

and which could have been avoided by abandonment of the lease, or by commencement of development operations, or by obtaining production. Section 1.612-3(c)(2) of the final regulations provides that since a delay rental is in the nature of rent, it is ordinary income to the payee and not subject to depletion. The payor may at his election deduct the delay rental as an expense, or charge it to depletable capital account under section 266.

Section 263A was enacted subsequent to the issuance of § 1.612-3(c) of the final regulations. The uniform capitalization rules of section 263A generally require the capitalization of all direct costs and certain indirect costs properly allocable to property produced by the taxpayer. Capitalization may be required even though production (development) has not yet begun. § 1.263A-2(a)(3)(ii). In some situations, a delay rental may be required to be capitalized under section 263A. Accordingly, the proposed regulation clarifies that subsequent to the enactment of section 263A, the payor of a delay rental may elect to expense currently the delay rental or charge it to depletable capital account under section 266 to the extent that the delay rental is not required to be capitalized under section 263A and the regulations thereunder.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (a signed original and eight copies) to the IRS. The IRS and Treasury request comments on the clarity of the proposed regulations and they may be made easier to understand. All comments will be made available for public inspection and copying.

A public hearing has been scheduled for May 26, 2000, at 10 a.m. in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments (a signed original and eight (8) copies) by May 8, 2000. The outline of topics to be discussed at the hearing must be received by May 5, 2000.

A period of 10 minutes will be allotted for each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of this proposed regulation is Brenda M. Stewart of the Office of Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, other personnel from the IRS and Treasury Department participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAX

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.612-3, the second sentence of paragraph (c)(2) is removed and two sentences are added in its place to read as follows:

§ 1.612-3 Depletion; treatment of bonus and advanced royalty.

* * * * *

(c) * * *

(2) * * * To the extent the delay rental is not required to be capitalized under section 263A and the regulations thereunder, the payor may at his election deduct such amount or under section 266 and the regulations thereunder, charge it to depletable capital account. The second sentence of

this paragraph (c)(2) applies to delay rentals paid with respect to leasing transactions entered into on or after the date these regulations are published as final regulations in the **Federal Register**.

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 00-2730 Filed 2-7-00; 8:45 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA-237-0221; FRL-6534-5]

Approval and Promulgation of State Implementation Plans; California—South Coast

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a state implementation plan (SIP) revision by the State of California to provide for attainment of the ozone national ambient air quality standard (NAAQS) in the Los Angeles-South Coast Air Basin Area (South Coast). EPA is proposing to approve the SIP revision under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: Comments must be received on or before March 9, 2000.

ADDRESSES: Written comments should be addressed to: Dave Jesson (AIR-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, or jesson.david@epa.gov. The rulemaking docket for this notice is available for public inspection during normal business hours at EPA's Region IX office. A reasonable fee may be charged for copying parts of the docket.

Copies of the SIP materials are also available for inspection at the following locations:

California Air Resources Board, 2020 L Street, Sacramento, California
South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, California

The SIP materials are also electronically available at: <http://www.aqmd.gov/aqmp/>

FOR FURTHER INFORMATION CONTACT: Dave Jesson at (415) 744-1288.

SUPPLEMENTARY INFORMATION: This section provides background information on the South Coast ozone plan, applicable Clean Air Act requirements, and EPA's proposed action on the plan.

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I. Background

A. What is the ozone problem in the South Coast?

In 1999 the South Coast had the largest number of ozone violations in the country, and trailed only the Houston area in terms of the peak ozone concentration.¹ The South Coast in 1999 recorded 43 days with 1-hour levels at or above the 0.12 parts per million (ppm) NAAQS for ozone. In 1998, the South Coast had the worst ozone levels in the nation, experiencing 12 days with Stage I smog alerts, when 1-hour concentrations reach 0.20 ppm.²

Ozone causes serious health problems, particularly in children, by damaging lung tissue and sensitizing the lungs to other irritants. Even at very low levels, ozone can cause acute respiratory problems; aggravate asthma; cause temporary decreases in lung capacity of 15 to 20 percent in healthy adults, cause inflammation of lung tissue; lead to hospital admissions and emergency room visits; and impair the body's immune system defenses, making people more susceptible to respiratory illnesses, including bronchitis and pneumonia.

B. What Clean Air Act Requirements Apply to this Plan?

The CAA was substantially amended in 1990 to establish new planning requirements and attainment deadlines for the NAAQS. Under CAA section 107(d)(1)(C) of the Act, areas designated nonattainment prior to enactment of the 1990 amendments, including the South

¹ The 1999 air quality information is preliminary data from EPA's Aerometric Information Retrieval System (AIRS). For a description of the boundaries of the Los Angeles-South Coast Air Basin, see 40 CFR 81.305. The nonattainment area includes all of Orange County and the more populated portions of Los Angeles, San Bernardino, and Riverside Counties.

² In 1998, the areas with the highest peak 1-hour ozone concentrations were: South Coast .244 ppm, Houston .230 ppm, Southeast Desert (the area immediately to the east of the South Coast) .202 ppm, San Joaquin Valley .194 ppm, Ventura County .174 ppm, San Diego County .164 ppm. An area exceeds the 1-hour ozone standard each time an ambient air quality monitor records a 1-hour average concentration above 0.124 ppm. An area is violating the standard if, over a consecutive 3-year period, more than 3 exceedances are expected to occur at any one monitor. Ground-level ozone is formed when emissions of nitrogen oxides (NOx) and volatile organic compounds (VOCs) react in the presence of sunlight. NOx and VOCs are referred to as precursors of ozone. California air quality agencies generally use the term "reactive organic gas" (ROG) instead of VOC.

Coast, were designated nonattainment by operation of law.

Under CAA section 181(a), each ozone area designated nonattainment under section 107(d) was also classified by operation of law as either marginal, moderate, serious, severe, or extreme, based on air quality monitoring data. An ozone area with a design value at or above 0.280 ppm was classified as extreme. The South Coast was the only area so classified. Section 181(a) sets attainment deadlines for each class of area. The attainment date for an extreme area is as expeditiously as practicable but no later than November 15, 2010 (20 years after enactment of the CAA Amendments).

