

may result in hazardous radiation exposure.

(v) In the case of laser products other than laser systems, a statement of the compatibility requirements for a laser energy source that will assure compliance of the laser product with this section and, if applicable, with § 1040.11.

(vi) For Class 1M and 2M laser products, an additional warning is required. This warning must state that viewing the laser output with optical instruments may result in an eye hazard for Class 1M or an increased eye hazard for Class 2M.

(2) *Purchasing and servicing information.* Manufacturers of laser products must provide or cause to be provided:

(i) In all catalogs, specification sheets, and descriptive brochures pertaining to each laser product, a statement of the class designation of the laser product.

(ii) To servicing dealers and distributors and to others upon request at a cost not to exceed the cost of preparation and distribution, adequate instructions for radiation safety procedures during service. The radiation safety procedures must include:

(A) Precautions to be taken to avoid possible exposure of service and other personnel to hazardous levels of laser and collateral radiation,

(B) A listing of controls and procedures that could be utilized by persons other than the manufacturer or the manufacturer's agents to increase the hazard by increasing accessible levels of radiation,

(C) A description of the displaceable portions of protective housings that could allow human access to hazardous levels of laser or collateral radiation, and

(D) Legible reproductions (color optional) of required labels and hazard warnings required by paragraph (g) of this section and, if applicable, by § 1040.11, to be affixed to the laser product or provided with the laser product.

(i) *Modification of certified laser products.* The modification of a laser product previously certified under § 1010.2 of this subchapter by any person engaged in the business of manufacturing, assembling, or modifying laser products constitutes manufacturing under the Federal Food, Drug, and Cosmetic Act if the modification affects any aspect of the product's performance or intended function(s) for which this section or § 1040.11 have an applicable requirement. The person who performs such modification must recertify and re-

identify the product in accordance with the provisions of §§ 1010.2 and 1010.3 of this subchapter.

■ 10. Section 1040.11 is revised to read as follows:

**§ 1040.11 Specific purpose laser products.**

(a) *Medical laser products.* Each medical laser product must comply with all of the applicable requirements of § 1040.10 for laser products of its class. In addition, such products must comply with the following specified clauses and subclauses of IEC 60601–2–22:2007 and IEC 60825–1:2007 (incorporated by reference; see § 1040.5).

(1) Instructions for use, subclause 201.7.9.2 of IEC 60601–2–22:2007;

(2) Protection against unwanted and excessive radiation hazards, clause 201.10 of IEC 60601–2–22:2007, except for:

(i) Applicability to medical LED products, and

(ii) Emission indicator, subclause 201.10.4(e) of IEC 60601–2–22:2007, for which subclause 4.7 of IEC 60825–1:2007 is applicable;

(3) Indication of laser output, subclause 201.12.1.101 of IEC 60601–2–22:2007;

(4) Indication of parameters relevant to safety, subclause 201.12.4.2 of IEC 60601–2–22:2007;

(5) Calibration procedures, subclause 201.7.9.2.101, 4th dash of IEC 60601–2–22:2007;

(6) Incorrect output, subclause 201.12.4.4 of IEC 60601–2–22:2007; and

(7) Emergency laser stop, subclause 201.12.4.4.101 of IEC 60601–2–22:2007.

(b) *Surveying, leveling, and alignment laser products.* Each surveying, leveling, or alignment laser product must comply with all of the applicable requirements of § 1040.10 for a Class 1, 2, or 3R laser product and must not permit human access to laser radiation in excess of the accessible emission limits of Class 3R.

(c) *Demonstration laser products.* Each demonstration laser product must comply with all of the applicable requirements of § 1040.10 for a Class 1, 2, or 3R laser product and must not permit human access to laser radiation in excess of the accessible emission limits of Class 3R.

(d) *Children's toy laser products.* Each children's toy laser product must comply with all of the applicable requirements of § 1040.10 for a Class 1 laser product and must not permit human access to laser radiation in excess of the accessible emission limits of Class 1 under any conditions of operation, maintenance, service, or failure. If a children's toy laser product also meets the definition of a demonstration laser product or

surveying, leveling, and alignment laser product, then the classification limit for children's toy laser product applies.

(e) *Laser products procured by the U.S. Department of Defense (DOD).* Laser products procured by the DOD for use in combat, combat training, or that are classified in the interest of national security are exempt from the other provisions of this section, and from §§ 1002.10, 1002.11, 1002.13 of this subchapter, and those provisions of § 1040.10 that are determined not to be appropriate for the intended military application. In order for this exemption to apply to a specific laser product, the manufacturer of such product shall obtain a letter from an authorized DOD procuring Agency that applies the exemption to the products. The exemption letter must be obtained prior to sale and must be retained for subsequent sales of the exempted products under the specific contract to any DOD Agency.

Dated: June 18, 2013.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2013–14846 Filed 6–21–13; 8:45 am]

**BILLING CODE 4160–01–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2013–0384; FRL–9826–2]

**Approval and Promulgation of Implementation Plans; California; South Coast; Contingency Measures for 1997 PM<sub>2.5</sub> Standards**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a state implementation plan (SIP) revision submitted by California to address Clean Air Act (CAA) contingency measure requirements for the 1997 annual and 24-hour national ambient air quality standards (NAAQS) for fine particulate matter (PM<sub>2.5</sub>) in the Los Angeles-South Coast Air Basin (South Coast). Final approval of this SIP revision would terminate the sanctions clocks and a federal implementation plan (FIP) clock that were triggered by EPA's partial disapproval of a related SIP submission on November 9, 2011 (76 FR 69928).

**DATES:** Any comments must arrive by July 24, 2013.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–

OAR–2013–0384, by one of the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

- *Email:* [lo.doris@epa.gov](mailto:lo.doris@epa.gov).
- *Mail or deliver:* Marty Robin, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically on the [www.regulations.gov](http://www.regulations.gov) Web site and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

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

- California Air Resources Board, 1001 I Street, Sacramento, California 95814, and
- South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, California 91765.

**FOR FURTHER INFORMATION CONTACT:** Doris Lo, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region 9, (415) 972–3959, [lo.doris@epa.gov](mailto:lo.doris@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to EPA.

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#### I. Background

On July 18, 1997 (62 FR 36852), EPA established new national ambient air quality standards (NAAQS) for PM<sub>2.5</sub>, particulate matter with a diameter of 2.5 microns or less, including annual standards of 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations, and 24-hour (daily) standards of 65 µg/m<sup>3</sup> based on a 3-year average of the 98th percentile of 24-hour concentrations. 40 CFR 50.7. Effective April 5, 2005, EPA designated the “Los Angeles-South Coast Air Basin” in California (South Coast), including Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County, as nonattainment for the 1997 24-hour and annual PM<sub>2.5</sub> standards. See 70 FR 944 (January 5, 2005) and 40 CFR 81.305.<sup>1</sup> The local air district with primary responsibility for developing a plan to attain the PM<sub>2.5</sub> NAAQS in this area is the South Coast Air Quality Management District (SCAQMD or District).

California has made numerous SIP submittals to address the South Coast area’s nonattainment designation for the 1997 PM<sub>2.5</sub> NAAQS. The two principal ones are the SCAQMD’s “Final 2007 Air Quality Management Plan” (South Coast 2007 AQMP), submitted on November 28, 2007, and the California Air Resources Board’s (CARB’s) “State Strategy for California’s 2007 State Implementation Plan” (2007 State Strategy), submitted on November 16, 2007 and revised in 2009 and 2011 through CARB’s “2009 State Strategy Status Report” and “2011 Progress Report.”

On November 9, 2011, EPA partially approved and partially disapproved the

<sup>1</sup> EPA has also designated the South Coast area as nonattainment for the more stringent 24-hour PM<sub>2.5</sub> NAAQS of 35 µg/m<sup>3</sup>, which EPA promulgated on October 17, 2006 and codified in 40 CFR 50.13. 74 FR 58688 (November 13, 2009). In this preamble, all references to the PM<sub>2.5</sub> NAAQS, unless otherwise specified, are to the 1997 24-hour PM<sub>2.5</sub> standards of 65 µg/m<sup>3</sup> and annual standards of 15 µg/m<sup>3</sup> as codified in 40 CFR 50.7.

