility and authority to regulate certain sources of pollution. EPA has adopted several national regulations that will result in significant emissions reductions benefits in the South Coast Air Basin, including the Clean Air Nonroad Diesel Rule (69 FR 38957, June 29, 2004) and the Heavy Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements (66 FR 5002, Jan. 18, 2001). Most recently, on March 13, 2008, the EPA adopted standards to reduce emissions of diesel particulate matter and NOx from locomotives and marine diesel engines.

**Comment 12:** The commenter concludes that EPA cannot reasonably deem the emissions budgets adequate at this time, in light of the specific defects in the emissions budgets, as well as the many defects in the currently-submitted SIP, that have been identified by the commenter, and must therefore find the submitted budgets inadequate.

**Response 12:** As stated above, EPA has found the motor vehicle emissions budgets that include new emissions reductions from general commitments submitted in the 8-hour ozone and PM<sub>2.5</sub> SIP to be inadequate for transportation conformity purposes. EPA has determined that these budgets are inadequate because they do not meet the transportation conformity adequacy criteria found at 40 CFR 93.118(e)(4)(iii), (iv) and (v). The budgets that we are finding adequate at this time are only those associated with the baseline emissions for RFP milestones and control measures that are already being implemented ("baseline" budgets).

Response to Comments from Coalition for Clean Air, Coalition for a Safe Environment, Endangered Habitats League, Environmental Defense Fund, East Yard Communities for Environmental Justice, and the Natural Resources Defense Council (Received: April 28, 2008)

**Comment 1:** The commenter objects to the submitted interim budgets for PM<sub>2.5</sub> based on two broad concerns. First, the commenter finds that the attainment demonstration fails to identify the elevated concentrations of PM<sub>2.5</sub> in the near-highway environment, to estimate the emissions reductions needed to attain the NAAQS in the near-highway environment, and to include a control strategy designed to reduce these elevated near-highway concentrations to the level of the NAAQS. Second, the commenter objects to the plan's reliance on measures that may not be implemented in the relevant horizon year (or at all), for the purposes of demonstrating attainment and RFP, citing several source categories for which assumed emissions reductions may not occur due to legal challenges, outlying implementation dates, or reliance upon voluntary compliance.

**Response 1:** EPA believes that these comments are outside of the scope of its adequacy action on the motor vehicle emissions budgets. EPA will consider these comments on the PM<sub>2.5</sub> attainment demonstration and near-roadway particulate matter emissions when it takes rulemaking action on the 8-hour ozone and PM<sub>2.5</sub> 2007 South Coast SIP.

Although EPA believes that these comments are outside of the scope of its adequacy action on the motor vehicle emissions budgets, EPA is concerned about the particulate matter exposure that is described by the commenters. EPA Region 9, CARB, and SCAQMD are currently undertaking both area-specific and more general monitoring and analytical projects to improve our understanding of the location, amount, and causes of elevated near-roadway ambient concentrations. For example, the SCAQMD has initiated a monitoring study to measure air pollutants generated by the freeway traffic and to determine the impacts on adjacent residential communities along the I-710 corridor. The study will compare pollutant levels measured at monitors located adjacent to the freeway to pollutant levels at distances representative of community exposure located further downwind (100-300 meters).

First, EPA is only taking action on the 2009 and 2012 PM<sub>2.5</sub> RFP budgets, which do not rely on the new emission reductions about which commenters expressed concern. These "baseline" budgets are consistent with the State's reasonable further progress

demonstrations for 8-hour ozone and PM<sub>2.5</sub> as well as adopted control measures that have already been implemented. Today, we have also concluded for purposes of motor vehicle emissions budget adequacy that the budgets, when considered together with all other emissions sources, are consistent with the requirement to achieve reasonable further progress pursuant to 40 CFR 93.118(e)(4)(iv). This finding is based EPA's cursory review of the State's RFP modeled demonstration that reasonably identifies PM<sub>2.5</sub> precursor attainment targets for the South Coast Air Basin. Thus, this demonstration establishes approximate levels of emissions reductions necessary to achieve generally linear progress for the 2009 and 2012 PM<sub>2.5</sub> Reasonable Further Progress milestones, as required by EPA's PM<sub>2.5</sub> Implementation Rule. The "baseline" budgets also meet the other adequacy criteria, including being precisely quantified and clearly related to the overall SIP, as described elsewhere in today's finding.