CAA section 172 contains general requirements applicable to SIPs for nonattainment areas. Section 182 sets out additional air quality planning requirements for ozone nonattainment areas. The most fundamental of these nonattainment area provisions applicable to the South Coast is the requirement that the State submit by November 15, 1994, a SIP demonstrating how the area would attain the ozone NAAQS by the CAA deadline and how the area would achieve reductions of precursor emissions of 15 percent for the first 6 years and 9 percent for each 3-year period until attainment (rate-of-progress or ROP). This demonstration must be based upon enforceable measures to expeditiously achieve emission reductions leading to emissions at or below the level predicted to result in attainment throughout the nonattainment area.

We have issued a "General Preamble" describing our preliminary views on how we intend to act on SIPs submitted under Title I of the Act. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). You should refer to the General Preamble for a more detailed discussion of our interpretations of Title I requirements. In this proposed rulemaking action, we apply these policies to the South Coast ozone SIP submittal, taking into consideration the specific factual issues presented.

C. What Action Have we Taken on Previous South Coast Ozone Plans?

1. Final approval of the 1994 Ozone SIP

SCAQMD adopted an ozone plan on September 9, 1994, as part of the 1994 South Coast Air Quality Management Plan (AQMP). The California Air Resources Board (CARB) supplemented the SCAQMD plan with State measures and submitted it as a proposed revision to the California SIP on November 15, 1994. On July 10, 1996, CARB submitted

an extensive revision to the South Coast control measure adoption schedule to adjust for slippage in the plan's initial implementation. On January 8, 1997 (62 FR 1150), we finalized approval of the South Coast ozone plan, including the ozone portions of the 1994 South Coast AQMP, as amended in 1996, and the State measures ("1994 ozone SIP").³ The plan also contained "Federal measures," which the State wished us to adopt and implement in order to reduce emissions from mobile sources.⁴

2. Proposed Partial Approval and Partial Disapproval of the 1997 Ozone Revision

SCAQMD adopted a completely revised plan on November 15, 1996, and the California Air Resources Board (CARB) submitted the revision on February 5, 1997. The 1997 revision was not federally required for ozone, but was adopted by SCAQMD to address, in a comprehensive and consistent fashion, federal and state requirements for particulate matter, carbon monoxide, and nitrogen dioxide (NO₂), and state requirements for an ozone plan update.⁵

On January 12, 1999 (64 FR 1770), we proposed to find that the revised plan met the CAA section 110(a)(1) procedural requirements for adoption following public notice and hearings. We also proposed to approve the baseline and projected emissions inventory updates under CAA sections 172(c)(3) and 182(a)(1).

Because CAA section 110(l) does not allow us to approve a SIP revision that interferes with any applicable CAA requirement concerning attainment and reasonable further progress or any other requirement of the Act, we proposed to disapprove the 1997 ozone plan as not meeting: (1) the control measure requirements of CAA sections 172(c)(6), and 182(e)(5); (2) the attainment demonstration requirements of CAA section 182(c)(2)(A); and (3) the quantitative milestones and reasonable further progress requirements of CAA section 182(c)(2)(A).

³ We approved some of the State and SCAQMD measures in the plan earlier. See particularly 60 FR 43379 (August 21, 1995).

⁴ In response to this "assignment," we established a Public Consultative Process to identify the best options for achieving further emission reductions from mobile source controls, at least to the extent they are needed for attainment of the ozone NAAQS in the South Coast. In connection with the establishment of this process, both EPA and CARB made commitments regarding appropriate future emission reductions. Please see EPA's final approval of the 1994 ozone SIP for a discussion of the "Federal measures" and our rationale, at that time, for establishing the Public Consultative Process (62 FR 1152-5, 1184-6). See also section LC.3 below.

⁵ We approved the CO and NO₂ portions of the submittal on April 21, 1998 (63 FR 19661) and July 24, 1998 (63 FR 39747), respectively.

Our proposed disapproval of these provisions was based on our findings that:

(1) the control measures in the 1997 ozone plan were an impermissible relaxation of the 1994 ozone SIP, inasmuch as the plan relaxed, abandoned, or postponed approximately 30 short-term SCAQMD measures, and did not show that this revision meets the expeditious attainment test;

(2) the 1997 ozone plan was inconsistent with the intent of CAA section 182(e)(5), in that it increased, rather than reduced, the proportion of needed SCAQMD reductions that are assigned to conceptual, new-technology measures;

(3) the plan relied on unlawful assignments to the Federal Government to achieve a portion of the reductions needed for attainment; and

(4) the plan relied on commitments to adopt by the end of 1998 23 measures, of which SCAQMD had adopted less than 10, and we may not approve a plan that is not being implemented.

Since our proposed action in this document is an action on both the 1997 ozone plan and the 1999 Amendment to it, we are withdrawing the January 12, 1999 proposed partial approval and partial disapproval of the 1997 ozone plan. Therefore, if you submitted comments on our January 12, 1999 proposal and believe that those comments are relevant to our proposed action on the 1999 ozone plan, you will need to resubmit your comments within the public comment period for today's proposed action.

3. Final Approval of a 1999 State Update to the South Coast Ozone SIP

On July 23, 1999 (64 FR 39923), we approved an update to the South Coast 1994 ozone SIP, reporting on implementation of CARB's control measures in the 1994 SIP and the contribution from Federal mobile source controls undertaken as part of the Public Consultative Process. We also updated our own commitment and approved a new CARB commitment to adopt by December 31, 2001, control measures needed to achieve any additional reductions which are determined to be appropriate for CARB. Please consult this final approval document and our proposed approval (64 FR 30276, June 7, 1999) for more details on the update, the "Federal measures," the Public Consultative Process on national mobile source measures, and our associated consent decree in *Coalition for Clean Air, et al. vs. SCAQMD, CARB, and USEPA*, No. CV 97-6916 HLH (C.D. CA.).

D. What are the Changes in the New Plan?

SCAQMD adopted an amendment to the 1997 plan on December 10, 1999, to update the District's control measures and to address the deficiencies that formed the basis for our proposed disapproval. The 1999 amendment adds new SCAQMD control measures, revises existing SCAQMD measures, and amends the reasonable further progress, attainment demonstration, and stationary source emissions budget portions of the 1997 plan.⁶ The 1999 amendment does not change the emission inventories, modeling, non-SCAQMD control measures, and the non-ozone portions of the 1997 plan. In this proposed rulemaking, we refer to the 1997 plan as amended in 1999 as "the revised ozone plan." If we approve this revised ozone plan, it will replace the 1994 ozone SIP except for that portion of the SIP that consists of State control measures and EPA's commitment.