South Coast 2007 AQMP and the 2007 State Strategy (collectively the “South Coast PM<sub>2.5</sub> SIP”). 76 FR 69928. As part of this action, EPA disapproved the contingency measure provisions in the South Coast PM<sub>2.5</sub> SIP as failing to meet the requirements of CAA section 172(c)(9) and 40 CFR 51.1012, which require that the SIP for each PM<sub>2.5</sub> nonattainment area contain contingency measures to be implemented if the area fails to make reasonable further progress (RFP) or to attain the NAAQS by the applicable attainment date. See 76 FR 41578–41580 (July 14, 2011) and 76 FR 69947 (November 9, 2011). EPA found that the suggested contingency measures contained in the South Coast PM<sub>2.5</sub> SIP did not meet the minimum CAA requirements because, among other things, the measures were not fully adopted and the District had failed to quantify the SIP-creditable emission reductions they would achieve. *Id.*

As EPA explained in the proposed rule, contingency measures must be fully adopted rules or control measures that are ready to be implemented quickly without significant additional action by the State, must be measures not relied on in the plan to demonstrate RFP or attainment, and should provide SIP-creditable emissions reductions equivalent to one year of RFP. See 76 FR 41652 (July 14, 2011) at 41578; see also “Final Technical Support Document and Response to Comments, Final Rulemaking Action on the South Coast 2007 AQMP for PM<sub>2.5</sub> and the South Coast Portions of the Revised 2007 State Strategy,” Air Division, U.S. EPA Region 9, September 30, 2011 (“Final TSD for South Coast PM<sub>2.5</sub> SIP”) at pp. 123–130. Additionally, the SIP should contain trigger mechanisms for the contingency measures and specify a schedule for their implementation. *Id.*

Although CARB’s 2011 Progress Report demonstrated that existing CARB mobile source measures would achieve 24 tons per day (tpd) of NO<sub>x</sub> reductions and 13 tpd of VOC reductions in 2015, the year after the attainment year, EPA found that these measures alone were not adequate to satisfy the Act’s contingency measure requirements. See 76 FR 41478–80 and 76 FR 69947–8, 69952. Specifically, EPA reviewed the information provided in the 2011 Progress Report and found that these post-attainment year emission reductions were not sufficient to achieve one year’s worth of RFP on a pollutant-specific basis.<sup>2</sup> 76 FR 41579–

<sup>2</sup> EPA estimated one year’s worth of RFP to be approximately 49 tpd of NO<sub>x</sub>, 29 tpd of VOC, 0.7 tpd of direct PM<sub>2.5</sub> and 3.8 tpd of SO<sub>x</sub> reductions. See Final TSD at Table I–2 (pg. 128). Thus, the 24

41580. EPA also found that the South Coast PM<sub>2.5</sub> SIP did not address the contingency measure requirement for the 2012 RFP year. *Id.* at Table 9. Accordingly, EPA disapproved the contingency measure provisions in the South Coast PM<sub>2.5</sub> SIP for failure to satisfy the Act's contingency measure requirements for the 2012 RFP year and for the 2015 attainment date. *Id.* at 41580 and 76 FR 69952.

## II. Summary of California Submittal

On November 14, 2011, CARB submitted the "South Coast Air Quality Management District Proposed Contingency Measures for the 2007 PM<sub>2.5</sub> SIP" (dated October 2011) ("Contingency Measures SIP") as a revision to the California SIP. The November 14, 2011 submittal includes a copy of the Contingency Measures SIP itself; a letter dated November 14, 2011 from James N. Goldstene, Executive Officer, California Air Resources Board, to Jared Blumenfeld, Regional Administrator, U.S. Environmental Protection Agency Region 9, submitting the adopted Contingency Measures SIP for EPA review; CARB Executive Order S-11-023 adopting the Contingency Measures SIP; a letter dated October 26, 2011 from Barry R. Wallerstein, Executive Officer, SCAQMD, to James Goldstene, Executive Officer, CARB, submitting the adopted Contingency Measures SIP for CARB review and approval; SCAQMD Resolution No. 11-24 approving the Contingency Measures SIP; and public process documentation.

On April 24, 2013, the District submitted a technical clarification to the Contingency Measures SIP, including updated emissions data for 2012. *See* letter dated April 24, 2013, from Elaine Chang, Deputy Executive Officer, SCAQMD, to Deborah Jordan, Director, Air Division, EPA Region 9, Re: "Update of the 2012 RFP Emissions and 2015 Reductions from Contingency Measures for the 2007 Annual PM<sub>2.5</sub> Air Quality Management Plan for the South Coast Air Basin," including attachments (hereinafter "2013 Supplement").

The Contingency Measures SIP, as supplemented in 2013, contains: (1) The District's demonstration that actual emission levels in the South Coast in 2012 were below the RFP "benchmarks" for the 2012 RFP year; (2) identification of SIP-creditable control measures that will provide emission reductions in 2015 in excess of those relied on to demonstrate RFP and attainment; and

tpd of NO<sub>x</sub> reductions and 13 tpd of VOC reductions achieved in 2015 by CARB's mobile source measures would amount to approximately half of those NO<sub>x</sub> and VOC measures needed to achieve one year's worth of RFP reductions.

(3) the SCAQMD's analysis of significant air quality improvements in the South Coast area that the District believes EPA should take into account in its review of and action on the SIP submission.

## III. EPA Review of the SIP Revision

### A. SIP Procedural Requirements

CAA sections 110(a) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, of a public hearing on the proposed revisions, a public comment period of at least 30 days, and an opportunity for a public hearing.

CARB's SIP submission includes public process documentation for the Contingency Measures SIP, including documentation of a duly noticed public hearing held by the District on October 7, 2011 on the proposed Contingency Measures SIP. On November 14, 2011, CARB adopted the Contingency Measures SIP as a revision to the California SIP and submitted it to EPA for action pursuant to CAA section 110(k).<sup>3</sup> We find that the process followed by CARB and the District in adopting the Contingency Measures SIP complies with the procedural requirements for SIP revisions under CAA section 110 and EPA's implementing regulations.

### B. Substantive Requirements for Contingency Measures

Section 172(c)(9) of the CAA requires that the SIP for each nonattainment area "provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the [NAAQS] by the attainment date applicable under [part D of title I]" and requires that these measures "take effect without further action by the State or EPA." The Act does not specify how many contingency measures are required or the magnitude of emissions reductions that must be provided by these measures. Consistent with the text of section 172(c)(9), however, these measures must be specific, adopted measures that are ready to be implemented quickly upon failure to meet RFP or failure of the area

<sup>3</sup>The 2013 Supplement is not subject to additional procedural requirements under the Act as it is a technical clarification that does not alter the substance of the Contingency Measures SIP.

to meet the standard by its attainment date.<sup>4</sup>

EPA provided guidance on the section 172(c)(9) contingency measure requirement in an interpretative document entitled "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992) ("General Preamble"). As EPA explained in the General Preamble, "contingency measures should, at a minimum, ensure that an appropriate level of emissions reduction progress continues to be made if attainment [or] RFP is not achieved and additional planning by the State is needed." 57 FR 13511. These emission reductions would be in addition to those that were already scheduled to occur in accordance with the plan for the area. *Id.* at n. 2 and 13543-544. Additionally, States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review. In general, EPA expects all actions needed to effect full implementation of the measures to occur within 60 days after EPA notifies the State of its failure. 57 FR 13512 and 13543-544; *see also* 59 FR 41998 at 42014-42015 (August 16, 1994) ("PM-10 Addendum").

Consistent with these longstanding interpretations of the Act, EPA explained in the preamble to its 2007 implementation rule for the 1997 PM<sub>2.5</sub> NAAQS that the SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measures will be implemented without significant further action by the State or EPA. *See* 72 FR 20586 at 20642-20645 (April 25, 2007) and 40 CFR 51.1012.<sup>5</sup>

<sup>4</sup>We refer to those measures addressing failure to make RFP as "RFP contingency measures" and those measures addressing failure to attain as "attainment contingency measures."

<sup>5</sup>Although the U.S. Court of Appeals for the District of Columbia (DC Circuit) recently remanded this rule and directed EPA to re-promulgate it pursuant to subpart 4 of part D, title I of the CAA (*see Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir., Jan. 4, 2013)), the court's ruling in this case does not affect EPA's action on the Contingency Measures SIP. Subpart 4 of part D, title I of the Act contains no specific provision governing contingency measures for PM<sub>10</sub> or PM<sub>2.5</sub> nonattainment areas that supersedes the general contingency measure requirement for all nonattainment areas in CAA section 172(c)(9). Thus, even if EPA applies the subpart 4 requirements to our evaluation of the Contingency Measures SIP and disregards the provisions of the 2007 PM<sub>2.5</sub> implementation rule recently remanded by the court, the general requirement for contingency measures in CAA section 172(c)(9) and

Continued

Contingency measures can include federal measures and local measures already scheduled for implementation that provide emissions reductions in excess of those needed to provide for RFP or expeditious attainment. The key is that the statute requires that contingency measures provide for additional emission reductions that are not relied on for RFP or attainment and that are not included in the RFP or attainment demonstrations. The purpose is “to provide a cushion while the plan is being revised to meet the missed milestone.” 72 FR 20642–20643. Nothing in the statute precludes a State from implementing such measures before they are triggered. *See, e.g., LEAN v. EPA*, 382 F.3d 575 (5th Cir. 2004) (upholding contingency measures that were previously required and implemented and which provided emissions reductions in excess of those in the attainment demonstration and RFP SIP).

The EPA has approved numerous SIPs under this interpretation—*i.e.*, SIPs that use as contingency measures one or more federal or local measures that are in place and provide reductions that are in excess of the reductions required by the attainment demonstration or RFP plan. *See, e.g.*, 62 FR 15844 (April 3, 1997) (direct final rule approving Indiana ozone SIP revision); 62 FR 66279 (December 18, 1997) (final rule approving Illinois ozone SIP revision); 66 FR 30811 (June 8, 2001) (direct final rule approving Rhode Island ozone SIP revision); 66 FR 586 (January 3, 2001) (final rule approving District of Columbia, Maryland, and Virginia ozone SIP revisions); and 66 FR 634 (January 3, 2001) (final rule approving Connecticut ozone SIP revision). The State may use the same measures for purposes of both RFP and attainment contingency if the measures will provide reductions in the relevant years. Should these measures first be triggered for failure to make RFP, however, the State would need to submit replacement contingency measures for attainment purposes. *See* 57 FR 13511.