In addition, we are not finding adequate the motor vehicle emissions budgets associated with the attainment year because of our conclusion that new emissions reductions upon which the PM<sub>2.5</sub> attainment demonstration rests do not comply with the transportation conformity adequacy criteria in 40 CFR 93.118(e)(4) that relate to having specified control measures. EPA will consider these concerns when we take action on the PM<sub>2.5</sub> SIP's modeled attainment demonstration, reasonable further progress demonstration, and control strategies.

Finally, EPA believes that the commenters' request to conduct additional procedures for adequacy review is outside the scope of today's adequacy review on the South Coast SIP budgets. In its July 1, 2004 final "Transportation Conformity Rule Amendments for the New 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas" (69 FR 40041), EPA held that adequacy findings do not need to be made through APA notice and comment rulemaking. Today's action followed the EPA's established adequacy process under 40 CFR 93.118(f), providing a 30-day public comment period and the findings will be published in the Federal Register before becoming effective. EPA has sent its response to comments received on the adequacy of the submitted SIP budgets to the State along with its adequacy finding letter. EPA will also send our letter, response to comments, and Federal Register notice to individuals who request a copy of these documents. EPA will also post its adequacy finding and FR notice on its adequacy website, as required by the transportation conformity rule. Please see the preamble to the July 2004 final rule for further information regarding EPA's adequacy process (40 CFR 40038-40047).

| Item No.            | Docket No.                 | Company   |
|---------------------|----------------------------|---|
| M-4                 | RM08-10-000                | Submissions to the Commission upon Staff Intention to Seek an Order to Show Cause.  |
| <b>Gas</b>          |                            |   |
| G-1                 | IN06-3-003                 | Energy Transfer Partners, L.P., Energy Transfer Company, ETC Marketing Ltd., Houston Pipeline Company, Oasis Pipeline, L.P., Oasis Pipeline Company Texas, L.P., ETC Texas Pipeline Ltd., Oasis Division. |
| G-2                 | RP04-98-002<br>RP04-98-003 | Indicated Shippers v. Columbia Gulf Transmission Company.   |
| G-3                 | RP98-18-033                | Iroquois Gas Transmission, L.P.   |
| G-4                 | GP99-15-005<br>RP98-40-041 | Burlington Resources Oil & Gas Company.<br>Panhandle Eastern Pipe Line Company.   |
| <b>Hydro</b>        |                            |   |
| H-1                 | HB73-93-15-003             | Arkansas Electric Cooperative Corporation.  |
| <b>Certificates</b> |                            |   |
| C-1                 | OMITTED.                   |   |
| C-2                 | CP08-68-000                | Trunkline LNG Company, LLC.   |
| C-3                 | CP08-54-000<br>CP08-55-000 | Columbia Gulf Transmission Company.<br>Tennessee Gas Pipeline Company.  |

Kimberly D. Bose,  
Secretary.