1. Control Measure Revisions

The 1999 amendment adds commitments to adopt 8 short-term stationary source control measures, 4 of which are new control measures and 4 of which implement portions of the 1997 plan's long-term control measures. The revised ozone plan now includes 26 short- and intermediate-term control measures and 4 long-term measures. Along with 17 regulations adopted after the 1994 ozone SIP was submitted, these control measure commitments completely replace all SCAQMD control measure commitments in the SIP and greatly reduce the amount of the attainment demonstration dependent upon long-term conceptual measures. SCAQMD long-term VOC control measures in the 1994 ozone SIP were assigned credit for a reduction of 180 tpd; in the 1999 amendment, the long-term reductions amount to only 28 tpd.⁷ Neither the 1997 plan nor the 1999 amendment changes the State control measures in the 1994 ozone SIP.

⁶ The "attainment demonstration" includes both the control measures and air quality modeling showing that the control measures are sufficient to reduce emissions to levels where violations of the NAAQS would not occur. The 1999 amendment does not change the modeling in the 1997 plan, which we continue to find approvable, but does add new control measures, thus allowing us to propose in this document approval of the plan with respect to both the control measure and the attainment demonstration requirements of the Act.

⁷ Unless otherwise indicated, when we speak of emission reductions in this document we refer to reductions in the attainment year (2010), net of growth.

2. Technical Revisions

Although SCAQMD did not revise the baseline emissions inventory included in the 1997 plan, the 1999 amendment revises the District's control measures portion of the plan, adding new measures and accelerating adoption and implementation dates of measures in the 1997 plan. Since these changes amend the plan's scheduled emission reductions, the 1999 amendment revises the 1997 plan's stationary source emissions budgets for VOC and NO_x. The 1999 amendment also presents new rate-of-progress calculations.

E. What Further Revisions Are Planned in the Future?

While the revised ozone plan represents more current and accurate information than was used in the 1994 ozone SIP, SCAQMD and CARB consider the new plan to be an interim update. A comprehensive ozone plan revision is scheduled for adoption and submittal as a SIP revision in 2001. This future revision will use new emission inventories and modeling, and it will include a revised control strategy if needed to provide for expeditious attainment.

II. Review of the Revised Ozone Plan

A. Did SCAQMD and CARB Meet the CAA Procedural Requirements?

SCAQMD has satisfied applicable requirements for reasonable public notice and hearing prior to adoption of the 1997 plan and the 1999 amendment. SCAQMD conducted public workshops and public hearings prior to the adoption of the 1997 plan on November 15, 1996 (Governing Board Resolution No. 96-23), and before adoption of the 1999 amendment on December 10, 1999 (Governing Board Resolution 99-35). On January 23, 1997, CARB adopted the 1997 plan (Resolution No. 97-1) following public notice, and CARB submitted the plan to us on February 5, 1997. After public notice, CARB adopted the 1999 amendment at a public hearing on January 27, 2000, and the State indicates its intent to submit the amendment promptly as a SIP revision. Assuming that the State makes this submittal, we believe that the submittal will have met the procedural requirements of CAA sections 110(a) and (l).

B. Do the Revised Baseline and Projected Emissions Inventories Meet CAA Requirements?

As discussed in our proposed approval of the emissions inventory in the 1997 plan (64 FR 1774-7), the revised and updated emissions

inventory conforms to our guidance documents. Please see that notice for further details regarding the inventories, the socio-economic forecasts underlying the projected inventories, and our emissions inventory guidance documents. The 1999 amendment makes no changes to these inventory summaries, which are included in Chapter 3 and Appendix III of the 1997 plan.

CARB has prepared draft revisions to the motor vehicle emissions factors. Once the new factors are adopted by the State, the responsible agencies will begin the process of revising the plan to reflect the new emissions data. The State has also recently prepared a new offroad mobile source emissions model, and local agencies are revising the regional growth and control effectiveness data. These updates and enhancements will improve emissions information for the comprehensive 2001 plan revision.

Because the methodologies used to prepare the inventories in the revised ozone plan are acceptable, we propose to approve the plan revision with respect to the emissions inventory requirements of CAA sections 172(c)(3) and 182(a)(1).

C. Is the Modeled Attainment Demonstration Consistent With Modeling Guidelines?

The attainment demonstration in the revised ozone plan employs the Urban Airshed Model (UAM) with the Carbon Bond IV mechanism. The UAM analysis uses 4 episodes in 1987, including a September 7-9 episode with a peak ozone concentration of 0.33 ppm.

The 1994 ozone SIP analysis used a more severe episode, June 5-7, 1985, which had a peak concentration of 0.36 ppm. For the revised ozone plan, SCAQMD modeled the 1985 episode but did not show attainment with all control measures, and the episode was dropped for purposes of the attainment demonstration. SCAQMD based its decision not to use the 1985 episode on the age of the episode and the District's contention that the episode reflects meteorological conditions that rarely occur in the area. This is consistent with our current modeling guidance.⁸

On November 18, 1998, the SCAQMD submitted a weight of evidence analysis for the June 1985 episode.⁹ A copy of this analysis has been placed in the docket for this rulemaking. The analysis

addresses our current modeling guidance and argues for elimination of the 1985 episode under a weight of evidence approach. Attachment B to the SCAQMD correspondence addresses the acceptability of the remaining 4 episodes as a basis for an attainment demonstration. SCAQMD provides evidence that the episodes are representative of the types of meteorological episodes expected in the South Coast when high ozone concentrations occur. The evidence examines the episodes based on the deviation index (Horie CART analysis) and the Chu-Cox methodology for assessing episode frequency.

The model performance for the 1987 episode shows a high systematic bias, e.g., ozone underprediction of 44 percent for June 24, 40 percent for June 25, 47 percent for September 8, and 38 percent for September 9. SCAQMD showed that this underprediction is significantly reduced if motor vehicle VOC emissions are doubled, in which case underprediction becomes 24 percent for June 24, 19 percent for June 25, 2 percent for September 8, and 3 percent for September 9. CARB's draft revisions to the motor vehicle factors support this inventory adjustment. Because the model performance falls within an acceptable range of accuracy after these adjustments to the inventory and because the modeling otherwise conforms to our guidance, we propose to approve the modeling analysis.