With respect to the level of emission reductions associated with contingency measures, EPA has recommended that states consider “the potential nature and extent of any attainment shortfall for the area” and the amount of actual emissions reductions required by the SIP control strategy to attain the standards. PM–10 Addendum at 42015; *see also* 72 FR 20643. The contingency measures are to be implemented in the event that the area does not meet RFP

or attain the standards by the attainment date, and “should represent a portion of the actual emissions reductions necessary to bring about attainment in [the] area.” 72 FR 20643. Generally, EPA has recommended that the emissions reductions anticipated by the contingency measures should be equal to approximately 1 year’s worth of emissions reductions necessary to achieve RFP for the area. *See id.* and PM–10 Addendum at 42015.

#### 1. 2012 RFP Contingency Measures

The Contingency Measures SIP states that the District has identified several already-adopted rules that will achieve additional emission reductions for the 2012 RFP year beyond those reductions already accounted for in the South Coast PM<sub>2.5</sub> SIP. Additionally, the Contingency Measures SIP provides the District’s rationale for concluding that significant PM<sub>2.5</sub> air quality improvements in the South Coast area should be accounted for in evaluating the 2012 RFP contingency measure requirement for the area. *See* Contingency Measures SIP at 5–11. Finally, the 2013 Supplement to the Contingency Measures SIP provides a demonstration that the South Coast area achieved its 2012 RFP benchmarks. Based on our review of the District’s analyses and our independent review of available PM<sub>2.5</sub> air monitoring data for the 2002 to 2012 period, EPA is proposing to find that the RFP requirement for the 2012 RFP year has been met and that, therefore, the contingency measure requirement for that year is now moot.<sup>6</sup>

According to the District, recent modeling analyses indicate that “existing air quality at all monitoring stations is already better than it would be if emissions were at the levels projected in the plan for RFP, and an additional one year’s worth of reductions had been implemented (*i.e.*, simulated implementation of contingency measure on top of actually meeting RFP).” Contingency Measures SIP at 2. The District states that the speciated regional modeling analysis in the South Coast PM<sub>2.5</sub> SIP had predicted that implementation of the plan would result in a reduction in the basin-wide

design concentration from 22.7 µg/m<sup>3</sup> in 2005 to a value of 17.98 µg/m<sup>3</sup> in 2010. *Id.* at 5. The maximum observed design value for 2010 at the design value site<sup>7</sup> (Rubidoux<sup>8</sup>), however, was 15.01 µg/m<sup>3</sup> according to the District, 17 percent lower than the concentrations projected in the plan. *See id.*; *see also id.* at 10, Table 2. Accounting for temporary reductions in ambient PM<sub>2.5</sub> levels due to favorable weather and reduced economic activity, the District estimates the PM<sub>2.5</sub> design value “improvement” attributable to implementation of its plans, compared to previous projections, to be approximately 1.88 µg/m<sup>3</sup> in 2010. *Id.* at 8–10 and Table 2. If PM<sub>2.5</sub> air quality at the design site (Rubidoux) were to remain at 2010 levels through 2012, the difference between the predicted and observed design value would show a 1.47 µg/m<sup>3</sup> improvement over the 2012 projections underlying the South Coast PM<sub>2.5</sub> SIP. *Id.* at 5. According to the District, these PM<sub>2.5</sub> air quality improvements equate to approximately 420 tons per day (tpd) of NO<sub>x</sub> emission reductions in 2012. *Id.*

Additionally, the District’s 2013 Supplement includes a demonstration that the South Coast area achieved its emission reduction benchmarks for the 2012 RFP year. Specifically, the updated emissions inventory data<sup>9</sup> provided in this technical supplement show that emissions of direct PM<sub>2.5</sub>, NO<sub>x</sub>, VOC, and SO<sub>x</sub> were all below the corresponding 2012 benchmarks in the South Coast PM<sub>2.5</sub> SIP. *See id.* at Attachment 1 (“Updated Table C–2, South Coast Air Basin PM<sub>2.5</sub> Reasonable Further Progress”). Based on the District’s evaluation of these updated emissions data, the District concludes that it satisfied its 2012 RFP benchmarks and, accordingly, that RFP

<sup>7</sup> Consistent with EPA’s definition of “design value” in 40 CFR 58.1, we use the term “design value site” to refer to the monitoring site that records the highest calculated pollutant concentration (according to the applicable appendix of 40 CFR part 50) in the nonattainment area.

<sup>8</sup> Although the current design value site for the area is the Mira Loma (Van Buren) monitoring station, this site was not accounted for in the analyses underlying the South Coast PM<sub>2.5</sub> SIP as it was not operational until 2007. *See* Contingency Measures SIP at 5, n. 2. Therefore, the District compared the projected and observed values for the Rubidoux monitoring site, which was the design value site prior to 2007.

<sup>9</sup> This updated emissions data is based on emissions inventory data that the District adopted in December 2012 as part of its Final 2012 Air Quality Management Plan, which CARB submitted to EPA as a SIP revision on February 13, 2013. *See* letter dated February 13, 2013, from James Goldstene, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region 9, transmitting 2012 AQMP and enclosures.

<sup>6</sup> Given our proposal to conclude that contingency measures for the 2012 RFP year are no longer required, we do not evaluate here the incentive programs and voluntary measures that the Contingency Measures SIP discusses for purposes of addressing the 2012 RFP contingency measure requirement. To the extent the District discusses these same measures to address the attainment contingency measure requirement, however, we have reviewed those analyses and discuss our evaluation of them in Section III.B.2.b, *infra* (“Attainment Contingency Measures”).

contingency measures for this milestone area are no longer needed. *See id.*

We agree with the District's conclusion that the South Coast area met the 2012 RFP benchmarks in the South Coast PM<sub>2.5</sub> SIP and that RFP contingency measures for 2012 are, therefore, no longer needed. EPA reviewed the updated 2012 emissions inventory data provided by the District in the 2013 Supplement and confirmed that the data are consistent with the emissions inventory data recently submitted to EPA as part of the District's 2012 AQMP, which includes the State's plan to provide for attainment of the 2006 PM<sub>2.5</sub> NAAQS in the South Coast area. *See* Memorandum from Wienke Tax to File dated May 30, 2013. The updated data in the 2013 Supplement show that actual emissions of direct PM<sub>2.5</sub>, NO<sub>x</sub>, VOC, and SO<sub>x</sub> in the South Coast were all below the corresponding 2012 benchmarks in the South Coast PM<sub>2.5</sub> SIP.<sup>10</sup> *See id.*

Additionally, EPA independently reviewed PM<sub>2.5</sub> air quality data available in EPA's "Air Quality System" (AQS) for the 2002–2012 period to assess the District's representations regarding PM<sub>2.5</sub> air quality improvements in the South Coast area,<sup>11</sup> as well as the District's estimates of the amounts of emission reductions that these air quality improvements represent. We believe these assessments further support a conclusion that emission levels in the South Coast area were below the 2012 RFP benchmarks in the South Coast PM<sub>2.5</sub> SIP. For more detail on our technical evaluations, *see* Memorandum from Carol Bohnenkamp to File dated May 30, 2013.

Based on this information, EPA proposes to find that the RFP contingency measure requirement for 2012 is now moot as applied to the South Coast. The sole purpose of RFP contingency measures is to provide continued progress if the area fails to meet its RFP goal. Failure to meet the 2012 benchmark would have required California to implement RFP contingency measures and to revise the South Coast PM<sub>2.5</sub> SIP to assure that the plan still provided for attainment by the attainment date of April 5, 2015. In this case, however, the 2013 Supplement

submitted by the District demonstrates that actual emission levels in 2012 met the SIP-approved benchmarks for all four pollutants (PM<sub>2.5</sub>, NO<sub>x</sub>, VOC, and SO<sub>x</sub>), and both the District's and EPA's evaluations of the substantial PM<sub>2.5</sub> air quality improvements in the South Coast area further support a conclusion that emission levels in the area were well below the 2012 RFP benchmarks. Accordingly, RFP contingency measures for 2012 no longer have meaning or purpose, and the requirement for them is moot.

## 2. Attainment Contingency Measures

### a. Regulatory Measures and Programs

The South Coast PM<sub>2.5</sub> SIP, as partially approved and partially disapproved by EPA in November 2011 (76 FR 69928), provides for the continuing implementation of existing CARB mobile source measures that will achieve 24 tpd of NO<sub>x</sub> reductions and 13 tpd of VOC reductions in 2015. *See* 76 FR 41562 at 41580, Table 9, and Final TSD for South Coast PM<sub>2.5</sub> SIP at 126. These mobile source emission reductions are surplus to the reductions relied upon to demonstrate RFP and attainment because they occur in 2015 (after implementation of all control measures necessary for expeditious attainment)<sup>12</sup> and will achieve approximately one half of the NO<sub>x</sub> and VOC emission reductions needed to achieve 1 year's worth of RFP.<sup>13</sup>

The Contingency Measures SIP also identifies two stationary source control measures that the District believes should be creditable towards meeting the attainment contingency measure requirement: (1) The "SO<sub>x</sub> RECLAIM Shave," which is projected to achieve 1.10 tpd of SO<sub>x</sub> reductions in 2014, and (2) SCAQMD Rule 1113 (Architectural Coatings), which is projected to achieve 1.30 tpd of VOC reductions in 2015. *See* Contingency Measure SIP at 12–13, 17 and 2013 Supplement, Attachment 2.<sup>14</sup>

EPA approved the SO<sub>x</sub> RECLAIM Shave into the California SIP on August 12, 2011. *See* 76 FR 50128. Because all of the SO<sub>x</sub> emission reductions associated with these rule improvements have already been

credited toward the PM<sub>2.5</sub> attainment demonstration as part of EPA's November 9, 2011 final action on the South Coast PM<sub>2.5</sub> SIP, the 1.10 tpd of SO<sub>x</sub> reductions identified in the Contingency Measure SIP are not surplus to attainment requirements and, therefore, cannot be treated as contingency measures. *See* 76 FR 41562 at 41569, Table 3 (July 14, 2011) and 76 FR 69928 at 69948, Table 1 (November 9, 2011).