A free Webcast of this event is available through <http://www.ferc.gov>. Anyone with Internet access who desires to view this event can do so by navigating to <http://www.ferc.gov>'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its Webcast. The Capitol Connection provides technical support for the free Webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit <http://www.CapitolConnection.org> or contact Danelle Springer or David Reininger at 703-993-3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. E8-11012 Filed 5-14-08; 8:45 am]

BILLING CODE 6717-01-P

#### ENVIRONMENTAL PROTECTION AGENCY

[EPA-R09-OAR-2008-0378; FRL-8566-4]

#### Adequacy Status of Motor Vehicle Budgets in Submitted South Coast 8-Hour Ozone and PM<sub>2.5</sub> Attainment and Reasonable Further Progress Plans for Transportation Conformity Purposes; California

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

**ACTION:** Notice of adequacy and inadequacy.

**SUMMARY:** In this notice, EPA is notifying the public that the Agency has found that the "baseline" reasonable further progress motor vehicle emissions budgets for 8-hour ozone and PM<sub>2.5</sub> in the 2007 South Coast State Implementation Plan (2007 South Coast SIP), as amended on April 30, 2008, are adequate for transportation conformity purposes. In this notice, EPA is also notifying the public that the Agency has found that the "SIP-based" motor vehicle emissions budgets for 8-hour ozone and PM<sub>2.5</sub> in the amended 2007 South Coast SIP are inadequate for transportation conformity purposes. The 2007 South Coast SIP was submitted to EPA on November 28, 2007 by the California Air Resources Board (CARB) as a revision to the California SIP, and includes reasonable further progress and attainment demonstrations for the 8-hour ozone and PM<sub>2.5</sub> national ambient air quality standards. On February 1, 2008, CARB submitted supplemental technical information related to reasonable further progress for

the 8-hour ozone NAAQS. The 2007 South Coast SIP was amended by a submittal dated April 30, 2008 that replaces the original motor vehicle emissions budgets for 8-hour ozone and PM<sub>2.5</sub> and distinguishes between "baseline" budgets and "SIP-based" budgets. As a result of our findings, the Southern California Association of Governments and the U.S. Department of Transportation must use the South Coast 8-hour ozone and PM<sub>2.5</sub> "baseline" motor vehicle emissions budgets, and cannot use the "SIP-based" budgets, in the amended 2007 South Coast SIP for future conformity determinations.

**DATES:** This finding is effective May 30, 2008.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Rosen, U.S. EPA, Region IX, Air Division AIR-2, 75 Hawthorne Street, San Francisco, CA 94105-3901; (415) 947-4152 or [rosen.rebecca@epa.gov](mailto:rosen.rebecca@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever "we," "us," or "our" is used, we mean EPA.

Receipt of the motor vehicle emissions budgets for 8-hour ozone and PM<sub>2.5</sub> in the 2007 South Coast SIP submitted on November 28, 2007 was announced on EPA's transportation conformity Web site on February 12, 2008. Receipt of the motor vehicle emissions budgets in the amended 2007 South Coast SIP was announced on March 27, 2008 based on a submittal from CARB dated March 26, 2008 that requested parallel adequacy processing of draft amendments to the 2007 South Coast SIP. The draft amendments to the

2007 South Coast SIP included two sets of budgets, and CARB labeled these sets as "baseline" and "SIP-based" budgets. CARB also requested that EPA consider both sets of budgets simultaneously but approve all of the "baseline" budgets only if the Agency could not approve or find adequate in their entirety the "SIP-based" budgets. We received comments in response to the adequacy review posting of the original 2007 South Coast SIP motor vehicle emissions budgets,

and comments were also received in response to the adequacy review posting of the amended 2007 South Coast SIP motor vehicle emissions budgets. The final, adopted amendments to the 2007 South Coast SIP submitted by CARB on April 30, 2008 are the same as those submitted by CARB for parallel processing on March 26, 2008.