More accurate and comprehensive UAM analyses will soon be possible, based on the Southern California Ozone Study (SCOS), for which an extensive field study was completed in the summer of 1997 and continued, in limited form, through the summer of 1998. SCAQMD and CARB intend to complete a new modeling analysis using updated emission inventories and SCOS modeling, as part of a comprehensive ozone SIP revision to be submitted in 2001. We strongly endorse this effort to update and enhance the technical foundation of the attainment demonstration. This revised SIP will be important to ensure that emission reduction target levels and control measures are sufficient to provide for attainment within the South Coast, and to establish a technically improved basis for making adjustments to the control strategy to achieve efficient and expeditious attainment.

⁸ Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA-454/B-95-007 (1996).

⁹ Letter from Barry R. Wallerstein, SCAQMD Executive Officer, to Felicia Marcus, Regional Administrator, EPA Region IX, Attachment A.

D. Do the Control Measures Meet CAA Requirements?

1. What Are the Applicable CAA Requirements?

The CAA requires that SIPs include enforceable control measures sufficient to meet rate-of-progress milestones and provide the reductions needed for attainment by the applicable CAA deadline. Where it is infeasible for a state to accomplish the necessary regulatory adoption in the short term, we have recognized that this requirement can be satisfied, to some extent, by enforceable commitments to adopt regulations in the future, since these commitments can be enforced in court by EPA or citizens.

In view of the magnitude of reductions required in the South Coast and the fact that SCAQMD and CARB have already adopted in regulatory form more stringent measures than are included in most other SIPs, we approved the 1994 ozone SIP despite its heavy reliance on commitments to adopt regulations. See 62 FR 1155–7, 1177–82. Over the past 5 years following adoption of the 1994 ozone SIP, SCAQMD rule adoptions and attainment demonstration revisions have reduced the dependence of the plan on SCAQMD commitments, which now amount to 84 tpd of VOC and NO_x, compared to well over 400 tpd in the 1994 ozone SIP.

2. How Does the Revised Ozone Plan Address These Requirements?

a. Control Measures Already Adopted

Following submittal of the 1994 ozone SIP, SCAQMD adopted rules projected to reduce VOC emissions by over 150 tpd by 2010. These rules fulfill many of the control measure commitments in both the 1994 and 1997 plans. The table below entitled “Table 1—SCAQMD Rules Adopted between November 1994 and September 1999” lists the rules with projected emission reduction levels. If these levels are not actually achieved by the rules, the SCAQMD enforceably commits to revise the rules or adopt new rules to provide for compensating reductions.¹⁰

TABLE 1.—SCAQMD RULES ADOPTED BETWEEN NOVEMBER 1994 AND SEPTEMBER 1999

Control measure	Rule No.	Title	Adoption date	Implementation dates	2010 reductions in tpd VOC
CTS–C	1171	Solvent Cleaning Operations	1996	1999	26.8
CTS–02H	1107	Metal Parts and Products	1998	1999	8.8
CTS–02M	1145	Plastic, Rubber, Glass Coatings	1997	1998	1.2
CTS–02N	1122	Solvent Degreasers	1997	1999	48.1
CTS–07	1113	Architectural Coatings—Phase I	1996	1998–2008	14.8
CTS–07	1113	Architectural Coatings—Phase II	1999	2002–06	16.5
CMB–02B	1146.2	Small Boilers and Process Heaters	1998	2000–06	4.2 NO _x
FUG–01	462	Organic Liquid Transfer	1995	1999	0.8*
FUG–02	1176	Sumps and Wastewater Separators	1996	1997	5.0*
PRC–03	1138	Restaurant Operations	1997	1999	0.2
RFL–02	461	Gasoline Dispensing Facilities	1995	1998	3.7*
	1104	Wood Flat Stock Coating Operations	1998	2000	negligible
	1136	Wood Products Coatings	1996	2005	7.9*
	1124	Aerospace Assembly and Component Manufacturing Operations.	1996	2002	0.2*
	1130.1	Screening Printing Operations	1996	2003	0.1*
	1168	Adhesive Applications	1998	2003	1.3*
CTS–07	1113	Architectural Coatings	1999	2002–6	18.5*
Total Reductions of VOC.					153.9
Total Reductions of NO _x .					4.2

*Reductions incorporated in baseline inventory.

In addition to these rules, SCAQMD also adopted 3 rule revisions in October and November 1999, implementing plan measures and contributing additional emission reductions as shown: CTS–02C (Phase 2)—Further Emission Reductions from Solvent Cleaning Operations (Rule 1171)—11 tpd VOC (with an additional 16 tpd subject to technology assessment in the future); CTS–08—Further Emission Reductions from Industrial Coating and Solvent Operations (Rule 1130)—2 tpd VOC; and CMB–06—

Emission Standards for New Commercial and Residential Water Heaters (Rule 1121)—7.6 tpd NO_x.

b. Short and Intermediate-term Control Measure Commitments

As discussed above, the revised ozone plan now includes commitments to adopt 26 short- and intermediate-term control measures. The plan describes each control measure in detail, identifying 1993 baseline emissions from the source category, projected 2006 and 2010 emissions, 2006 and 2010

emission reductions, control cost effectiveness, methods and technologies of control, rule compliance, implementation schedule, implementing agency, and control measure history, including an explanation of changes in the measures in successive plan updates. The table labeled “Table 2—Short- and Intermediate-Term Control Measure Commitments” indicates for each control measure the dates of rule adoption and implementation and the

¹⁰“The District is committed to adopt Table 2–1 measures unless these measures or a portion thereof are found infeasible and other substitute measures that can achieve equivalent reductions in the same adoption/implementation timeframes are adopted. Findings of infeasibility will be made at a regularly scheduled meeting of the District Board with proper public notification. For purposes of SIP

commitment, infeasibility means the proposed control technology is not reasonably likely to be available by the implementation date in question, or achievement of the emission reductions by that date is not cost effective. The District acknowledges that this commitment is enforceable under Section 304(f) of the federal Clean Air Act.” 1999 Amendment, page 2–18. Table 2–1, which is

labeled “Revised AQMP Short- and Intermediate-Term Control Measures, Implementing Agency, Adoption Date and Implementation Period,” contains the complete list of SCAQMD commitments for short- and intermediate-term control measures, as also shown in Table 2 of this document.

emission reductions projected to occur by 2006 and 2010.