EPA has also approved SCAQMD Rule 1113 (Architectural Coatings) into the California SIP. 78 FR 18244 (March 26, 2013). The 1.30 tpd of 2015 VOC reductions associated with this measure in the Contingency Measure SIP are not relied on for RFP or attainment purposes in the South Coast PM<sub>2.5</sub> SIP. *See* South Coast 2007 AQMP at pp. 4–10, Table 4–2A; *see also* 76 FR 41562 at 41569, Table 3 (July 14, 2011) and 76 FR 69928 at 69948, Table 1 (November 9, 2011). EPA therefore agrees with the District that Rule 1113 may serve as an attainment contingency measure for purposes of the PM<sub>2.5</sub> NAAQS.

Additionally, the 2013 Supplement identifies two new stationary source control measures scheduled for adoption in May 2013 that are expected to collectively achieve 0.6 tpd of direct PM<sub>2.5</sub> emission reductions in 2015. *See* 2013 Supplement, Attachment 2 (identifying SCAQMD Rule 444 and Rule 445). The 0.6 tpd of direct PM<sub>2.5</sub> emission reductions associated with these two measures in the Contingency Measure SIP are not relied on for RFP or attainment purposes in the South Coast PM<sub>2.5</sub> SIP. *See* 76 FR 41562 at 41569, Table 3 (July 14, 2011) and 76 FR 69928 at 69948, Table 1 (November 9, 2011). On May 3, 2013, the District adopted both measures and CARB submitted them to EPA on June 12, 2013. In a separate notice published in today's **Federal Register**, EPA is proposing to approve these rules into the California SIP. *See* "Revisions to the California State Implementation Plan, South Coast Air Quality Management District," pre-publication proposed rule signed June 12, 2013.

Finally, the Contingency Measures SIP states that an additional 17.6 tpd of NO<sub>x</sub> reductions, 4.5 tpd of VOC reductions, and 1.1 tpd of SO<sub>x</sub> reductions will be achieved in 2015 through continued implementation of the District's 2007 Ozone Attainment Plan, and that these "backstop" emission reductions provide the equivalent of contingency measures for the South Coast PM<sub>2.5</sub> SIP. *See* Contingency Measures SIP at 10–11 and Table 3. Although control measures relied upon in an ozone attainment plan

<sup>10</sup> Emissions in the area were well below both the 2012 RFP benchmarks that EPA approved as part of the South Coast PM<sub>2.5</sub> SIP (*see* 76 FR 41578, Table 8, "revised projected controlled emissions levels" for 2012) and the RFP "targets" listed in Attachment 1 of the 2013 Supplement, identified as "linear benchmarks" in the plan. *See* CARB 2011 Progress Report (Hearing Date: April 28, 2011), at Table C–2.

<sup>11</sup> For a more detailed discussion of the air quality data that EPA evaluated, *see* Section III.B.2.c, *infra* ("PM<sub>2.5</sub> air quality data").

<sup>12</sup> Consistent with CAA section 172(c)(1) and 40 CFR 51.1007(b), the South Coast PM<sub>2.5</sub> SIP provides for the implementation of all control measures needed for attainment as expeditiously as practicable and no later than the beginning of the year prior to the attainment date (*i.e.*, by January 2014). *See* 76 FR 69928 at 69942 (November 9, 2011).

<sup>13</sup> *See* n. 2, *supra*.

<sup>14</sup> The Contingency Measures SIP identifies emission reductions for 2014 but in the 2013 Supplement, the District provided updated 2015 emission reductions for Rule 1113 and several other measures. *See* 2013 Supplement, Attachment 2.

may qualify for approval as contingency measures for the PM<sub>2.5</sub> NAAQS, provided the measures are surplus to PM<sub>2.5</sub> attainment and RFP requirements and meet all other EPA criteria for SIP approval, the Contingency Measures SIP does not provide EPA with sufficient information to determine whether the referenced ozone-related measures meet these approval criteria. Accordingly, we cannot at this time propose to approve these “backstop” ozone-related measures as PM<sub>2.5</sub> contingency measures at this time.

In sum, taking into account surplus emission reductions in the South Coast PM<sub>2.5</sub> SIP that EPA previously identified as available for contingency measure purposes, the total amount of emission reductions from regulatory control measures that we are proposing to approve as part of the Contingency Measures SIP are as follows: 24 tpd of NO<sub>x</sub> reductions from fleet turnover; 14.3 tpd of VOC reductions from fleet turnover and SCAQMD Rule 1113; and 0.6 tpd of direct PM<sub>2.5</sub> emission reductions from SCAQMD Rule 444 and Rule 445, which will be available for contingency purposes upon final EPA approval of these rules into the SIP. See Table 4.

b. Voluntary Measures, Incentive Programs, and Miscellaneous “Excess Reductions”

The Contingency Measures SIP identifies several voluntary measures and incentive programs that the District believes should qualify for approval as PM<sub>2.5</sub> contingency measures because emission reductions achieved by these measures have not been accounted for in the South Coast PM<sub>2.5</sub> SIP. The submittal also identifies certain miscellaneous “excess reductions” resulting from economic conditions and source operations below permit limits, which the District believes should qualify for approval as contingency measures. We discuss each of these programs/measures and our evaluations below.

Carl Moyer Memorial Air Quality Standards Attainment Program

The Contingency Measures SIP identifies a portion of the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) as a contingency measure for the PM<sub>2.5</sub> NAAQS. See Contingency Measures SIP at 14 and 17, Table 4 and 2013 Supplement, Attachment 2. We are proposing to approve specific amounts of emission reductions from the Carl Moyer Program, as identified in the District’s submissions, for this purpose.

The Carl Moyer Program is a California grant program established in 1998 that provides funding to encourage the voluntary purchase of cleaner-than-required engines, equipment, and other emission reduction technologies. See generally California Air Resources Board, “The Carl Moyer Program Guidelines, Approved Revisions 2011,” Release Date: February 8, 2013, at Chapter 1 (*available electronically at <http://www.arb.ca.gov/msprog/moyer/moyer.htm>*). In its first 12 years, the Carl Moyer Program provided over \$680 million in state and local funds to reduce air pollution emissions from equipment statewide, e.g., by replacing older trucks with newer, cleaner trucks, retrofitting controls on existing engines, and encouraging the early retirement of older, more polluting vehicles. *Id.*

The Contingency Measures SIP, as supplemented in 2013, states that certain Carl Moyer Program projects funded beginning in program year 2005–06 to program year 2009–2010 will provide 3.2 tpd of NO<sub>x</sub> reductions and 0.2 tpd of PM<sub>2.5</sub> reductions in 2015 that may be treated as contingency measures. See Contingency Measures SIP at 14 and 17, Table 4 and 2013 Supplement, Attachment 2 (“2015 Emission Reductions Beyond 2007 AQMP SIP Commitment Available for Contingency”).<sup>15</sup> In the 2013 Supplement, the District clarified that these emission reductions would be obtained from the following source categories participating in Carl Moyer programs: on-road heavy duty engines, off-road diesel equipment, marine engines, and locomotive engines. See 2013 Supplement, Attachment 2, notes.

Under EPA’s long-standing policy, voluntary mobile source emission reduction programs (VMEPs) that meet certain minimum criteria may qualify for a limited amount of SIP credit under the CAA. See generally Memorandum dated October 24, 1997 from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, Regions 1–10, entitled “Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs)” (hereinafter “1997 VMEP”). To qualify for SIP credit, a VMEP must be consistent with SIP attainment and RFP requirements and must achieve emission reductions that are

quantifiable, surplus, enforceable, and permanent. See 1997 VMEP at 6, 7. Additionally, the VMEP submission must be accompanied by sufficient technical support for EPA to determine that the statutory criteria for approval are met—e.g., procedures designed to compare projected emission reductions with actual emissions reductions achieved; State commitments to monitor, assess, and report on program implementation and actual emission reductions achieved; and procedures for the State to remedy emission reduction shortfalls in a timely manner. *Id.* The State must also demonstrate that it has adequate personnel and program resources to implement the program and that the VMEP does not interfere with other requirements of the Act. *Id.* EPA has generally limited the amount of emission reductions allowed for VMEPs in a SIP to three percent (3%) of the total projected future year emission reductions required to attain the relevant NAAQS, and with respect to any particular SIP submittal to demonstrate attainment or maintenance of the NAAQS or progress toward attainment (RFP), 3% of the specific statutory requirement. *Id.* at 5.