Today's notice is simply an announcement of a finding that we have already made. EPA Region IX sent a

letter to the CARB on May 7, 2008 stating that the "baseline" motor vehicle emissions budgets in the amended 2007 South Coast SIP for the reasonable further progress (RFP) milestone years of 2008, 2011, 2014, 2017, and 2020 (for 8-hour ozone) and 2009 and 2012 (for PM<sub>2.5</sub>) are adequate. The adequate motor vehicle emissions budgets are provided in the following table:

#### ADEQUATE 8-HOUR OZONE "BASELINE" MOTOR VEHICLE EMISSIONS

| Budget year | 8-hour ozone—summer day, tons per day |                 |
|-------------|---------------------------------------|-----------------|
|             | ROG                                   | NO <sub>x</sub> |
| 2008        | 215                                   | 427             |
| 2011        | 176                                   | 354             |
| 2014        | 150                                   | 287             |
| 2017        | 131                                   | 32              |
| 2020        | 116                                   | 190             |

#### ADEQUATE PM<sub>2.5</sub> "BASELINE" MOTOR VEHICLE EMISSIONS BUDGETS

| Budget year | PM <sub>2.5</sub> —annual average, tons per day |                 |                   |
|-------------|---|-----------------|-------------------|
|             | ROG   | NO <sub>x</sub> | PM <sub>2.5</sub> |
| 2009        | 196   | 413             | 38                |
| 2012        | 163   | 337             | 38                |

Our letter dated May 7, 2008 also states that the "SIP-based" motor vehicle emissions budgets in the amended 2007 South Coast SIP are inadequate for transportation conformity purposes. The amended 2007 South Coast SIP included "SIP-based" budgets for 2008, 2011, 2014, 2017, 2020, and 2023 (for ozone) and for 2009, 2012, 2014, 2023, and 2030 (for PM<sub>2.5</sub>). The State has included

additional on-road mobile source emissions reductions in the "SIP-based" budgets from the 2007 State Strategy for the California SIP. The "baseline" budgets include no such reductions but rather reflect emissions reductions from CARB rules that were adopted as of October 2006. EPA has determined that the "SIP-based" budgets are inadequate because all of the "SIP-based" budgets after 2009 include new emission

reductions that do not result from specific or enforceable control measures. As a result, three of the transportation conformity rule's adequacy criteria are not met (40 CFR 93.118(e)(4)(iii), (iv), and (v)) for these "SIP-based" budgets. The inadequate motor vehicle emissions budgets are provided in the following table:

#### INADEQUATE "SIP-BASED" 8-HOUR OZONE MOTOR VEHICLE EMISSIONS

| Budget year | 8-hour ozone—summer day, tons per day |                 |
|-------------|---------------------------------------|-----------------|
|             | ROG                                   | NO <sub>x</sub> |
| 2008        | 215                                   | 427             |
| 2011        | 162                                   | 320             |
| 2014        | 125                                   | 196             |
| 2017        | 111                                   | 167             |
| 2020        | 101                                   | 145             |
| 2023        | 93                                    | 128             |

#### INADEQUATE "SIP-BASED" PM<sub>2.5</sub> MOTOR VEHICLE EMISSIONS BUDGETS

| Budget year | PM <sub>2.5</sub> —annual average, tons per day |                 |                   |
|-------------|---|-----------------|-------------------|
|             | ROG   | NO <sub>x</sub> | PM <sub>2.5</sub> |
| 2009        | 196   | 413             | 38                |
| 2012        | 139   | 276             | 37                |
| 2014        | 122   | 201             | 33                |
| 2023        | 89  | 131             | 37                |

INADEQUATE "SIP-BASED" PM<sub>2.5</sub> MOTOR VEHICLE EMISSIONS BUDGETS—Continued

| Budget year | PM <sub>2.5</sub> —annual average, tons per day |                 |                   |
|-------------|---|-----------------|-------------------|
|             | ROG   | NO <sub>x</sub> | PM <sub>2.5</sub> |
| 2030        | 75  | 121             | 39                |

EPA notes that the 2008 8-hour ozone and 2009 PM<sub>2.5</sub> motor vehicle emissions budgets in the state's "SIP-based" approach are the same as the adequate budgets in the state's "baseline" approach.