TABLE 2—SHORT-AND INTERMEDIATE-TERM CONTROL MEASURE COMMITMENTS (IN TONS PER SUMMER DAY OF VOC OR (NO_x))

Control measure No.	Control measure title	Implementing agency	Adoption date	Implementation date	Emission reductions	
					2006	2010
CTS-02(P2)	Further Emission Reductions from Solvent Cleaning Operations—Rule 1171*.	SCAQMD	1999	2002	10.6	11.0
CTS-02E	Emission Reductions from Adhesives—Rule 1168.	SCAQMD/CAR B	2000	2007–2008	0.0	1.3
CTS-02O	Emission Reductions from Solvent Usage—Rule 442*.	SCAQMD	2000	2002	1.1	1.0
CTS-07(P 3)	Further Emission Reductions from Architectural Coatings and Cleanup Solvents—Rule 1113.	SCAQMD	2003	2006–2008	3.1	9.8
CTS-08	Further Emission Reductions from Industrial Coating and Solvent Operations (Phases 1 and 2)*.	SCAQMD	2002 2003	2004–2008 2005–2008	2.4	5.0
CTS-09	Further Emission Reductions from Large Solvent and Coating Sources (Phases 1 and 2).	SCAQMD	2000 2002	2003–2004 2005–2006		4.0 3.0
FUG-03	Further Emission Reductions from Floating Roof Tanks—Rule 463.	SCAQMD	TBD	TBD	TBD	TBD
FUG-04	Further Emission Reductions from Fugitive Sources—Rule 1121.	SCAQMD				
FUG-05	Further Emission Reductions from Large Fugitive VOC Sources (Phases 1, 2, and 3)*.	SCAQMD	2001 2002 2003	2003–2006 2004–2007 2005–2008		1.0 1.0 1.0
FUG-06	Control of Methanol Emissions from Refinery Hydrogen Plan Vents.	SCAQMD	2000	2001–2003	0.8	0.8
RFL-02(P2)	Further Emission Reductions from Gasoline Dispensing Facilities—Rule 461.	SCAQMD/CAR B2000	2000	2001–2002	2.0	2.0
CMB-06	Emission Standards for New Commercial and Residential Water Heaters—Rule 1121.	SCAQMD	1999	2002–2005	(3.6)	(7.6)
PRC-03(P2)	Further Emission Reductions from Restaurant Operations.	SCAQMD	2000	2001 (new) 2003 (retr ofit).	0.9	0.9
PRC-06	Further Emission Reductions from Industrial Processes*.	SCAQMD	2001	2004–2007	1.9	3.0
MSC-01	Promotion of Lighter Color Roofing and Road Materials and Tree Planting Programs.	SCAQMD/Local Govt	TBD	TBD	Air quality benefit from lowering ambient temperature	
MSC-03	Promotion of Catalyst-Surface Coating Technology Programs.	SCAQMD	TBD	TBD	Conversion of ambient ozone and CO into Oxygen and CO ²	
WST-01	Emission Reductions from Livestock Waste.	SCAQMD	2002	2004	3.3	3.3
WST-02	Emission Reductions from Composting.	SCAQMD	2001	2004–2006	TBD	TBD
WST-03	Emission Reductions from Waste Burning (implemented through MOUs).	SCAQMD/Local Fire Agencies.		2002	Air quality benefit but no emission reduction	
WST-04	Disposal of Materials Containing Volatile Organic Compounds.	SCAQMD	2000	2002	0.7	0.8
FSS-04	Emission Charges of \$5,000 per Ton of VOC for Stationary Sources Emitting over 10 Tons per Year.	SCAQMD	TBD	TBD	TBD	TBD
FLX-01	Intercredit Trading Program	SCAQMD	TBD	TBD	Promotion of advanced pollution control technology	
Total Reductions of VOC					26.8	48.1
Total Reductions of NO _x					3.6	7.6

*SCAQMD commits to achieve the reductions shown but identifies a potential for greater emission reductions from these control measures (Table 2-4, 1999 Amendment). Any reductions achieved from these measures beyond the amount of the commitment will reduce the long-term measure commitment, shown in Table 4, below.

SCAQMD commits to meet the adoption dates, implementation dates, and emission reduction targets, unless a measure, in whole or in part, is determined to be infeasible. Should that be the case, SCAQMD commits to achieve equivalent reductions on the same schedule through substitute controls.

Recognizing that such control strategy adjustments may be necessary and that development and implementation of regulations may achieve actual emission reductions that do not match those projected, SCAQMD included in the revised plan an additional enforceable commitment to achieve emission reduction targets in future years (1999

Amendment, pp. 2–18 and 2–19). This complementary commitment is shown below in the table titled “Table 3—Emission Reduction Commitments.” In order to ensure expeditious progress, SCAQMD commits to achieve these emission reductions even if control measures are determined to be infeasible.

TABLE 3.—EMISSION REDUCTION COMMITMENTS
[In tons per day for 2010 Planning Inventory.]

Year	Based on adoption date		Based on implementation date*	
	VOC	NO _x	VOC	NO _x
1999	11.0	7.6		
2000	10.0			
2001	4.0			
2002	9.3		14.8	
2003	13.8		0.9	
2004			7.3	
2005				
2006			4.0	
2007			4.0	
2008			17.1	
Total	48.1	7.6	48.1	7.6

*Represents the final, full implementation date; typically, a rule contains multiple implementation dates.

The 1999 amendment provides the following clarification on the “currency” that will be used in determining emission reduction progress under the revised ozone plan: “For purpose of tracking the progress in emission reductions, the baseline emissions for the year 2010 planning inventory (summer inventory for ozone) in the 1997 AQMP will be used, regardless of any subsequent new inventory information that reflects more

recent knowledge. This is to assure that the same “currency” is used in measuring progress as was used in designing the AQMP. This will provide a fair and equitable measurement of progress. Therefore, whether progress is measured by emission reductions or by remaining emissions for a source category provides no material difference.” (Page 2–16) We propose to accept the use of this approach for determinations of compliance with

emission reduction commitments associated with the control measures in the revised ozone plan.