Consistent with these criteria, the SCAQMD submitted an enforceable commitment in 2007 to take “all actions necessary to ensure that emission reductions resulting from projects funded by the Carl Moyer Program will meet U.S. EPA criteria (surplus, quantifiable, enforceable, and permanent for life of project) and requirements for SIP creditability to meet federal Clean Air Act requirements.” See South Coast AQMD Board Resolution No. 07–9, dated June 1, 2007 (adopting South Coast 2007 AQMP) (“2007 Resolution”). Specifically, the 2007 Resolution includes the District’s commitments to: (1) Calculate emission reductions from Carl Moyer Program projects using established quantification protocols specified in the applicable Carl Moyer Program Guidelines; (2) verify surplus emission reductions through a comprehensive inspection, monitoring and reporting program for each project funded by the Carl Moyer Program, (3) conduct onsite inspections, random audits, and other monitoring activities to ensure that funded projects are implemented according to contract terms; (4) submit reports to EPA by November 30 of each calendar year, verifying the amounts of actual emission reductions achieved by the Carl Moyer Program grants for the preceding funding cycle, and (5) take specific actions to remedy any shortfalls in

<sup>15</sup> The Contingency Measures SIP, as initially submitted in November 2011, provides emission reductions for 2014 (4.43 tpd of NO<sub>x</sub> reductions, 0.06 tpd of PM reductions, and 0.17 tpd of VOC reductions), but we are evaluating the updated 2015 emission reductions provided in the 2013 Supplement because 2015 is the relevant year for attainment contingency measure purposes.

emission reductions, to ensure that contracted emission reductions occur. *Id.* The District also submitted technical support documentation describing the Carl Moyer Program, the District's policies for implementing the program, and the methodologies for predicting emissions benefits. *See generally* South Coast 2007 AQMP, Appendix IV-B-3, "District Implementation of the Carl Moyer Memorial Air Quality Standards Attainment Program," available electronically at [https://www.aqmd.gov/aqmp/07aqmp/aqmp/Appendix\\_IV-B-3\\_section1.pdf](https://www.aqmd.gov/aqmp/07aqmp/aqmp/Appendix_IV-B-3_section1.pdf).

EPA approved these District commitments into the California SIP as part of our November 2011 final action on the South Coast PM<sub>2.5</sub> SIP, thereby making the commitments federally enforceable. *See* 76 FR 69928 at 69954 (November 9, 2011) and 40 CFR 52.220(c)(398)(ii)(A)(2) (codifying SCAQMD commitment "to fulfill USEPA Requirements for the use of emissions reductions [from] the Carl Moyer Program in the State Implementation Plan, June 1, 2007"). EPA also approved the District's technical documentation describing the Carl Moyer Program as part of the South Coast PM<sub>2.5</sub> SIP. *See* 40 CFR 52.220(c)(398)(ii)(A)(1). In the 2013 Supplement, the District affirmed its SIP-approved commitments to "take all actions necessary to assure that emissions reductions resulting from the projects funded by the Carl Moyer Program will meet U.S. EPA criteria . . . and requirements for SIP creditability," including its obligation to prepare and submit annual reports to EPA by November 30 of each year identifying actual emission reductions achieved compared to predicted emissions reductions and audit information for each grant issued. *See* letter dated April 24, 2013, from Elaine Chang, Deputy Executive Officer, SCAQMD, to Deborah Jordan, Air Division Director, U.S. EPA Region 9, transmitting 2013 Supplement.

The SIP-approved commitments in the 2007 Resolution enable the District to quantify the emission reductions attributed to the Carl Moyer Program, verify that those emission reductions are surplus to other CAA requirements, enforce the conditions of the Carl Moyer Program grants to ensure that contracted emission reductions are achieved, and monitor the continuing implementation of program grants to ensure that emission reductions are "permanent" throughout the life of each project. The 3.2 tpd of NO<sub>x</sub> reductions and 0.2 tpd of PM<sub>2.5</sub> reductions attributed to the Carl Moyer Program in 2015 for contingency measure purposes each amount to less

than 2% of the total projected emission reductions of each pollutant needed to attain the PM<sub>2.5</sub> NAAQS in the South Coast area.<sup>16</sup> Finally, information provided in the South Coast 2007 AQMP demonstrates that the District has adequate personnel and program resources to implement the Carl Moyer Program. *See generally*, South Coast 2007 AQMP, Appendix IV-B-3, "District Implementation of the Carl Moyer Memorial Air Quality Standards Attainment Program," at Section 1, available electronically at [https://www.aqmd.gov/aqmp/07aqmp/aqmp/Appendix\\_IV-B-3\\_section1.pdf](https://www.aqmd.gov/aqmp/07aqmp/aqmp/Appendix_IV-B-3_section1.pdf).

Based on our evaluation of the District's enforceable SIP commitments regarding the Carl Moyer Program and technical documentation provided by the District in its SIP submissions, we propose to find that the 2015 emission reductions associated with the Carl Moyer Program in the Contingency Measures SIP, as supplemented in 2013, satisfy the statutory criteria for SIP credit for contingency measure purposes. The Carl Moyer Program procedures have served as models for the design of national, state, and local credit validation systems for mobile source subsidy programs, and California continuously refines these guidelines to accurately reflect the reductions associated with the program subsidies. The procedures address emission reduction quantification issues associated with both baseline emissions and the amount of reductions achievable from the various repower, retrofit, and replacement technologies and alternative fuel options, as well as issues associated with project life and enforceable requirements to ensure that reductions continue within the nonattainment area.

Given all of these considerations, we propose to approve these Carl Moyer Program emission reductions as attainment contingency measures for the PM<sub>2.5</sub> NAAQS. Upon EPA's final approval of the Contingency Measures

<sup>16</sup> The South Coast PM<sub>2.5</sub> SIP projects that the total amounts of emission reductions needed to attain the PM<sub>2.5</sub> NAAQS, from a 2002 base year to a 2014 attainment year, are as follows: 633 tpd of NO<sub>x</sub> reductions, 370 tpd of VOC reductions, 13 tpd of direct PM<sub>2.5</sub> reductions, and 33 tpd of SO<sub>x</sub> reductions. *See* 76 FR 69928 at 69950, Table 4 (November 9, 2011) and Final TSD at 97 (Table F-9). Thus, the Carl Moyer Program reductions identified in the Contingency Measures SIP amount to approximately 0.5 percent of the NO<sub>x</sub> reductions and 1.5 percent of the PM<sub>2.5</sub> reductions needed for timely attainment of the PM<sub>2.5</sub> NAAQS. The Contingency Measures SIP provides these Carl Moyer Program emission reductions for the sole purpose of fulfilling the requirements for contingency measures in CAA section 172(c)(9) and not for the purposes of demonstrating attainment or maintenance of the NAAQS or progress toward attainment (RFP).

SIP, the District will be obligated to monitor, assess, and report to EPA on implementation of the Carl Moyer Program with respect to the four specific source categories identified in the 2013 Supplement (on-road heavy duty engines, off-road diesel equipment, marine engines, and locomotive engines). *See* 2013 Supplement, Attachment 2. Additionally, should EPA subsequently determine that the South Coast area has failed to attain the PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2015, the District will be obligated to verify through its next annual report to EPA whether the 3.2 tpd of NO<sub>x</sub> reductions and 0.2 tpd of PM<sub>2.5</sub> reductions identified in the 2013 Supplement occurred in 2015, and if not, to take specific actions to remedy any emission reduction shortfalls consistent with its SIP-approved commitments in 40 CFR

52.220(c)(398)(ii)(A)(2). We are proposing to approve these Carl Moyer Program emission reductions for the sole purpose of satisfying the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 PM<sub>2.5</sub> NAAQS in the South Coast.

#### Other Voluntary Measures and Incentive Programs

The Contingency Measures SIP identifies several other voluntary measures and incentive programs that the District believes should qualify for approval as PM<sub>2.5</sub> attainment contingency measures.<sup>17</sup> For the reasons provided below, these programs do not qualify for approval as contingency measures at this time.

First, the submittal states that the "average vehicle ridership" (AVR) portion of SCAQMD Rule 2202 (On-Road Mobile Source Vehicle Mitigation Options) requires employers with 250 or more employees to develop rideshare programs or help fund an air quality improvement program to achieve equivalent emissions reductions to meet the AVR target. Contingency Measures SIP at 13. The District states that this measure will achieve 1.32 tpd of NO<sub>x</sub> reductions and 0.06 tpd of direct PM<sub>2.5</sub> reductions in 2014 beyond those relied

<sup>17</sup> According to the District, all but one of these measures will achieve surplus emission reductions in both 2012 and 2014 and may, therefore, serve both as 2012 RFP contingency measures and as attainment contingency measures. As explained above in Section III.B.1, EPA is not evaluating the 2012 emission reduction estimates that the District provided for each of these measures, given our proposal to conclude that the 2012 RFP contingency measure requirement is now moot for this area. *See* n. 6, *supra*. We therefore evaluate only the emission reduction estimates associated with these measures for attainment contingency measure purposes (*i.e.*, for 2015), as provided in the 2013 Supplement.



on for attainment, and that the measure could therefore serve as an attainment contingency measure. *Id.* at 17, Table 4. EPA does not currently have sufficient information to evaluate the emission reductions associated with this measure as the State has not submitted the measure or any supporting documentation to EPA. Thus, we cannot propose to approve this measure as a contingency measure at this time.

Second, the submittal states that the AB 2766 program provides annual funding to local governments in the South Coast air basin to reduce mobile source emissions and that the SCAQMD submits annual reports about the emission reductions under AB 2766 to CARB. Contingency Measures SIP at 13. The District states that this measure will achieve 1.90 tpd of NO<sub>x</sub> reductions and 0.30 tpd of direct PM<sub>2.5</sub> reductions in 2014 beyond those relied on for attainment, and that this measure could therefore serve as an attainment contingency measure. *Id.* at 17, Table 4. EPA does not currently have sufficient information to evaluate the emission reductions associated with this measure as the State has not submitted the measure or any supporting documentation to EPA. Thus, we cannot approve this measure as a contingency measure at this time.