The finding and the response to comments are available at EPA's transportation conformity Web site: <http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm>. Transportation conformity is required by Clean Air Act section 176(c). EPA's conformity rule requires that transportation plans, transportation improvement programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4), which was promulgated on August 15, 1997 final rule (62 FR 43780, 43781–43783). We have further described our process for determining the adequacy of submitted SIP budgets in our July 1, 2004 final rule (69 FR 40004, 40038), and we used the information in these resources in making our adequacy findings. Please note that an adequacy review is separate from EPA's completeness review, and should not be used to prejudge EPA's ultimate approval action for the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 6, 2008.

Laura Yoshii,

Acting Regional Administrator, Region IX.  
[FR Doc. E8-10901 Filed 5-14-08; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2008-0393; FRL-8566-7]

### Agency Information Collection Activities: Proposed Collection; Comment Request; National Volatile Organic Compound Emission Standards for Architectural Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on July 31, 2008. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before July 14, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0393 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
- *Fax:* (202) 566-1741.
- *Mail:* National VOC Standards for Consumer Products—Information Collection Request Renewal, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0393. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless

the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bruce Moore, U.S. EPA, Office of Air Quality Planning and Standards, Division (C504-03), U.S. Environmental Protection Agency, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143-03), Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5460; fax number: (919) 541-3470; e-mail address: [moore.bruce@epa.gov](mailto:moore.bruce@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID number EPA-HQ-OAR-2008-0393, which is available for online viewing at <http://www.regulations.gov>, or in person viewing at the Air Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[CA114-0023; FRL-5665-8]

**Approval and Promulgation of Implementation Plans; California—Ozone**

AGENCY: Environmental Protection Agency (EPA).

ACTIONS: Final rule.

**SUMMARY:** EPA is approving revisions to the California State Implementation Plan (SIP) for ozone for 6 nonattainment areas: South Coast, Southeast Desert, Ventura, Sacramento, San Diego, and San Joaquin Valley. In addition, EPA is approving specific local and statewide air pollution control measures, including the California enhanced motor vehicle inspection and maintenance program. The California Air Resources Board (CARB) submitted these SIP revisions to EPA on November 14, 1994, November 15, 1994, December 28, 1994, December 29, 1994, February 7, 1995, March 30, 1995, January 22, 1996, April 4, 1996, May 17, 1996, June 13, 1996, July 10, 1996, and July 12, 1996.

EPA is approving these revisions to the California SIP under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals for nonattainment areas.

EPA is also establishing a consultative process on the potential for additional mobile source controls that can contribute to attainment in the South Coast, and the Agency is committing to undertake rulemaking on those controls deemed to be appropriate for EPA.

**EFFECTIVE DATE:** This approval is effective on February 7, 1997.

**ADDRESSES:** Materials relevant to this rulemaking are contained in Docket No. A-96-13, which is available for viewing during normal business hours at the following location: Air Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the SIP materials are also available for inspection at the addresses listed below:

Environmental Protection Agency, Air Docket (6102), 401 M Street, S.W., Washington, DC

California Air Resources Board, 2020 L Street, Sacramento, California

In addition, copies of the relevant local plan, the State plan (1994 California Ozone SIP), public comments, and EPA's technical support

documents for this rulemaking are available at the following locations:  
 San Diego Air Pollution Control District, 9150 Chesapeake Drive, San Diego, California  
 San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Fresno, California  
 Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California  
 Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, California  
 South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, California

**Electronic Availability**

This document and related materials are available at Region 9's site on the World Wide Web at <http://www.epa.gov/region09> (please look under Air Programs). The Federal Register is also available on the Internet by pointing a web browser at: [http://www.access.gpo.gov/su\\_docs/](http://www.access.gpo.gov/su_docs/) or by telnet to [swais.access.gpo.gov](http://swais.access.gpo.gov).

**FOR FURTHER INFORMATION CONTACT:** Julia Barrow, Chief, Office of Planning, Air Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901; (415) 744-1230.