The new or amended control measure commitments in the revised ozone plan replace 31 control measure commitments contained in the 1994 ozone SIP. These measures are listed in the table below labeled “Table 4—Measures Deleted from the 1994 Ozone SIP.”

TABLE 4.—MEASURES DELETED FROM THE 1994 OZONE SIP

Control measure No.	Control measure title
CTS-A	Electronic Components
CTS-C	Solvent Cleaning
CTS-D	Marine/Pleasure Craft Coatings
CTS-E	Adhesives
CTS-F	Motor Vehicle Non-Assembly Coating
CTS-G	Paper/Fabric/Film Coatings
CTS-H	Metal Parts/Product Coatings
CTS-I	Graphic Arts/Screen Printing
CTS-J	Wood Products Coatings,
CTS-K	Aerospace/Component Coatings
CTS-L	Automotive Assembly Operations
CTS-07	Architectural Coatings
FUG-01	Organic Liquid Transfer
FUG-02	Active Draining of Liquid Products
FUG-04	Fugitive Emissions of VOCs
RFL-02	Gasoline Dispensing Facilities
RFL-03	Pleasure-Boat Fueling Operations
CMB-02F	Internal Combustion Engines
CMB-05	Clean Stationary Fuels
PRC-02	Bakeries
PRC-03	Restaurant Operations
WST-01	Livestock Waste
WST-03	Waste Burning
WST-04	Disposal of Materials Containing VOCs

TABLE 4.—MEASURES DELETED FROM THE 1994 OZONE SIP—Continued

Control measure No.	Control measure title
ISR-01	Special Events Centers
ISR-02	Shopping Centers
ISR-03	Registration and Commercial Vehicles
ISR-04	Airport Ground Access
ISR-05	Trip Reduction for Schools
ADV-CTS-02	Advanced Technology—Coatings

Appendix A of the 1999 Amendment presents SCAQMD's reasons for replacing these control measures.

c. Long-Term Control Measure Commitments

Section 182(e)(5) of the Act allows an extreme ozone nonattainment area additional time, if necessary, beyond the November 15, 1994 ozone SIP submittal deadline, to develop, adopt, and submit some of the specific regulations and programs needed to achieve attainment. The CAA allows us to approve plans based on long-term measures if the State demonstrates that the measures are not needed to meet ROP requirements during the first 10 years and if the State has submitted enforceable commitments to adopt contingency measures to be

implemented if the long-term measures do not achieve planned reductions.

None of the long-term measures in the revised ozone plan are scheduled for implementation during the period 1990–2000, and the plan meets CAA requirements for ROP without reliance on the long-term measures, which are needed only for attainment. The revised ozone plan identifies additional measures beyond those credited with reductions toward ROP or attainment, to be scheduled for adoption and implementation in the future. The plan also provides a range of additional emission reductions from several of the short- and intermediate-term measures that may contribute additional emission reductions creditable against all or part of the long-term measure commitments.

In addition, the 1999 Amendment includes SCAQMD commitments to submit semi-annual progress reports on meeting the District's commitments, and to hold annual workshops on identifying new controls to minimize, and potentially eliminate, reliance on long-term measures.

Because of SCAQMD's success in accelerating long-term control measures, there remain in the revised ozone plan only 28 tpd of VOC assigned to this special category of measures, which is authorized for extreme ozone areas under CAA section 182(e)(5). The table entitled "Table 5—Long-Term Control Measures" displays SCAQMD's long-term measure commitments in the revised ozone plan.

TABLE 5—LONG—TERM CONTROL MEASURES
[2010 VOC reduction in tons per summer day]

Control measure	Title	Adoption date	Implementation date	Emission reductions
ADV-CLNG	Solvent Cleaning and Degreasing Operations	2003-4	2005	16
ADV-CTS	Miscellaneous Industrial Coating and Solvent Operations	2003-5	2006-10	6
ADV-FUG	Fugitive Emissions	2003-5	2006-10	5
ADV-PRC	Industrial Process Operations	2003-5	2006-10	1
Total reductions	28

3. Does the revised ozone plan meet the CAA requirements for control measures?

a. Short- and intermediate-term control measure commitments

In our proposed action on the 1997 ozone plan, we proposed to disapprove the near-term control measures because: (1) SCAQMD had already failed to adopt many of the measures by the scheduled date; (2) the control measures represented an impermissible relaxation of the 1994 ozone SIP; and (3) the SIP included unlawful assignments of control measures to the Federal government (64 FR 1775–7). SCAQMD has remedied the first deficiency and is currently on schedule with regard to the commitments in the revised ozone plan. The recently adopted rules and the short-and intermediate-term control measure commitments, as revised in the 1999 Amendment, cure the second

deficiency by accelerating emission reduction progress beyond the level set out in the 1997 plan and thereby eliminating our concern regarding backsliding from the 1994 ozone SIP. The third deficiency was remedied by our recent rulemaking concluding the Public Consultative Process (64 FR 39923, July 23, 1999).

We now propose to approve, under CAA section 110(k)(3), the enforceable SCAQMD commitments to adopt and implement the short-and intermediate-term control measures, and to implement those measures that have already been adopted in regulatory form, by the dates specified to achieve the emission reductions shown above in Tables 1, 2, and 3. We are proposing to assign credit to these measures for purposes of the attainment demonstration in the revised ozone plan. We propose to approve

SCAQMD's commitment to achieve the overall emission reduction schedule in Table 3, which provides the basis for allowing alternative or revised measures to substitute for those identified in Table 2, so long as SCAQMD continues to meet the Table 3 schedule for adopting and implementing regulations to achieve specific levels of emissions reduction. Finally, we propose to approve the deletion of the 31 control measures from the 1994 ozone SIP, listed above in Table 4.

b. Long-Term Measure Commitments

In our proposed action on the 1997 ozone plan, we proposed to disapprove the long-term control measures because the 1997 plan increased the proportion of reductions assigned to the long-term category, and we believed that CAA section 182(e)(5) did not authorize us to approve SIP revisions that postpone SIP

commitments in the near-term and shift the balance of the SIP toward more distant and less specific commitments (64 FR 1777). The revised ozone plan remedies this deficiency by dramatically reducing the emission reductions assigned to this category.