Third, the submittal states that the Ports of Los Angeles and Long Beach (POLA/POLB) have been facilitating use of shore-side power as part of the San Pedro Bay Ports Clean Air Action Plan (referred to as the "Ocean-Going Vessel At-Berth"), and that these measures reduce emissions further than those achieved by a statewide (CARB) regulation that requires a percentage of certain ocean-going vessels (OGVs) to use shore-side power while at berth. Contingency Measures SIP at 14. The District states that these POLA/POLB measures will achieve 3.3 tpd of NO<sub>x</sub> reductions and 0.06 tpd of direct PM<sub>2.5</sub> reductions in 2014 beyond those relied on for attainment, and that the measures may therefore serve as attainment contingency measures. *Id.* at 17, Table 4. EPA does not currently have sufficient information to evaluate the emission reductions associated with these measures as the State has not submitted the measures or any supporting documentation to EPA. Thus, we cannot approve these measures as contingency measures at this time.

Finally, the submittal states that early implementation of certain provisions of the "SCAQMD Surplus Off-Road Opt-In for NO<sub>x</sub>" (SOON) program, adopted by the SCAQMD in May 2008, will achieve 0.30 tpd of PM<sub>2.5</sub> emission reductions in 2014 beyond those relied on for

attainment, and that this program could therefore serve as an attainment contingency measure. Contingency Measures SIP at 15 and 17, Table 4. CARB submitted this measure (Rule 2449) to EPA on July 18, 2008 but EPA has not yet taken any action on it. Thus, we cannot propose to approve this measure as a contingency measure at this time.

EPA is currently working with the State and districts to develop reliable processes for documenting the emission reductions associated with voluntary and incentive programs for SIP purposes. The goal is to develop processes that ensure that the emission reductions resulting from voluntary and incentive programs are surplus, quantifiable, enforceable and permanent consistent with the Act as interpreted in EPA guidance. EPA strongly encourages CARB and the SCAQMD to continue implementing effective incentive programs and voluntary measures as part of their strategies for meeting air quality goals and to continue discussing with EPA the potential incorporation of these incentive programs and measures into SIP planning processes going forward. We welcome public comments on how to ensure that emission reductions resulting from these programs meet the Act's requirements for SIP credit.

#### Miscellaneous "Excess Reductions"

The Contingency Measures SIP states that permitted sources in the South Coast area often achieve "excess reductions" beyond those assumed in the SIP. For example, the District states that sources typically emit at levels well below allowable levels to maintain adequate compliance margins, or they may comply with stringent control standards through preconstruction review processes that reduce emissions below the levels assumed in the SIP. Contingency Measures SIP at 15. Furthermore, the District states that the recent recession in the region "would further lower the growth projections that were previously assumed in the 2007 PM<sub>2.5</sub> SIP." *Id.* The District states that these factors combined caused significantly lower emissions in 2010 compared to the levels projected for that year in the South Coast PM<sub>2.5</sub> SIP. *Id.* According to the District, these circumstances will result in approximately 6.42 tpd of NO<sub>x</sub> reductions, 0.45 tpd of PM<sub>2.5</sub> reductions, and 8.75 tpd of VOC reductions in 2014 beyond the reductions relied on for attainment, which collectively equate to about 14 tpd of "NO<sub>x</sub> equivalent" emission reductions for that year. *Id.* at 15 and 17, Table 4.

We disagree with these statements. Emission reductions that occur as a result of business decisions to maintain adequate compliance margins or due to an unexpected economic recession are not approvable as contingency measures unless such reductions are quantifiable, surplus, enforceable, and permanent and meet all applicable CAA requirements for approval. Even assuming the "excess" emission reductions identified in the Contingency Measures SIP are in fact surplus to those that are specifically relied upon in the South Coast PM<sub>2.5</sub> SIP for attainment purposes, these reductions are not SIP-creditable without adequate documentation to show that the reductions are also quantifiable, enforceable, and permanent consistent with long-standing EPA policy. The Contingency Measures SIP provides no such documentation. Accordingly, the "excess" reductions associated with 14 tpd of "NO<sub>x</sub> equivalent" emission reductions in 2015 are not SIP-creditable at this time.

#### c. PM<sub>2.5</sub> Air Quality Data

The Contingency Measures SIP provides the District's rationale for concluding that significant PM<sub>2.5</sub> air quality improvements in the South Coast area should be accounted for in evaluating the attainment contingency measure requirement for the area. *See* Contingency Measures SIP at 5–11. Based on our review of the District's analyses and our independent review of available PM<sub>2.5</sub> air monitoring data for the 2002–2012 period, EPA agrees that these air quality improvements should be taken into account in evaluating the level of emission reductions needed for purposes of meeting the attainment contingency measure requirement under CAA section 172(c)(9). Although these air quality improvements do not, in themselves, represent SIP-creditable emission reductions, we believe the significant decline in ambient PM<sub>2.5</sub> levels observed during the 2002–2012 period provides a reasonable basis for concluding that emission reductions amounting to less than 1 year's worth of RFP are adequate for PM<sub>2.5</sub> attainment contingency measure purposes in this particular nonattainment area.

Under EPA regulations at 40 CFR 50.7, the 1997 annual primary and secondary PM<sub>2.5</sub> standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 15.0 µg/m<sup>3</sup> at all relevant monitoring sites in the subject area. The 1997 24-hour primary and secondary PM<sub>2.5</sub> standards are met when the 98th percentile 24-



hour concentration, also as determined in accordance with appendix N, is less than or equal to 65 µg/m<sup>3</sup> at all relevant monitoring sites. 40 CFR 50.7(b), (c).

EPA independently reviewed PM<sub>2.5</sub> air quality data available in EPA's "Air Quality System" (AQS) for the 2002–2012 period to assess the District's representations regarding PM<sub>2.5</sub> air quality improvements in the South Coast area.<sup>18</sup> The SCAQMD currently operates 20 regulatory PM<sub>2.5</sub> monitoring sites in the South Coast air basin and annually reports quality-assured ambient PM<sub>2.5</sub> data from these sampling sites to the EPA AQS database. See SCAQMD, Annual Air Quality Monitoring Network Plan (July 2012), at 7–9 and 21, Table 5. EPA has approved

the District's monitoring network as satisfying the network design and data adequacy requirements of 40 CFR part 58. See letter dated April 18, 2013, from Matthew Lakin, Manager, Air Quality Analysis Office, EPA Region 9, to Dr. Matt Miyasato, Deputy Executive Officer, Science and Technology Advancement, SCAQMD. Quality-assured and certified ambient air quality data collected through the District's monitoring network and available in AQS show that PM<sub>2.5</sub> levels in the South Coast nonattainment area were significantly lower in the years leading to 2012 than the levels projected in the South Coast PM<sub>2.5</sub> SIP for this period, and that both annual and 24-hour concentrations have declined

significantly at all monitors in the area. See U.S. EPA, Air Quality System, Preliminary Design Value Report, PM<sub>2.5</sub>, 2002–2012 (Report Date: May 10, 2013); see also U.S. EPA, Data Quality Indicator Report, SCAQMD, California, PM<sub>2.5</sub> (April 26, 2012) and letter dated May 1, 2012, from Chung Liu, Deputy Executive Officer, Science and Technology Advancement, SCAQMD, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region 9 (certifying air quality data submitted to AQS).

Table 1 lists the annual mean PM<sub>2.5</sub> concentration at each monitor in the South Coast air basin during the 2002–2012 period.

TABLE 1—PM<sub>2.5</sub> ANNUAL MEAN CONCENTRATIONS, 2002–2012

Site	AQS ID	One-year annual mean (µg/m <sup>3</sup> )										
		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Azusa	060370002	20.7	19.3	18.3	17.0	15.4	15.7	14.0	13.1	10.8	12.1	11.0
Burbank—Palm Ave.	060371002	24.0	22.1	19.1	17.8	16.5	16.9	13.9	15.3	12.8	13.5	12.6
LA—North Main	060371103	22.0	21.3	19.7	17.8	15.6	16.8	16.1	14.4	12.6	13.5	13.2
Reseda	060371201	18.9	16.5	15.7	13.9	12.8	13.3	11.8	11.4	10.1	10.2	10.5
Lynwood	060371301	23.3	20.3	18.5	17.5	16.7	16.0	14.6	.....	.....	.....	.....
Compton	060371302	.....	.....	.....	.....	.....	.....	12.4	14.7	12.5	12.5	11.7
Pico Rivera #1	060371601	24.0	20.6	20.0	15.2	.....	.....	.....	.....	.....	.....	.....
Pico Rivera #2	060371602	.....	.....	.....	22.3	16.6	16.6	14.9	14.8	12.5	12.5	11.9
Pasadena	060372005	20.3	18.6	16.6	15.1	13.4	14.4	12.8	12.3	10.2	10.8	10.1
Long Beach	060374002	19.5	18.0	17.9	15.9	14.1	14.6	14.1	12.8	10.4	11.3	10.6
Long Beach—PCH	060374004	.....	20.6	16.5	14.7	14.4	13.7	13.7	12.5	10.4	10.7	10.9
Anaheim	060590007	18.6	17.3	17.0	14.7	14.0	14.4	13.1	12.1	10.5	11.1	10.0
Mission Viejo	060592022	15.5	13.1	12.0	10.6	11.0	11.1	10.4	9.5	8.0	8.5	7.9
Riverside	060651003	27.1	22.6	20.8	17.9	16.9	18.3	13.3	13.3	11.0	11.8	11.4
Rubidoux	060658001	27.5	24.8	22.1	20.9	18.9	19.0	16.4	15.6	13.3	13.8	13.7
Mira Loma	060658005	.....	.....	.....	.....	20.8	20.9	18.3	17.2	15.5	15.9	15.3
Ontario	060710025	25.4	23.8	20.9	18.8	18.4	18.3	15.8	14.7	13.0	13.3	12.4
Fontana	060712002	24.3	22.1	19.9	18.8	17.5	18.9	15.3	14.2	11.9	12.6	12.8
Big Bear	060718001	11.5	10.6	9.6	12.0	11.3	10.3	9.1	9.9	8.4	8.4	8.0
San Bernardino	060719004	25.8	22.2	21.9	17.3	17.6	17.9	13.4	13.0	11.1	12.2	11.8

Source: U.S. EPA, Air Quality System, Preliminary Design Value Report, PM<sub>2.5</sub>, 2002–2012 (Report Date: May 10, 2013).