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EPA shares the commenters' concerns that the SIP must be implemented fully and that substitute measures should immediately correct any SIP shortfalls. However, the State has argued that successful implementation of the ZEV program requires the March 1996 rule amendments, in order to ensure that concerns relating to battery technology and ZEV sales potential can be resolved and the ultimate sales mandate be fully accomplished. The State has also provided evidence that the loss in emissions from the elimination of the ZEV mandate for the first 5 years will be offset by provisions of CARB's enforceable contract with the automakers. EPA will carefully monitor implementation of the contractual agreement and the ZEV program and will require the State to revise the SIP to provide new emission reductions if needed to meet the progress and attainment requirements of the Act.

(3) Control Measures. NRDC and CCA commented that EPA cannot approve the South Coast SIP because it fails to include as measures all already adopted regulations and measures characterized as assumptions. The environmental groups argued that the CAA and EPA's regulations require quantification of reductions from each adopted regulation, and that these regulations themselves should be an enforceable part of the SIP.

With respect to the quantification of reductions from the various regulations that comprise the existing California motor vehicle program, the State has submitted reductions from the program as a whole, without a disaggregation by program element. In recent correspondence, the State has provided further detail, including an estimate of Statewide emission reductions from each severable component.<sup>15</sup>

<sup>15</sup> Table 1 ("Adopted state regulations in the SIP baseline, with implementation dates in 1996 or later") in a letter from Lynn Terry, Assistant

The rate-of-progress and ozone attainment demonstrations for each area rely, in part, on emission reductions from regulations adopted by local air pollution control districts, since the impact of these regulations is factored into the projections of future year baseline emissions.<sup>16</sup> EPA has already approved the great majority of these local regulations and expects in the near future to complete final action on the remaining regulations. With respect to those few regulations which are relied upon in the SIP for rate-of-progress or attainment and which have not yet been approved as part of the SIP, EPA construes that reliance and the fact that the local agencies have adopted and the State has submitted the rules as SIP revisions to constitute an enforceable commitment by these agencies to implement the rules to achieve the reductions assumed in the rate-of-progress plans and the attainment demonstrations.

If the State withdraws (before EPA's final action) any of these regulations that have been submitted but not yet approved as part of the SIP, or if EPA's final action is a disapproval, or if EPA determines that the rule will achieve fewer emissions reductions than relied upon in the SIP, EPA will call upon the State to fulfill its commitment by submitting replacement measures on an expeditious schedule and the State will be obligated to provide such replacements.

EPA requires identification of emission reductions associated with each of the new measures that are incorporated in the plan's rate-of-progress and attainment demonstrations and that reduce emissions below the baseline inventory levels. The South Coast SIP fulfills this requirement, and EPA has included, in the tables of new measures, the specific credit assigned.

The Engine Manufacturers Association (EMA) stated that, based on the information provided in the NPRM, EPA and California have not established a reasonable, cost-effective basis for certain of the proposed regulatory measures. EMA provided no specific information to support the comment. EPA believes that the SIP control measures are, in fact, reasonable.

Executive Officer, CARB, to Julia Barrow, Chief, Planning Office, Air & Radiation Division, USEPA, dated September 19, 1996. This correspondence is part of EPA's rulemaking docket.

<sup>16</sup> In a letter from Barry R. Wallerstein, Deputy Executive Officer, SCAQMD, to Dave Howekamp, Division Director, Air & Toxics Division, Region IX, dated September 18, 1996, the SCAQMD has provided a list of local measures and associated emission reductions assumed in the baseline of the South Coast SIP. This correspondence is part of EPA's rulemaking docket.

Moreover, EPA does not find statutory authority for the Agency to require states to submit analyses demonstrating that proposed measures are reasonable, cost-effective and appropriate. Finally, due to the nature of the Federal/state relationship under the Act, EPA analysis of the cost-effectiveness of SIP measures would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

*d. Consistency of Local Nonroad Measures with Clean Air Act Preemption.* The Engine Manufacturers Association commented that EPA should not finalize approval of local measures without a determination that they have met CAA requirements respecting preemptions on a state's authority to regulate certain nonroad engines and applications. The commenter did not identify any State or local measure that was inconsistent with the Clean Air Act. EPA has not identified any measure, approved at this time, that violates the Act's preemptions. When regulations are adopted and submitted for SIP approval, EPA reviews the regulations to ensure that they fall within the authority of the State or local agency and that the regulations are otherwise consistent with statutory and regulatory requirements.

#### 4. Future SIP Updates and Improvements

Western Riverside Council of Governments commented that the SIP should provide the flexibility to replace measures with local programs that are more sensitive to local political, economic and social conditions. EPA supports and encourages SIP flexibility that respects the superior ability of local agencies to reconcile environmental progress with other community goals.

The California Environmental Protection Agency (CEPA) commented that, as EPA recognized in the proposed approval, some of California's specific strategies may require adjustment as actual rules are developed. CEPA stated that "we will retain the flexibility to revise the SIP as long as the emission reductions continue to provide for attainment."

As stated in the NPRM, EPA supports the State's flexibility to revise the SIP, but cautions that EPA must review SIP revisions for approvability under Sections 110(i) and 193. Section 110(i) prevents EPA from approving a revision if it would interfere with any applicable

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[CA114-0023; FRL-5665-8]

**Approval and Promulgation of Implementation Plans; California—Ozone**

AGENCY: Environmental Protection Agency (EPA).

ACTIONS: Final rule.

**SUMMARY:** EPA is approving revisions to the California State Implementation Plan (SIP) for ozone for 6 nonattainment areas: South Coast, Southeast Desert, Ventura, Sacramento, San Diego, and San Joaquin Valley. In addition, EPA is approving specific local and statewide air pollution control measures, including the California enhanced motor vehicle inspection and maintenance program. The California Air Resources Board (CARB) submitted these SIP revisions to EPA on November 14, 1994, November 15, 1994, December 28, 1994, December 29, 1994, February 7, 1995, March 30, 1995, January 22, 1996, April 4, 1996, May 17, 1996, June 13, 1996, July 10, 1996, and July 12, 1996.

EPA is approving these revisions to the California SIP under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals for nonattainment areas.

EPA is also establishing a consultative process on the potential for additional mobile source controls that can contribute to attainment in the South Coast, and the Agency is committing to undertake rulemaking on those controls deemed to be appropriate for EPA.

**EFFECTIVE DATE:** This approval is effective on February 7, 1997.

**ADDRESSES:** Materials relevant to this rulemaking are contained in Docket No. A-96-13, which is available for viewing during normal business hours at the following location: Air Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the SIP materials are also available for inspection at the addresses listed below:

Environmental Protection Agency, Air Docket (6102), 401 M Street, S.W., Washington, DC

California Air Resources Board, 2020 L Street, Sacramento, California

In addition, copies of the relevant local plan, the State plan (1994 California Ozone SIP), public comments, and EPA's technical support

documents for this rulemaking are available at the following locations:  
San Diego Air Pollution Control District, 9150 Chesapeake Drive, San Diego, California

San Joaquin Valley Unified Air Pollution Control District, 1999

Tuolumne Street, Fresno, California

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, California

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, California

**Electronic Availability**

This document and related materials are available at Region 9's site on the World Wide Web at <http://www.epa.gov/region09> (please look under Air Programs). The Federal Register is also available on the Internet by pointing a web browser at: [http://www.access.gpo.gov/su\\_docs/](http://www.access.gpo.gov/su_docs/) or by telnet to [swais.access.gpo.gov](mailto:swais.access.gpo.gov).

**FOR FURTHER INFORMATION CONTACT:** Julia Barrow, Chief, Office of Planning, Air Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901; (415) 744-1230.

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