We therefore propose to approve, as meeting CAA section 182(e)(5), the SCAQMD commitments to adopt and implement the long-term control measures in Table 4, and we propose to assign the emission reductions from these measures to the attainment demonstration in the revised ozone plan. As mentioned above, however, SCAQMD may satisfy all or a part of its long-term control measure obligations by adopting near-and intermediate-term control measures that achieve more emission reductions than assigned to these measures in Table 2.

E. Does the plan show reasonable further progress?

1. What are the applicable CAA requirements?

CAA sections 182(c)(2) and (e) require that extreme area ozone SIPs include quantitative milestones that are to be achieved every 3 years until attainment, and that demonstrate reasonable further progress (RFP) toward attainment by the applicable date. CAA section 171(a) of the Act defines RFP as “such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.”

For ozone areas classified as serious or above, section 182(c)(2) requires that the SIP must provide for reductions in ozone-season, weekday VOC emissions of at least 3 percent per year net of growth averaged over each consecutive 3-year period beginning in 1996 until

the attainment date. This is in addition to the 15 percent reduction over the first 6-year period required by CAA section 182(b)(1) for areas classified as moderate and above.

2. How Does the Revised Ozone Plan Address These Requirements?

The revised ozone plan shows reductions consistent with the 3 percent per year rate of progress requirement for 1997–1999 and 2000–2002 through use of VOC emission reductions from currently adopted regulations. For 2003–2005, 2006–2008, and 2009–2010 milestone periods, however, the plan does not have enough creditable VOC reductions to meet the milestones, and must substitute NOx reductions, as allowed by CAA section 182(c)(2)(C). As shown below in the table entitled “Table 6—Rate-of-Progress Plan,” NOx substitution accounts for 3.6 percent of the required 9 percent reduction between 2003–2005; 8.5 percent between 2006–2008; and 0.5 percent between 2009–2010.

TABLE 6.—RATE-OF-PROGRESS PLAN
[Emissions Rounded to Nearest Ton per Day]

	1999		2002		2005		2008		2010	
	VOC	NO _x								
Adjusted 1990 Base Year	1527	1472	1515	1472	1510	1472	1509	1472	1509	1472
Required Percent Reduction	24	0	9	0	5.4	3.6	0.5	8.5	0.5	8.5
Required Reductions	367	0	136	0	82	53	8	125	8	81
Emissions Target	1161	1472	1012	1472	926	1419	917	1294	909	1213
Emissions (Adopted Rules)	982	956	946	859	918	797	913	764	909	751
Emissions (Counting Reductions from Commitments) ..	939	935	826	815	708	695	587	609	414	530

The 1999 Amendment significantly increases VOC reductions in all interim milestone years, compared to the 1997 ozone plan.

3. Does the Revised Ozone Plan Meet the CAA Requirements?

As shown by Table 6, the revised ozone plan meets the ROP requirements based entirely on fully adopted regulations. Taking into account reductions from SCAQMD and CARB enforceable commitments, implementation of the plan should result in reductions in excess of the

minimum ROP requirement (compare the last line in Table 6 to the emissions target for each milestone year). This is appropriate, given the enormous reductions required for this area to reach attainment.

Compliance with the milestone and RFP provisions of the Act requires that all of the creditable emission reductions be approved as enforceable parts of the SIP (General Preamble, April 16, 1992, at 57 FR 13517). Because we proposed to disapprove the control measure provisions in the 1997 ozone plan, we

also proposed to disapprove the plan with respect to the CAA section 182(c)(2) quantitative milestone and reasonable further progress requirements. As discussed above, however, we now propose to approve the control measures in the revised ozone plan, and therefore propose to approve the new plan as meeting the quantitative milestone and RFP requirements of CAA section 182(c)(2).

F. Does the Plan Provide for Attainment?

1. What are the Applicable CAA Requirements?

CAA sections 182(c)(2)(A) and (e) require that ozone SIPs for areas classified as extreme demonstrate attainment of the ozone NAAQS by the applicable deadline—in the case of the South Coast, as expeditiously as practicable but not later than November 15, 2010. CAA section 181(a)(1). The demonstration must be based upon photochemical grid modeling or any other analytical method determined to be at least as effective.

2. How Does the Revised Ozone Plan Address These Requirements?

As discussed above, the modeling approach in the revised ozone plan is consistent with our modeling guidelines. The modeling analysis shows that attainment of the ozone NAAQS will require reducing ozone precursors to the following summer day levels: 413 tpd VOC and 530 tpd NO_x. These levels are frequently called the “carrying capacity” of the area. The enforceable emission reductions in the revised ozone plan will reduce 2010 baseline emissions to these attainment levels, as shown in the table entitled “Table 7—Ozone Attainment Demonstration.”

TABLE 7.—OZONE ATTAINMENT DEMONSTRATION
[In tons per summer day]

	VOC	NO _x
1990 baseline emissions	1733	1472
2010 baseline emissions (assuming reductions from all rules adopted as of 9/96)	839	727
Plan reductions from baseline ..	426	197
2010 emissions assuming reductions from plan implementation	413	530
Carrying capacity	413	530
Percent reduction from 1990 baseline emissions	76%	64%

3. Does the Revised Ozone Plan Meet the CAA Requirements?

The revised ozone plan includes enforceable measures and commitments

that will achieve the ozone precursor reductions needed to reach attainment, as established in a modeling analysis consistent with our guidelines. Moreover, the stringent new measures, aggressive implementation schedules, and accelerated progress in the revised ozone plan also meet the expeditious attainment requirement of CAA section 181(a). We therefore propose to approve the attainment demonstration under CAA section 182(c)(2).

G. Are the emissions budgets approvable?

1. Motor vehicle emissions budgets

Attainment demonstration submittals must specify the maximum motor vehicle emissions allowed in the attainment year and demonstrate that this emissions level, when considered with emissions from all other sources, is consistent with attainment. In order for us to find the budget adequate and approvable, the submittal must meet the conformity adequacy requirements of 40 CFR 93.118(e)(4) and be approvable under all pertinent SIP requirements.

The motor vehicle emissions caps defined by this and other plans when they are approved into the SIP are used to determine the conformity of transportation plans, programs, and projects to the SIP, as described by CAA section 176(c)(2)(A). For more detail on this part of the conformity requirements see 40 CFR 93.118. For transportation conformity purposes, the cap on motor vehicle emissions is known as the motor vehicle emissions budget. The budget must reflect all of the motor vehicle control measures contained in the attainment demonstration (40 CFR 93.118(e)(4)(v)).