Table 2 lists the annual PM<sub>2.5</sub> design value at each monitor in the South Coast air basin for the 2002–2012 period.

TABLE 2—ANNUAL PM<sub>2.5</sub> DESIGN VALUES, 2002–2012

Site	AQS ID	One-year annual mean (µg/m <sup>3</sup> ) <sup>19</sup>										
		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Azusa	060370002	20.8	20.6	19.4	18.2	16.9	16.0	15.1	14.3	12.7	12.0	11.3
Burbank—Palm Ave.	060371002	23.3	23.6	21.7	19.7	17.8	17.1	15.8	15.4	14.0	13.9	12.9
LA—North Main	060371103	22.2	22.0	21.0	19.6	17.7	16.7	16.1	15.8	14.4	13.5	13.1
Reseda	060371201	18.4	17.9	17.0	15.4	14.1	13.3	12.6	12.1	11.1	10.6	10.3
Lynwood	060371301	23.6	22.7	20.7	18.7	17.5	16.7	15.8	15.3	14.6	.....	.....
Compton	060371302	.....	.....	.....	.....	.....	.....	12.4	13.5	13.2	13.4	12.4
Pico Rivera #1	060371601	24.4	23.3	21.5	18.6	17.6	15.2	.....	.....	.....	.....	.....
Pico Rivera #2	060371602	.....	.....	.....	22.3	19.5	18.5	16.0	15.4	14.1	13.3	12.3
Pasadena	060372005	20.2	19.9	18.5	16.8	15.0	14.3	13.5	13.2	11.8	11.1	10.4
Long Beach	060374002	20.1	19.6	18.5	17.3	16.0	14.9	14.3	13.9	12.4	11.5	10.8
Long Beach—PCH	060374004	.....	20.6	18.6	17.3	15.2	14.3	13.9	13.3	12.2	11.2	10.7
Anaheim	060590007	22.0	20.4	17.6	16.3	15.2	14.3	13.8	13.2	11.9	11.2	10.8
Mission Viejo	060592022	15.4	14.8	13.5	11.9	11.2	10.9	10.8	10.3	9.3	8.7	8.1
Riverside	060651003	26.9	25.9	23.5	20.5	18.6	17.7	16.2	15.0	12.5	12.0	11.4

<sup>18</sup>EPA evaluated these data only preliminarily, for purposes of determining whether the Contingency Measures SIP satisfies the requirements of CAA section 172(c)(9), and is not at this time proposing to make any formal

determination regarding attainment for the South Coast PM<sub>2.5</sub> nonattainment area.

<sup>19</sup>Most but not all of these design values are based on data that meet EPA's completeness criteria

in 40 CFR part 50, appendix N, section 4.0. See Memorandum from Meredith Kurpius to File dated May 10, 2013.

TABLE 2—ANNUAL PM<sub>2.5</sub> DESIGN VALUES, 2002–2012—Continued

Site	AQS ID	One-year annual mean (µg/m <sup>3</sup> ) <sup>19</sup>										
		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Rubidoux .....	060658001	28.9	27.8	24.8	22.6	20.6	19.6	18.1	17.0	15.1	14.2	13.6
Mira Loma .....	060658005	.....	.....	.....	.....	20.8	20.9	20.0	18.8	17.0	16.2	15.6
Ontario .....	060710025	25.3	25.2	23.4	21.2	19.4	18.5	17.5	16.2	14.5	13.7	12.9
Fontana .....	060712002	24.6	23.8	22.1	20.3	18.7	18.4	17.2	16.1	13.8	12.9	12.4
Big Bear .....	060718001	10.9	11.1	10.6	10.8	11.0	11.2	10.3	9.8	9.1	8.9	8.3
San Bernardino .....	060719004	25.9	24.7	23.3	20.5	18.9	17.6	16.3	14.7	12.5	12.1	11.7

Source: U.S. EPA, Air Quality System, Preliminary Design Value Report, PM<sub>2.5</sub>, 2002–2012 (Report Date: May 10, 2013).

Table 3 lists the 24-hour PM<sub>2.5</sub> design value at each monitor in the South Coast air basin for the 2002–2012 period.

TABLE 3—24-HOUR PM<sub>2.5</sub> DESIGN VALUES, 2002–2012

Site	AQS ID	24-Hour Design Value (µg/m <sup>3</sup> ) <sup>20</sup>										
		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Azusa .....	060370002	59	57	54	54	48	47	41	42	38	36	31
Burbank—Palm Ave. ....	060371002	69	62	55	53	48	48	43	41	34	34	32
LA—North Main .....	060371103	62	58	57	56	49	48	43	42	35	34	32
Reseda .....	060371201	51	49	48	45	40	34	30	29	29	28	30
Lynwood .....	060371301	60	57	53	51	49	46	41	39	33	.....	.....
Compton .....	060371302	.....	.....	.....	.....	.....	.....	13	25	28	34	31
Pico Rivera #1 .....	060371601	65	58	53	51	52	51	.....	.....	.....	.....	.....
Pico Rivera #2 .....	060371602	.....	.....	.....	58	51	50	43	41	35	33	31
Pasadena .....	060372005	53	51	48	46	41	40	37	38	31	30	27
Long Beach .....	060374002	54	48	46	45	41	39	38	38	33	30	28
Long Beach—PCH .....	060374004	.....	53	48	44	38	36	35	34	31	28	27
Anaheim .....	060590007	54	53	49	47	42	42	38	37	30	29	27
Mission Viejo .....	060592022	43	43	41	36	32	31	29	29	23	23	21
Riverside .....	060651003	65	62	58	50	47	49	48	44	33	30	27
Rubidoux .....	060658001	73	72	67	65	57	55	50	45	38	35	34
Mira Loma .....	060658005	62	.....	.....	.....	53	56	53	49	41	39	37
Ontario .....	060710025	62	63	61	59	50	47	45	43	37	34	32
Fontana .....	060712002	64	60	58	55	52	52	52	48	37	31	32
Big Bear .....	060718001	30	30	28	30	34	38	36	32	30	29	29
San Bernardino .....	060719004	68	64	66	58	55	54	53	49	35	32	30

Source: U.S. EPA, Air Quality System, Preliminary Design Value Report, PM<sub>2.5</sub>, 2002–2012 (Report Date: May 10, 2013).

According to these certified ambient air quality data, the highest annual mean PM<sub>2.5</sub> concentration in the South Coast area dropped from 27.5 µg/m<sup>3</sup> in 2002 (at Rubidoux) to 15.3 µg/m<sup>3</sup> in 2012 (at Mira Loma), and the annual PM<sub>2.5</sub> design value for the area dropped from 28.9 µg/m<sup>3</sup> to 15.6 µg/m<sup>3</sup> during this same timeframe. Daily PM<sub>2.5</sub> design values at all monitors in the South Coast area also declined significantly, from 73 µg/m<sup>3</sup> (at Rubidoux) in 2002 to 37 µg/m<sup>3</sup> (at Mira Loma) in 2012. All monitors in the South Coast area have recorded 24-hour PM<sub>2.5</sub> design values below the 24-hour PM<sub>2.5</sub> standard of 65 µg/m<sup>3</sup> since at least 2006, and as of 2010 most monitors were also recording 24-hour design values below the more stringent 2006 24-hour standard of 35 µg/m<sup>3</sup>.<sup>21</sup>

These data indicate that actual emission levels in the area during the

years leading to 2012 were significantly lower than the levels projected for this period in the South Coast PM<sub>2.5</sub> SIP. The data also indicate that the area is already attaining the 1997 24-hour PM<sub>2.5</sub> standard (65 µg/m<sup>3</sup>) and may also attain the annual standard (15 µg/m<sup>3</sup>) in advance of the applicable attainment date of April 5, 2015. Accordingly, compared to the assumptions underlying the South Coast PM<sub>2.5</sub> SIP, in reality the likelihood that attainment contingency measures will never need to be triggered is much greater, and the extent of any potential attainment shortfall much lower, than was predicted. Therefore, given the proximity of the applicable attainment date (April 5, 2015) and the probability that the area will attain the PM<sub>2.5</sub> standards by that date<sup>22</sup> or, in the event

it fails to attain, that a smaller amount of additional emission reductions (compared to the levels identified in the plan as needed to achieve 1 year's worth of RFP) will be needed to bring about attainment in the area, we believe it is appropriate to find that emission reductions amounting to less than 1 year's worth of RFP are adequate to satisfy the attainment contingency measure requirement in these particular circumstances. This conclusion is consistent with EPA's long-standing recommendation that states should consider "the potential nature and extent of any attainment shortfall for the area" and that contingency measures "should represent a portion of the actual emissions reductions necessary to bring about attainment in the area." See PM-10 Addendum at 42015 and 72 FR 20643.

d. Surplus emission reductions in South Coast PM<sub>2.5</sub> SIP

The Contingency Measures SIP states that the South Coast PM<sub>2.5</sub> SIP identified emission reductions sufficient for the

<sup>20</sup> See *ibid*.