The motor vehicle emissions budgets in the revised ozone plan for 2010 are 80.7 tpd VOC and 277.8 tpd NO_x. These budgets were developed using the State’s EMFAC7G motor vehicle emissions factors. We propose to approve the budgets as consistent with all of the adequacy criteria of 40 CFR 93.118(e)(4), including consistency with the 2010 baseline emissions inventory, the motor vehicle control measure emission reductions used in the attainment demonstration, and the reductions needed for attainment.

In the near future, CARB is expected to issue refinements to the emissions factors for use in transportation conformity determinations. The refinements would more accurately reflect emission reductions associated with the State’s motor vehicle inspection and maintenance (I/M) program and other motor vehicle controls.¹¹ These refinements must be used in conformity determinations, in accordance with our transportation conformity regulations, which require use of the most current and accurate information (40 CFR 93.110(e), 122(a)(2)). Subsequent budgets will reflect these changes and any new or modified control measures.

2. General Conformity Emissions Budgets

CAA section 176(c)(1) provides that “No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which does not conform to an implementation plan. . . .” This provision establishes requirements for “general conformity,” as distinct from “transportation conformity,” discussed above.¹² General conformity must be based on the most recent estimates of emissions in the federally approved SIP.

The revised ozone plan establishes new emissions budgets for ROP milestone years for each source category. The budgets appear in Table 4–9 of Appendix V of the 1997 ozone revision, and are modified by Table 2–6 of the 1999 Amendment, which reduces the stationary source VOC emissions consistent with the new and accelerated SCAQMD control measures in the 1999 Amendment. The emissions budgets as revised by the 1999 Amendment appear below in the table entitled “Table 8—Emissions Budgets by Milestone Year.”

¹¹ The updated emission reductions which, among other things, would reflect more accurately the I/M program as compared to the 1994 submittal, are necessary in the case of I/M to account for a legislative change to the program in 1997.

¹² For more details on the general conformity requirements, you should consult 40 CFR 51.850–51.860 and 40 CFR part 93.

TABLE 8.—EMISSIONS BUDGETS BY MILESTONE YEAR
[In tons per day]

Year	Stationary		Onroad		Nonroad		Total	
	VOC	NO _x	VOC	NO _x	VOC	NO _x	VOC	NO _x
1999	435.2	115.7	354.0	526.8	137.3	292.6	938.6	935.1
2002	402.4	96.7	273.1	447.1	125.1	270.7	826.1	814.5
2005	334.4	91.4	206.0	369.1	116.6	234.0	707.6	694.5
2008	305.1	91.4	145.4	310.1	106.7	209.2	587.4	609.0
2010	267.6	88.3	80.7	277.8	65.1	164.3	413.6	530.4

Final approval of the revised ozone plan would establish these budgets for purposes of general conformity under CAA section 176(c)(1), replacing the budgets in the 1994 ozone SIP. Thus, projects requiring general conformity determinations may be able to show that emissions from the project are specifically included in the revised ozone plan's attainment demonstration (see, 40 CFR 93.158(a)(1)).

H. What are the implications of EPA's proposed plan approval?

If we finalize the proposed approval of the revised ozone plan, this plan would replace and supersede the 1994 ozone SIP with the exception of the State control measures for mobile sources, consumer products, and pesticides, and EPA's commitment. These State measures remain unchanged from those approved as part of the 1994 ozone SIP. Final approval would also set new emissions budgets for purposes of conformity.

Our final approval would also make enforceable the SCAQMD commitments to adopt and implement the control measures and regulations listed above in Tables 1, 2, and 5, to achieve the specified emissions reductions, computed consistently with the assumptions in the plan's emissions inventory. Similarly, final plan approval would make enforceable the SCAQMD commitment to achieve the overall emission reduction schedule in Table 3, and this would create the possibility of SCAQMD control measure adjustments and substitutions under the approved SIP, so long as the emission reduction obligations of Table 3 are met.¹³

As discussed in section I.E. above, CARB and SCAQMD intend to adopt and submit a comprehensive revision to the ozone plan in 2001. This new plan will use an entirely new UAM attainment analysis, updated and corrected baseline and projected emissions information, and updates to the control measures to reflect the

current status of the measures and any changes to the measures that may be required to meet the emission reduction needs in the new attainment demonstration or to ensure that the SIP emission reduction commitments are met. We strongly support the timely completion of this new comprehensive revision to refine and enhance the technical foundations of the attainment demonstration and update the control measures, as necessary.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with

State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the

¹³ Once a substitute control measure has been adopted as a regulation and submitted as a SIP revision, we will undertake formal rulemaking, with opportunity for public comment, on the regulation.

Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995

("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, the EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this proposed action. Today's proposed action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: January 28, 2000.

Nora L. McGee,

Acting Regional Administrator, Region IX.

[FR Doc. 00-2827 Filed 2-7-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Docket No. NH040-7167b; FRL-6532-3]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: New Hampshire; Plan for Controlling Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the Sections 111(d)/129 State Plan submitted by the New Hampshire Department of Environmental Services (DES) on June 2, 1999. This State Plan is for carrying out and enforcing provisions that are at least as protective as the Emissions Guidelines (EG) applicable to certain existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) units in accordance with sections 111 and 129 of the Clean Air Act. The New Hampshire DES submitted the Plan to satisfy certain Federal Clean Air Act requirements. In the Final Rules Section of the **Federal Register**, EPA is approving the New Hampshire State Plan submittal as a direct final rule without a prior proposal. EPA is doing this because the Agency views this action as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule elsewhere in this **Federal Register**. If EPA does not receive any significant, material, and adverse comments to this action, then the approval will become final without further proceedings. If EPA receives adverse comments, the direct final rule will be withdrawn and EPA will address all public comments received in a subsequent final rule based on this proposed rule. EPA will not begin a second comment period.

DATES: EPA must receive comments in writing by March 9, 2000.

ADDRESSES: You should address your written comments to: Mr. Brian Hennessey, Acting Chief, Air Permits Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114-2023.

Copies of documents relating to this proposed rule are available for public inspection during normal business hours at the following locations. The