<sup>21</sup> See also Final TSD for South Coast PM<sub>2.5</sub> SIP at 8, Figure IB-3 ("South Coast AQMP 1997 24-hour PM<sub>2.5</sub> Design Value Concentration Trends 2000–2010").

<sup>22</sup> EPA is not aware of any information indicating significant changes (such as a sharp upturn in economic or population growth, or dramatic meteorological shift) that might adversely affect the consistent historical trend in the area to improved air quality, during the relatively short amount of time remaining before April 5, 2015.

South Coast air basin to reach 15.00 µg/m<sup>3</sup> by April 2015, which is more than necessary to demonstrate timely attainment according to EPA modeling guidelines. Specifically, the District states that EPA guidelines allow states to demonstrate attainment at a level of 15.04 µg/m<sup>3</sup> rather than 15.00 µg/m<sup>3</sup>, and that the additional 0.04 µg/m<sup>3</sup> of air quality improvement accounted for in its attainment demonstration equated to a “surplus” of 11 tpd of NO<sub>x</sub>-equivalent emission reductions. See Contingency Measures SIP at 15. In the 2013 Supplement, the District characterized this amount as a “surplus” of 0.8 tpd of SO<sub>x</sub> reductions, in accordance with conversion factors provided in Appendix C of a CARB Staff Report entitled “2007 State Implementation Plan for the South Coast Air Basin PM<sub>2.5</sub> and 8-Hour Ozone NAAQS.” See 2013 Supplement, Attachment 2.

EPA agrees that the District may demonstrate attainment using 15.04 µg/m<sup>3</sup> as the target emission level in its modeling analyses<sup>23</sup> and that, because the South Coast PM<sub>2.5</sub> SIP models attainment at a level of 15.0 µg/m<sup>3</sup>, some amount of emission reductions accounting for the additional 0.04 µg/m<sup>3</sup> of air quality improvement may be characterized as “surplus” to attainment needs. We are not equating these air quality improvements with a specific amount of SIP credit at this time but we have reviewed the District’s conversions of these concentrations into NO<sub>x</sub>-equivalent and SO<sub>x</sub>-equivalent emission reductions and find the approximations to be reasonable. See Memorandum from Carol Bohnenkamp to File dated May 30, 2013. These analyses generally support our conclusion that attainment contingency measures achieving less than 1 year’s worth of RFP are adequate for this particular nonattainment area.

e. Summary

In sum, the Contingency Measure SIP, as supplemented in 2013, identifies SIP-creditable attainment contingency measures that will achieve a total of 27.2 tpd of NO<sub>x</sub> reductions, 14.3 tpd of VOC reductions, and 0.2 tpd of direct PM<sub>2.5</sub> reductions in 2015. The 2013 Supplement identifies two additional control measures that will, upon final EPA approval of the measures, achieve an additional 0.6 tpd of direct PM<sub>2.5</sub> reductions, for a total of 0.8 tpd of direct PM<sub>2.5</sub> reductions in 2015. These emission reductions amount to approximately 56% of the NO<sub>x</sub> reductions, 49% of the VOC reductions, and more than 100% of the direct PM<sub>2.5</sub> reductions that would be needed to achieve approximately 1 year’s worth of RFP in 2015.<sup>24</sup> See Table 4.

TABLE 4—SUMMARY OF 2015 EMISSION REDUCTIONS CREDITABLE AS ATTAINMENT CONTINGENCY MEASURES [in tons per day]

	NO <sub>x</sub>	VOC	PM <sub>2.5</sub>	SO <sub>x</sub>
Fleet turnover .....	24	13	.....	.....
Rule 1113 .....	.....	1.3	.....	.....
Carl Moyer .....	3.2	.....	0.2	.....
Rule 444* .....	.....	.....	0.2	.....
Rule 445* .....	.....	.....	0.4	.....
Total Emission Reductions: .....	27.2	14.3	0.8	0
1 year RFP <sup>25</sup> .....	49	29	0.7	3.8
Total as percentage of 1-year RFP .....	56	49	114	0

\* Creditable only upon EPA’s final approval of these rules into the SIP pursuant to CAA section 110.

We are proposing to fully approve these measures and surplus emission reductions as satisfying the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 PM<sub>2.5</sub> NAAQS in the South Coast nonattainment area. All of these emission reductions are provided by control measures or incentive programs that are fully adopted under State law and currently being implemented by the District. These measures and programs provide SIP-creditable emission reductions that are not relied on in the South Coast PM<sub>2.5</sub> SIP to demonstrate RFP or attainment and provide for an appropriate level of continued emissions reduction progress should the South Coast area fail to attain by the statutory attainment date and necessitate additional planning.

C. Section 110(l) of the Act

Section 110(l) of the Act prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of the Act. The Contingency Measures SIP corrects SIP deficiencies identified in EPA’s November 9, 2011 partial approval and partial disapproval of the South Coast PM<sub>2.5</sub> SIP (76 FR 69928). Specifically, the Contingency Measures SIP, as supplemented in 2013, contains: (1) the District’s demonstration that actual emission levels in the South Coast in 2012 were below the 2012 RFP benchmarks, (2) identification of SIP-creditable control measures that will achieve emission reductions in 2015 in excess of those relied on for RFP and expeditious attainment, and (3) an analysis of significant air quality

improvements in the South Coast area that the District believes EPA should take into account as part of our action on the SIP submission. We propose to determine that our approval of the Contingency Measures SIP, as supplemented in 2013, would comply with CAA section 110(l) because the proposed SIP revision would not interfere with the on-going process for ensuring that requirements for RFP and attainment of the NAAQS are met, and the submitted SIP corrects SIP deficiencies that were the basis for EPA’s November 9, 2011 partial disapproval of the South Coast PM<sub>2.5</sub> SIP.

IV. Proposed Action and Public Comment

For the reasons discussed above, we are proposing to conclude that the Contingency Measures SIP submitted by

<sup>23</sup> See “Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone, PM<sub>2.5</sub>, and Regional Haze,” April 2007, EPA—454/B-07-002, at p. 21

(referencing EPA’s rounding convention in 40 CFR part 50, appendix N for calculation of annual average PM<sub>2.5</sub> values).

<sup>24</sup> The Contingency Measure SIP does not specifically provide SIP-creditable SO<sub>x</sub> reductions in 2015 for contingency measure purposes.

<sup>25</sup> See n. 2, *supra*.

CARB on November 14, 2011, as supplemented on April 24, 2013, satisfies the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 PM<sub>2.5</sub> NAAQS in the South Coast nonattainment area, and to fully approve this submission into the California SIP. Simultaneously, we are proposing to conclude that the RFP contingency measure requirement in CAA section 172(c)(9) for the 2012 milestone year is moot as applied to the South Coast because the area achieved its emission reduction benchmarks for the 2012 RFP year.

Final approval of the Contingency Measures SIP, as supplemented, would correct the deficiencies that were the basis for EPA's partial disapproval of the South Coast PM<sub>2.5</sub> SIP on November 9, 2011 (76 FR 69928) and would, therefore, terminate the CAA section 179(b) sanctions clocks triggered by that action and the obligation on EPA to promulgate a FIP within two years of that action.

EPA will accept public comments on this proposal for the next 30 days.

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: June 12, 2013.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2013-14918 Filed 6-21-13; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R08-OAR-2013-0417; FRL-9827-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Rescission of Federal Implementation Plan; Wyoming; Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions and additions to the Wyoming State Implementation Plan (SIP) submitted by the Wyoming Department

of Environmental Quality (WDEQ) to EPA on March 8, 2013. The proposed SIP revision to the Wyoming Prevention of Significant Deterioration (PSD) program updates the program to regulate permitting of sources of greenhouse gases (GHGs). Specifically, we propose to approve revisions to Chapter 1, Common Provisions, Section 3, Definitions, and Chapter 6, Permitting Requirements, Section 4, Prevention of Significant Deterioration, and the addition of Chapter 1, Section 7, Greenhouse Gases. The March 8, 2013 proposed SIP revision to the Wyoming PSD program establishes emission thresholds for determining which new stationary sources and modifications to existing stationary sources become subject to Wyoming's PSD permitting requirements for their GHG emissions. The March 8, 2013 proposed SIP revision also defers until July 21, 2014 application of the PSD permitting requirements to biogenic carbon dioxide emissions from bioenergy and other biogenic stationary sources. EPA is proposing to approve the March 8, 2013 SIP revision to the Wyoming PSD permitting program as being consistent with federal requirements for PSD permitting. EPA is also proposing to rescind the GHG PSD Federal Implementation Plan (FIP) for Wyoming that was put in place to ensure the availability of a permitting authority for GHG PSD permitting in Wyoming, which would be effective upon final approval of the March 8, 2013 PSD SIP revision. EPA is proposing this action under section 110 and part C of the Clean Air Act (the Act or CAA).

**DATES:** Comments must be received on or before July 24, 2013.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2013-0417, by one of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Email:* [ostendorf.jody@epa.gov](mailto:ostendorf.jody@epa.gov)
- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop St., Denver, Colorado 80202-1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop St., Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding