(12) If space is not adequate to list the required information as shown in the sample labels in paragraph (e)(11) of this section, the list may be split and continued to the right as long as the headings are repeated. The list to the right shall be set off by a line that distinguishes it and sets it apart from the dietary ingredients and percent of Daily Value information given to the left. The following sample label illustrates this display:

* * * * *

Dated: January 4, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–564 Filed 1–11–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 126

[USCG–1998–4302]

RIN 2115–AE22

Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes within or Contiguous to Waterfront Facilities

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: The Coast Guard is reopening the comment period for the notice of proposed rulemaking (NPRM) for Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes within or Contiguous to Waterfront Facilities to March 1, 1999 to allow additional time for public comment.

DATES: Comments must reach the Coast Guard on or before March 1, 1999.

ADDRESSES: You may mail comments to the Docket Management Facility [USCG–1998–4302], U.S. Department of Transportation (DOT), Room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also electronically access the public docket for this rulemaking on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For information concerning the NPRM provisions, contact LCDR John Farthing, Project Manager, Vessel and Facility Operating Standards Divisions, Coast Guard, telephone 202–267–6451, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. For information on the public docket, contact Dorothy Walker, Chief, Dockets, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting written data, views, or arguments. If you submit comments, you should include your name and address, identify this notice (USCG–1998–4302) and the specific section or question in this document to which your comments apply, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES.** If you want acknowledgment of receipt of your comments, you should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period.

The Coast Guard plans no public meeting. Persons may request a public meeting by writing to the Docket Management Facility at the address under **ADDRESSES**. The request must identify this docket [USCG–1998–4302] and should include the reasons why a public meeting would be helpful to this rulemaking. If we determine that a meeting should be held, we will announce the time and place in a later notice in the **Federal Register**.

Background and Purpose

The regulations in 33 CFR part 126 prescribing requirements for designated waterfront facilities that handle, store, and transfer hazardous materials to and from vessels were written in the 1950s and have never been significantly updated. On October 29, 1998 (63 FR 57964), we published a NPRM proposing to amend part 126 by updating the requirements to meet current industry standards for containerized hazardous material cargoes. The closing date for the original comment period was scheduled for December 28, 1998.

During the original NPRM comment period we received several comments requesting an extension of the comment period. One comment from an industry group potentially affected by these regulations stated that it is meeting in mid-December and needs more time to develop comments. Another comment indicated difficulty meeting the December 28, 1998 deadline because the shipping industry is typically very busy during the holiday season. We accept these as reasonable requests and we are reopening the NPRM comment period by 60 days. The new NPRM comment period will close March 1, 1999.

Dated: January 5, 1999.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–536 Filed 1–11–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–189–0128; FRL–6217–8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve in part and disapprove in part a state implementation plan (SIP) revision submitted 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 the approval and disapproval of the SIP revisions 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: Written comments must be received by February 11, 1999.

ADDRESSES: Comments should be sent to Dave Jesson, Air Planning Office (AIR–2), Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

The rulemaking docket for this notice is available for public inspection at EPA's Region IX office during normal

business hours. 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

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

SUPPLEMENTARY INFORMATION:

I. Background

A. Summary

1. Introduction

This proposed action relates to a 1997 revision to the 1994 ozone SIP for the South Coast.[1] The South Coast Air Quality Management District (SCAQMD) adopted the revision within weeks of EPA's approval of the 1994 ozone SIP. The 1997 proposed revision to the ozone SIP was not federally required, but was adopted to address, in a comprehensive and consistent fashion, federal and state requirements for particulate matter, carbon monoxide, and nitrogen dioxide, and state requirements for an ozone plan update. In order to understand the basis for EPA's proposed disapproval of the 1997 revision, it is necessary to understand the 1994 ozone SIP, several aspects of which are unique. An overview of the 1994 ozone SIP for the South Coast appears below, followed by a description of the 1997 proposed revision.

2. 1994 South Coast Ozone SIP

On November 15, 1994, the State of California submitted the 1994 ozone plan for the South. The plan was subsequently amended and we approved the plan on September 25, 1996, as the first fully approved and federally enforceable ozone SIP for the South Coast.

The 1994 plan was built on 4 decades of State and local leadership in researching, developing, adopting, and implementing new air pollution control strategies. By that date, the California and South Coast air quality agencies and industry had a world-wide reputation for pushing technological progress to achieve the world's cleanest cars, fuels, consumer products, industrial controls, and paints and coatings.

As a direct result of this extraordinary effort by elected officials, governmental agencies, industry, and the residents of Southern California, air pollution levels had been dramatically reduced: the number of days per year with dirty air and the peak concentrations had dropped by more than 60 percent, and severe episode days (where health warnings are issued to all residents and pollution-generating activities must be curtailed) had been completely eliminated. This accomplishment is more remarkable in view of Southern California's extraordinary growth during these years and the continued dependence of the area on private vehicle use.

Despite the State and local achievements, however, Southern California in 1994 continued to have by far the dirtiest air in the country. For example, the South Coast in 1994 recorded 1-hour levels at or above 0.120 parts per million (ppm) for ozone, or smog, on 107 days in the Los Angeles-Long Beach area and 123 days in the Riverside-San Bernardino area, while other major metropolitan areas had values at or above 0.120 ppm on far fewer days: Houston 32, New York 9, Detroit 6, Philadelphia 5, Atlanta 4, and Chicago 2.[2] Similarly, the South Coast has recorded particulate matter or (soot) and carbon monoxide pollution levels greater than other urban areas in the U.S., and was the only area of the country in violation of the nitrogen dioxide NAAQS under the 1990 CAA Amendments.

Recognizing that all residents have a right to clean air and that clean air investments have a high benefit-cost ratio,[3] the California Air Resources Board (CARB) and SCAQMD cooperated in the adoption of a 1994 plan laying out the strategies that would bring clean air by the federal deadline of 2010.

The State committed to implement 9 new mobile source control measures, an enhanced motor vehicle inspection and maintenance (or Smog Check) program, and incremental regulatory reductions in the smog-forming constituents of consumer products and pesticides, and to develop advanced, long-term controls for onroad and nonroad vehicles and engines.

The Governing Board of the SCAQMD and the Southern California Association of Governments (SCAG) committed to implement 60 new specific controls, and SCAQMD also bound itself to achieve additional emission reductions in the future from advanced technology measures.

Together these State and local measures would reduce the 1990 emissions level of 2878 tons per day (tpd) to 1032 tpd. Modeling analyses by the SCAQMD estimated, however, that the smog problem could not be solved without an additional 156 tpd reduction in pollutants. The State determined that we should achieve these remaining reductions by promulgating national mobile source controls in accordance with our new authorities under the 1990 CAA Amendments.

We concluded that California had no authority under the U.S. Constitution or the Clean Air Act to require us to contribute particular measures and emissions reductions to the SIP for the South Coast. We appreciated, however, the significant level of commitment by the State and SCAQMD reflected in the 1994 ozone plan and we wished to do our share in contributing further mobile source controls consistent with our national authorities and responsibilities. We also saw merit in the State's desire to cooperate with us in negotiating with affected industry consistent Federal and California mobile source standards.

We therefore approved the 1994 ozone SIP based upon commitments by the State and EPA to participate in a public consultative process on mobile source controls, leading to a decision in mid-1997 on what further reductions needed to be achieved and which entity should have responsibility for them. We and California further committed to adopt any additional controls, as necessary and appropriate, to achieve the emission reductions required for attainment of the ozone standard in the South Coast.

We believe that we have now achieved, or have rulemaking in progress to accomplish, almost all of the reductions the State purported to assign to us in the 1994 ozone SIP—approximately 145 tpd out of a 156 tpd ''assignment.'' This is the result of close coordination between California and EPA and cooperation by manufacturers and users of mobile source engines and equipment, culminating in agreements on aggressive new standards for trucks and buses and most categories of nonroad mobile sources, ranging from forklifts to outboard engines, and from locomotives to tractors. We believe that

[1] 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] The national ambient air quality standard (NAAQS) for ozone is 0.12 ppm averaged over a 1-hour period.

[3] *The Socioeconomic Assessment Report for the 1994 Air Quality Management Plan* (SCAQMD, August 1994) calculated total benefits of clean air achieved under the plan to exceed total plan costs by between $0.9 and $1.5 billion per year. This calculation applies to ozone, PM, and visibility benefits, but does not include unquantifiable benefits such as reduction in chronic illness, reduction in lung function in human beings, reduced damage to livestock and plant life, and erosion of building materials. Furthermore, 75% of the costs of the plan are associated with measure TCM–04 (transportation improvements).

these aggressive Federal controls will have clean air benefits nationally, and that the stringent new standards will ensure that all sources of the pollution problem contribute their share to needed emission reductions.

California's plan assumed, however, that stringent new emissions standards would be set for aircraft engines and ocean-going vessels. Unfortunately, the international standard-setting process for commercial aircraft engines and ocean-going vessels has not resulted in standards that will benefit the South Coast appreciably by 2010, especially in view of the long life-span of these engines. Moreover, the State assumed an unrealistically rapid turnover rate for harbor craft, and therefore overestimated reductions that would be achieved in 2010, even by a very stringent federal standard.

While we and the State continue to work with the ports, shippers, airports, and airlines to achieve reductions from their operations, we now expect that there will remain a small shortfall in the ''federal'' category. Unfortunately, the SCAQMD has filed a suit against us to promulgate the aircraft and ocean-going vessel standards postulated by the State, although all parties are now aware that the standards are set internationally and that the international standards recently adopted will not, in fact, achieve the reductions anticipated by the State in its 1994 SIP submittal.

The SCAQMD has also sued us to end the public consultative process by making specific additional federal commitments to adopt regulations for all remaining emission reduction assignments. In response to a suit from environmental groups, we have already negotiated a settlement that requires us by June 1, 1999, to conclude the public consultative process, determine remaining responsibilities of the State and EPA, and schedule adoption of controls to fulfill those responsibilities.

Thus, we believe that both District suits are a waste of public resources, and we conclude that it would be inconsistent with our pending obligations to resolve the public consultative process for us to approve a new South Coast SIP that includes Federal assignments to undertake discretionary controls.

3. 1997 South Coast Ozone Plan

As we finalized our approval of the 1994 ozone SIP, the SCAQMD unveiled a replacement plan. This revised plan abandoned, relaxed, or postponed approximately 30 measures in the ozone SIP. The revised plan employed new growth projections, new inventories, and new modeling analyses to support the proposition that the area could meet the minimum statutory progress requirements and eventually attain the ozone NAAQS despite the extensive rollback in near-term controls.

When the revised plan was announced, we indicated our serious concerns about the direction of the plan, particularly its backsliding at the very time we were issuing revised ozone NAAQS and new fine particulate matter (PM–2.5) NAAQS that would require still greater levels of control than were reflected in the 1994 ozone SIP. We noted that the extremely high ozone and PM levels in the South Coast continued to represent one of our country's most severe environmental and public health problems—problems highlighted by the hundreds of scientific studies that formed the basis of the new and revised NAAQS. We encouraged the District to focus on implementation of the newly approved SIP and, if measures proved to be infeasible or ineffective, to adopt replacement measures in order to sustain progress.

The SCAQMD nevertheless adopted the revised plan in November 1996, and the State submitted the plan as a proposed SIP revision in early February 1997. We continued to express our concerns and to remind the SCAQMD that the District, responsible for public health in the most polluted area of the country, had an obligation to increase its efforts rather than regress. We have repeatedly indicated that we support the District's flexibility to amend or replace any measure when it is determined to be infeasible or ineffective, but we cannot support the significant relaxation of the SIP represented by the 1997 plan.

After adopting a plan revision that postponed or eliminated most of the near-term measures in the 1994 ozone SIP, the District has since failed to meet most of its implementation commitments in the 1997 ozone plan. This is consistent with the District's record over the past 4 years, during which the SCAQMD has adopted and revised credit and trading rules and has amended existing prohibitory rules to postpone compliance dates, but has adopted only a handful of new measures designed to reduce pollution levels.

On September 26, 1997, environmental groups sued the SCAQMD and CARB in federal district court, seeking a court order to compel the agencies to meet their federally enforceable commitments to adopt and implement control measures in the 1994 ozone SIP. We urged the parties to attempt settlement and we provided a facilitator for the sessions. Negotiations began in the early Spring of 1998, and a proposed settlement was drafted in late June. The SCAQMD Governing Board, however, rejected the proposed settlement in June 1998.

On November 4, 1998, the SCAQMD filed suit against us to compel our action on the 1997 plans, repeating the argument that the plan should be approved. We have been consistent in expressing our contrary view, that the Clean Air Act gives us authority to approve revised SIPs but does not allow us to approve revisions that represent a significant retreat from the approved SIP. We believe that it would be particularly ill-advised to approve major relaxations in the South Coast, where the public suffers by far the worst pollution levels in the country.

We continue to hope that the SCAQMD will decide to meet its difficult responsibilities to protect public health and, in so doing, will both strengthen the plan and begin fully to implement the plan to fulfill the 1994 plan's promise of clean air progress.

B. The South Coast Ozone Problem

Ground-level ozone is formed when nitrogen oxides (NO_X), volatile organic compounds (VOCs), and oxygen react in the presence of sunlight, generally at elevated temperatures.[4] Strategies for reducing smog typically require reductions in both VOC and NO_X emissions.

Ozone causes serious health problems by damaging lung tissue and sensitizing the lungs to other irritants. When inhaled, 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. Children are most at risk from exposure to ozone because they breathe more air per pound of body weight than adults; their respiratory systems are still developing and thus more susceptible to environmental threats; and children exercise outdoors more than adults in the high-ozone months of summer.

Direct exposure to NO_X and VOCs also has adverse public health consequences. Exposure to elevated NO_X concentrations can reduce breathing efficiency, increase lung and airway irritation, and exacerbate symptoms of respiratory illness, lung

[4] The South Coast plan sometimes substitutes the term Reactive Organic Gases (ROG) for VOC. These terms are essentially synonymous.

congestion, wheeze, and increased bronchitis in children. VOCs include many toxic compounds (such as benzene), which can cause respiratory, immunological, neurological, reproductive, developmental, and mutagenic problems. Some VOCs have been identified as probable or known human carcinogens.

Since the strategies in the 1994 ozone SIP and 1997 ozone plan address VOC and NO_X, the primary precursor of particulate matter in the South Coast, the plans also affect PM concentrations.

Particulate matter is associated with a number of significant respiratory and cardiovascular-related effects, including premature death, increased hospitalization, increased emergency room visits, increased respiratory symptoms, increased disease (especially among children and people with lung disease such as asthma), and decreased lung function.

Both ozone and PM damage vegetation. Experimental studies on the major commercial crops in the U.S. suggest that ozone may be responsible for significant agricultural crop yield losses.

Under section 109 of the CAA, EPA established primary, health-related NAAQS for ozone: 0.12 ppm averaged over a 1-hour period. See 44 FR 8220 (February 8, 1979). EPA also set NAAQS for particulate matter up to 10 microns in diameter (PM–10): 150 micrograms per cubic meter (ug/m3) averaged over a 24-hour period, and 50 ug/m3 as an annual arithmetic average of the 24-hour samples. See 52 FR 24672 (July 1, 1987).

On July 18, 1997, EPA reaffirmed the annual PM–10 standard and slightly revised the 24-hour standard (62 FR 38651). At the same time, EPA also established two new standards for PM, both applying only to particulate matter up to 2.5 microns in diameter (PM–2.5). Finally, on July 18, 1997, EPA also revised the ozone NAAQS, replacing the 1-hour standard with a standard of 0.08 ppm averaged over an 8-hour period (62 FR 38855). EPA has not yet issued specific plan and control requirements for the new and revised NAAQS.

The South Coast has continuously had by far the worst 1-hour ozone concentrations in the country, both in terms of peak concentrations and number of violations. While the South Coast ozone levels have greatly improved over the years, the trend is not continuous. For example, in 1998 there have been 12 Stage I Alerts (which are triggered by ozone concentrations at or above 0.20 ppm), compared to only 1 in 1997.

The South Coast typically has among the worst PM–10 annual mean and 24-hour concentration in the country. Last year, the South Coast had the second worst PM–10 annual mean concentration of U.S. urbanized areas, with only Phoenix recording a worse level.

C. Clean Air Act Requirements

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

Under section 181(a) of the Act, each ozone area designated nonattainment under section 107(d) was also classified by operation of law as either marginal, moderate, serious, severe, or extreme, depending on the 1986–1988 design value for the area. An ozone area with a design value at and 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.

Section 172 of the Act contains general requirements applicable to SIPs for nonattainment areas. Section 182 of the Act set 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 attainment of the ozone NAAQS. This demonstration must be based upon enforceable measures to achieve emission reductions leading to emissions at or below the level predicted to result in attainment of the NAAQS throughout the nonattainment area. The measures must be implemented expeditiously and must ensure attainment no later than the applicable CAA deadline.

EPA has issued a ''General Preamble'' describing the Agency's preliminary views on how EPA intends 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. The reader should refer to the General Preamble for a more detailed discussion of EPA's preliminary interpretations of Title I requirements. In this proposed rulemaking action, EPA applies these policies to the South Coast ozone SIP submittal, taking into consideration the specific factual issues presented.

D. SIP Submittals Must Meet Requirements of the Pre-Existing NAAQS

Before the SCAQMD adopted the 1997 ozone plan, EPA had already announced its intention to issue new and revised ozone and PM NAAQS. The SCAQMD included in Chapter 10 of the 1997 South Coast Air Quality Management Plan (AQMP) an initial analysis of the emission reductions that might be needed to attain the anticipated new and revised ozone and PM NAAQS. The SCAQMD concluded that significantly greater reductions would be required to attain the new and revised NAAQS that were under consideration. However, the SCAQMD prepared the plans to address only the NAAQS then in effect.

Although EPA has now promulgated revised ozone NAAQS, EPA is not evaluating the plan based upon the NAAQS issued in 1997. The Agency will not require states to submit SIPs to address the revised NAAQS for several years. The pre-existing 1-hour ozone NAAQS remain in effect in each nonattainment area until the area attains NAAQS. Thus, the 1-hour NAAQS of 0.12 ppm will not be revoked in the South Coast until the area has recorded 3 years with no more than 3 concentrations at or above 0.125 ppm at any monitor. State and local agencies remain under an obligation to adopt and implement SIPs to attain the pre-existing ozone NAAQS until the EPA revokes the NAAQS for the area.[5]

E. EPA Actions on Prior South Coast Ozone SIP Revisions

The SCAQMD adopted an ozone plan on September 9, 1994. This plan, which was included in the 1994 South Coast AQMP, was supplemented by State measures adopted by CARB and was submitted 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), EPA finalized approval of the South Coast ozone plan, including the ozone portions of the 1994 South Coast

[5] EPA has determined that subpart 2 of part D of Title I of the CAA should continue to apply as a matter of law for the purposes of achieving attainment of the current 1-hour ozone standard until an area attains the standard. See the final rule promulgating the revised ozone NAAQS (July 18, 1997, at 62 FR 38873 for ozone), ''Implementation Plan for Revised Air Quality Standards'' (July 18, 1997, at 62 FR 38424), and ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM10 NAAQS'' (memo from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, dated December 29, 1997).

AQMP, as amended in 1996, and the State measures.[6]

F. South Coast 1997 Plan Revision

On February 5, 1997, CARB submitted as a revision to the California SIP the 1997 Air Quality Management Plan for the South Coast Air Basin (SCAB), Antelope Valley, and Coachella Valley, adopted by the SCAQMD on November 15, 1996. This submittal addressed all four pollutants for which the South Coast was designated nonattainment: ozone, PM–10, carbon monoxide (CO) and nitrogen dioxide (NO2).

EPA has previously acted on two components of the 1997 AQMP. On April 21, 1998, EPA granted interim final approval to the 1997 South Coast CO plan (63 FR 19661).[7] EPA has also fully approved the 1997 South Coast NO2 attainment and maintenance plan and the State's request on March 4, 1998, to redesignate the South Coast to attainment for NO2 (63 FR 39747, July 24, 1998).

The ozone and PM–10 portions of the South Coast 1997 AQMP became complete by operation of law on August 5, 1997.[8] SCAQMD and CARB intend the 1997 ozone plan to supersede completely the 1994 ozone SIP with respect to the SCAQMD portion of the plan. As discussed, EPA has not yet issued its interpretation of CAA section 172(e) to prevent backsliding in PM–10 nonattainment areas. EPA intends to propose action on the South Coast 1997 PM–10 plan in separate rulemaking.

The State has revised several of its own measures that are part of the South Coast plan, but at this time CARB has submitted as a SIP revision only one of these changes. On April 15, 1998, CARB submitted new Measure M17 (Additional Emission Reductions from Heavy-Duty Vehicles) as a replacement for Measure M7 (Accelerated Retirement of Heavy-Duty Vehicles). EPA will take action on Measure M17 in separate rulemaking.

The 1997 ozone plan includes, among other things, attainment demonstrations based on updated VMT projections reflecting new forecasts prepared by SCAG, an amended Regional Mobility Element adopted by SCAG, revised motor vehicle emissions estimates using California's EMFAC7G and BURDEN7G program, new stationary and area source emission inventories, amended SCAQMD control measure commitments, and revised Urban Airshed Modeling (UAM), using the new inventories and changes to other modeling inputs.

II. Review of the Plan Submittal and Proposed EPA Action

A. Summary of Proposed Action

In this document, EPA is proposing to approve in part and disapprove in part the 1997 ozone plan. The ozone plan for the South Coast depends on commitments by SCAQMD to adopt and implement various VOC and NO_X control measures by particular dates to achieve specific emission reductions needed for progress and attainment. EPA proposes to disapprove the control measure portion of the plan for the reasons discussed in section II.D., below. EPA proposes also to disapprove the progress and attainment demonstrations in the plan, since these plan elements depend upon the control measure provisions.

B. Procedural Requirements

Both SCAQMD and CARB have satisfied applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption of the plan and each of the plan amendments. SCAQMD conducted numerous public workshops and public hearings prior to the adoption hearing on November 15, 1996, at which the 1997 AQMP was adopted by the SCAQMD Governing Board (Resolution No. 96–23). On January 23, 1997, the CARB Governing Board adopted the plan (Resolution No. 97–1). The plan was submitted to EPA by Michael P. Kenny, Executive Officer of CARB, on February 5, 1997. The SIP submittal includes proof of publication for notices of SCAQMD and CARB public hearings, as evidence that all hearings were properly noticed. Therefore, EPA proposes to approve the 1997 ozone plan as meeting the procedural requirements of section 110(a)(1) of the CAA.

C. Baseline and Projected Emissions Inventory

The revised and updated emissions inventory included in the 1997 AQMP conforms to EPA's guidance documents.[9] This EPA guidance allows approval of California's motor vehicle emissions factors in place of the corresponding federal emissions factors. The motor vehicle emissions factors used in the plan were generated by the CARB EMFAC7G and BURDEN7G program. The gridded inventory for motor vehicles was then produced using an updated Caltrans Direct Travel Impact Model (DTIM2) (Systems Applications International, 1994) to combine EMFAC7G data with transportation modeling performed by SCAG.

SCAG provided the baseline socioeconomic data used in the plan. These forecasts include the following predicted growth through the ozone attainment year.

[6] Some of the State and SCAQMD measures in the plan had been approved in prior rulemakings. See, particularly, 60 FR 43379 (August 21, 1995), approving CARB regulations relating to antiperspirants and deodorants and other consumer products, reformulated gasoline and diesel fuel, and certain new-technology measures adopted by CARB and SCAQMD.

[7] EPA approved the CO plan with respect to the CAA requirements for notice and adoption, baseline and projected emissions inventory, and vehicle miles traveled (VMT) forecasts. EPA granted interim approval to the CO attainment demonstration, quantitative milestones, and reasonable further progress, since these plan elements depend, in part, on emission reductions from the State's enhanced motor vehicle inspection and maintenance program. The I/M program was given interim approval in EPA's final action on the 1994 ozone SIP (see 62 FR 1165–1168, January 8, 1997) under section 187(a)(6) of the CAA and section 348© of the National Highway System Designation Act (Pub. L. 104–59).

[8] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[9] See, for example, Procedures for the Preparation of Emission Inventories for Carbon Monoxide and Precursors of Ozone, Volume I: General Guidance for Stationary Sources, EPA—450/4–91–016; Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources, EPA—450/5–91–026d Revised.

1997 AQMP BASELINE SOCIOECONOMIC FORECASTS

[In millions]

Category	1993	2000	2010
Population	13.8	14.8	16.7
Daily Vehicle Miles Traveled (VMT)	293.3	317.9	377.9
Daily Vehicle Trips	31.2	33.2	37.9

EPA notes that these predictions assume that the area's growth will increase at rates considerably below long-term historic trends.[10] This makes it particularly important for transportation agencies to track actual VMT and trip numbers carefully, and to trigger remedial actions, if necessary, before the plan fails to meet scheduled reduction targets. The growth projections for industrial categories are also generally lower than past trends, and EPA strongly encourages the SCAQMD to revise the emission inventories and adopt additional control measures, as may be necessary, if information suggests that growth will exceed the SIP projections.

The plan includes interpolated inventories for all milestone years for ozone precursors. The methodologies used to prepare the base year and projected emissions inventories, as described in Chapter 3 and Appendix 3 of the AQMP, are acceptable. Accordingly, EPA proposes to approve the 1997 ozone plan with respect to the emissions inventory requirements of sections 172(c)(3) and 182(a)(1) of the CAA.

D. Control Measures

CAA sections 110(a)(2)(A) and 172(c)(6) require that all measures and other elements in the SIP be enforceable. As discussed at length in EPA's approval of the 1994 California ozone SIPs, EPA has interpreted these provisions to allow for approval of attainment demonstrations that rely, in part, on commitments to adopt and implement rules in the future, so long as the commitments are specific and enforceable (see 57 FR 13556 and 13568, April 16, 1992; and 62 FR 1155–1157, January 8, 1997).

The attainment demonstration in the 1997 ozone plan rests on emission reductions derived from adopted regulations and from rules and programs which SCAQMD commits to adopt. The plan measures that are scheduled for adoption in the future are commonly referred to as ''committal measures.'' In the case of the South Coast, the committal measures are further divided into near-term measures and long-term (or new-technology) measures, which are authorized for extreme ozone nonattainment areas under CAA section 182(e)(5). The 1994 ozone SIP contains 66 near-term control measures for adoption by SCAQMD, SCAG, or local governments, and 5 long-term measures for adoption by SCAQMD. The 1997 ozone plan includes 36 near-term control measures for adoption by SCAQMD, SCAG, or local governments, and 6 long-term measures for adoption by SCAQMD. Both plans contain the same group of near-term and long-term measures assigned to the State or to the Federal government (see discussion below in Section II.D.3.)

EPA proposes to disapprove the SCAQMD's committal measures for 4 reasons.

1. SCAQMD Is Already in Default of Many Control Measure Commitments

Although the plan schedules SCAQMD adoption of 23 VOC/NO_X regulations or programs by the end of 1998, the SCAQMD has adopted less than 10, and no additional measures are scheduled for adoption by the end of the year. EPA does not believe there is a basis for approving commitments to adopt rules and programs or to approve an attainment demonstration based, in part, on reductions from these rules and programs, if the adoption dates have passed and the rules or programs have not been adopted. The SCAQMD's faithful implementation of the plan would cure this deficiency.

2. The Control Measures Are an Impermissible Relaxation of the SIP

The commitments in the 1997 ozone plan to adopt VOC and NO_X control measures represent backsliding from the 1994 ozone SIP. The 1997 plan abandons, relaxes, or postpones approximately 30 control measures in the approved South Coast ozone SIP. Specifically, SCAQMD removed, postponed, relaxed, or shifted to a ''further evaluation'' category the following control measures, which were scheduled for near-term adoption in the 1994 ozone SIP: 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–02 Solvents and Coatings at Non-RECLAIM Sources, 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, ISR–01 Special Events Centers, ISR–02 Shopping Centers, ISR–04 Airport Ground Access, ISR–05 Trip Reduction for Schools, ADV–CTS–02 Advanced Technology—Coatings. This list does not include control measures approved as part of the 1994 ozone SIP but without assigned emission reduction credits.

The scale of the SIP relaxation may be seen in the table below, ''South Coast 1994 Ozone SIP and 1997 Ozone Plan VOC Emission Reductions from SCAQMD/SCAG Local Rules for Each Rate-of-Progress Milestone Year.'' [11]

[10] The 1997 AQMP's growth projections are also considerably reduced from those used in the 1994 ozone SIP, which used 2010 projections of 17.4 million for population, 413.9 million miles for daily VMT, and 45.7 million vehicle trips per day.

[11] The table is not adjusted to harmonize the control category baseline emission inventories. A small number of near-term control measures in the 1994 ozone SIP were adopted as regulations before the 1997 plan was issued. The emission reductions from these adopted regulations were treated as ''baseline'' emissions in the 1997 plan, rather than as near-term emission reductions. In addition, the 1997 plan revises the emissions inventory in the 1994 ozone SIP and reduces the emissions inventory for the control categories and the emission reductions associated with some of the 1994 ozone SIP's near-term control measures.

SOUTH COAST 1994 OZONE SIP AND 1997 OZONE PLAN VOC EMISSION REDUCTIONS FROM SCAQMD/SCAG LOCAL RULES FOR EACH RATE-OF-PROGRESS MILESTONE YEAR

[In tons per day rounded to nearest ton]

	1999	2002	2005	2008	2010
1994 Ozone SIP					
Near-Term	104	186	233	268	285
Long-Term	0	20	32	121	180
Total	104	207	266	389	465
1997 Ozone Plan					
Near-Term	11	41	67	86	91
Long-Term	0	0	3	54	89
Total	11	41	70	140	180

Section 110(l) of the Act provides that EPA may not approve a SIP revision if the revision will interfere with attainment or reasonable further progress or any other applicable requirement of the Act. Based on the measures relaxed or deleted and the associated loss of emissions reductions, EPA concludes that the 1997 ozone plan constitutes an unapprovable relaxation of the ozone SIP.[12] The State has not demonstrated why it is not reasonable or feasible for the SCAQMD to adopt measures sufficient to achieve emission reductions on the 1994 ozone SIP schedule, thus potentially expediting attainment of the standard.

EPA believes that the SCAQMD can identify and adopt substitute near-term measures. In fact, the SCAQMD has already adopted or scheduled for near-term adoption some measures not included in the 1997 plan.[13] Thus, this deficiency in the 1997 plan could be cured if the SCAQMD submits commitments to adopt additional control measures along with a demonstration that the amended plan provides for attainment on a schedule that is as expeditious as practical.

3. The Plan Includes Unlawful Assignments of Control Measure Responsibility to EPA

The plan relies in part on reductions from control measures assigned to EPA to adopt in the future. In acting on the 1994 ozone SIP, which also included these ''federal measures,'' EPA stated that the Agency does not accept California's proposition that a state can, under the CAA, assign SIP responsibilities to the Federal government (61 FR 10936, March 18, 1996, 62 FR 1151, January 8, 1997).

Rather than disapprove the 1994 plan, EPA elected to establish a brief ''public consultative process'' to identify the best options for achieving further emission reductions from mobile source controls to contribute to attainment of the NAAQS in the South Coast. EPA indicated that at the conclusion of this process, in June 1997, EPA expected that the State would be able to amend the South Coast attainment demonstration based on the final mix of national, State and local controls. See 61 FR 10923 (March 18, 1996) and 62 FR 1151–1153 (January 8, 1997).

As part of the final SIP approval, EPA approved CARB's commitment to amend the South Coast ozone SIP by December 31, 1997, and to adopt additional mobile source measures, as appropriate, by December 31, 1999, to resolve SIP shortfalls remaining at the end of the public consultative process. See 40 CFR 52.220(C)(235)(I)(A)(1). In taking final action to approve the 1994 ozone SIP, EPA also made a commitment to adopt additional federal mobile source measures which are determined to be appropriate for EPA and needed for ozone attainment in the South Coast. See 40 CFR 52.241.

EPA has not yet concluded the public consultative process, but has been sued by environmental groups to do so (*Coalition for Clean Air, et. al. vs. South Coast Air Quality Management District, California Air Resources Board, and U.S. Environmental Protection Agency*, No. CV 97–6916 HLH (C.D. Cal.)). Subsequently, the SCAQMD also sued EPA for failing to adopt certain of the Federal Measures included in California's 1994 ozone SIP and to resolve the public consultative process and adopt measures determined to be appropriate for the Agency.

EPA has recently entered into a Consent Decree with the environmental plaintiffs to conclude the public consultative process and to determine by June 1, 1999, the respective responsibilities of EPA and the State for adopting measures to achieve the remaining emission reduction requirements. This Consent Decree was lodged with the U.S. District Court on November 13, 1998. EPA sought public comment on the Consent Decree on December 9, 1998 (63 FR 67879).

In light of the imminent conclusion of the public consultative process provided for in EPA's final approval of the 1994 ozone SIP, the Agency has determined that it is not appropriate to approve another South Coast plan that includes emission reductions associated with specific Federal Measures assigned by the State to EPA, much less a plan that increases the illegal emission reduction assignment to the Federal government, as the 1997 plan does for several source categories.[14] EPA reiterates its position that states do not have the authority under the Clean Air Act or the Constitution to assign SIP responsibility to the Federal government.

EPA expects that this particular SIP deficiency will be resolved in the future

[12] The SCAQMD has argued that CAA section 110(a)(2)(H) authorizes states to amend their SIPs as new information becomes available, provided the resulting plan is adequate to attain the NAAQS it implements and it otherwise continues to comply with the CAA. Section 110(a)(2)(H) of the CAA actually requires that a SIP ''provide for revision of such plan from time to time as may be necessary to take account of * * * the availability of improved or more expeditious methods of attaining such [NAAQS] * * *.'' This CAA provision clearly contemplates that states should revise their plans to provide for greater or more expeditious emission reductions. In contrast, the District has elected to relax its plan, and the governing provision of the Act for relaxations is section 110(l).

[13] For example, SCAQMD's June 13, 1997 amendment to Rule 1171 Solvent Cleaning Operations contributes VOC reductions not specifically called for in the 1997 plan. As an example of another feasible control option that could achieve significant VOC reductions, EPA has encouraged SCAQMD implementation of more stringent requirements for spray booths.

[14] For example, the 1997 plan increases the emission reduction assignment for measures M13 (Marine Vessels), M15 (Aircraft), and M16 (Pleasure Craft).

through an amendment to the SIP providing specific enforceable commitments, if appropriate, by responsible agencies to adopt mobile source control measures sufficient to eliminate any shortfall in emissions reductions that might remain at the end of the public consultative process.

4. Section 182(e)(5)

As noted above, CAA section 182(e)(5) authorizes EPA to approve long-term, conceptual measures that rely on new technologies or new control techniques as part of the attainment demonstration for the South Coast, the only extreme ozone nonattainment area. This CAA provision recognizes the difficulty faced by CARB, SCAQMD, and SCAG in fully developing and adopting in the near-term all of the controls that are needed to achieve attainment by the 2010 deadline.

There is no evidence, however, that CAA section 182(e)(5) was enacted to provide a broad excuse for postponing the adoption of available near-term controls because they are difficult or unpopular. Moreover, the progressive nature of control technology development is evidently a basic assumption behind the CAA section 182(e)(5) provision. It would not be consistent with that assumption to authorize agencies to amend their approved SIP to replace numerous near-term control measures and emission reductions with long-term commitments. On the contrary, later revisions to the SIP should reduce, rather than increase, the long-term measure element.

EPA's proposed approval of the 1994 ozone SIP for the South Coast elicited extensive comments from environmental groups. These commenters felt that the SIP should be disapproved because it relied too extensively on speculative and poorly defined long-term measures. The commenters argued that these measures should be replaced by more near-term controls and better defined and supported long-term measures.

In response to these comments and based on further discussions with CARB and the SCAQMD, EPA included in the final approval the following interpretation of the section 182(e)(5) provisions of the CAA as they apply to the 1994 ozone SIP and any subsequent revisions to the South Coast ozone SIP.

Measures which the 1994 South Coast Ozone SIP scheduled for adoption and implementation, or any portion of the emissions reductions scheduled to be achieved as a result of implementation of those near-term measures, may not be converted, at some future time, into section 182(e)(5) new-technology measures or moved into emissions reductions associated with section 182(e)(5) new technology measures, without a convincing showing in a SIP revision that the technologies relied upon in the near-term rules have been found to be technologically infeasible or ineffective in achieving emissions reductions in the near-term. The near-term measures in the 1994 SIP have not been determined to ''anticipate development of new control techniques or improvement of existing control technologies'' (section 182(e)(5)). On the contrary, they were evidently determined by the SCAQMD and CARB to be both available and necessary for expeditious progress in reducing emissions in the near term in the South Coast. Should either CARB or the SCAQMD determine that new information requires a reconsideration of the near-term feasibility of the 1994 SIP near-term measures, the agencies must submit a SIP revision demonstrating convincingly that the standards defined in this paragraph above for conversion of near-term measures to section 182(e)(5) new technology measures has been met. Absent such a convincing showing, a SIP revision will not be approved by EPA.

In view of continuing progress in the development and successful application of control technologies and control techniques, the amount and relative proportion of reductions from measures scheduled for long-term adoption under section 182(e)(5), as compared to measures already adopted in regulatory form or scheduled for near-term adoption, should clearly decrease in any future SIP update. EPA will not approve a SIP revision that contains an increase in the amount and relative proportion of reductions scheduled for long-term adoption under section 182(e)(5) that is inconsistent with the standard defined in the preceding paragraph. Further, to the extent new modeling performed in any subsequent SIP revision demonstrates that there is an increase in the year 2010 carrying capacity for ROG and NO_X, this change shall not be used to decrease the amount of emissions reductions scheduled to be achieved by any near-term measure from the 1994 SIP unless CARB or the SCAQMD make the convincing showing required by the preceding paragraph.

(62 FR 1179)

As mentioned, the 1997 ozone plan deletes or relaxes some 30 VOC/NO_X near-term measures in the 1994 ozone SIP, shifts others to the contingency/further study category or to the long-term measure category, and decreases the proportion of VOC emission reductions from near-term measures, while increasing the carrying capacity for VOC.[15]

Chapter 9 of the 1997 plan addresses the SIP approval criteria quoted above by brief discussions and by labelling those 1994 SIP measures that are deleted (14 VOC/NO_X measures) or placed in a contingency/further study category (17 VOC/NO_X measures) as ''not cost-effective,'' ''technically infeasible,'' ''minimal emission reduction potential,'' ''low public acceptability,'' and ''economic concerns, implementation authority.''

EPA believes that the 1997 ozone plan revision violates the intent of CAA section 182(e)(5). This section of the Act was intended to allow 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. EPA finds no indication that the provision was designed to allow a state to design SIP revisions that progressively postpone SIP commitments to adopt regulations and programs in the near-term, and in so doing to shift the balance of the SIP increasingly toward vague and undocumented future commitments. EPA therefore is inclined to consider the increased reliance of the 1997 ozone plan on long-term, conceptual measures to be a basis for disapproval of the control measure portion of the plan. However, the Agency particularly solicits public comment on whether the proposed 1997 revision can be reconciled with the purpose and language of CAA section 182(e)(5) or should be disapproved, in part, because the South Coast's substitute plan is inconsistent with this section of the Act.

As discussed in Section II.D.2 above, EPA believes that the SCAQMD recognizes that additional near-term measures can be added to avoid increasing the proportion of emission reductions assigned to the long-term measure category. SCAQMD adoption and submittal of replacement near-term measures could ensure that the plan complies with the Act's provisions relating to inclusion of long-term measures in the attainment demonstration.

E. Attainment Demonstration

The attainment demonstration was conducted using the Urban Airshed Model. The UAM analysis uses 4 episodes in 1987, including a September 7–9 episode with a peak concentration of 0.33 ppm.

[15] The 1997 ozone plan adds several new measures: FLX–01 Intercredit Trading Program, FLX–02 Air Quality Investment Program, and MSC–03 Promotion of Catalyst-Surface Coating Technology Programs for Air Conditioning Units, MON–09 In-Use Vehicle Emission Mitigation, MON–10 Emissions Reduction Credit for Truck Stop Electrification, and MOF–07 Credits for the Replacement of Existing Pleasure Craft Engines with New Lower Polluting Engines. All of these measures, however, are designed to enhance compliance flexibility and none contributes emissions reductions.

Previous SCAQMD modeling analyses also used a more challenging episode, June 5–7, 1985, which had a peak concentration of 0.36 ppm. For the 1997 plan, the 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 South Coast. Current EPA modeling guidelines allow use of a ''weight of evidence'' analysis to justify abandonment of episodes with extremely rare meteorological conditions.[16] On November 18, 1998, the SCAQMD submitted a weight of evidence analysis for the June 1985 episode.[17] A copy of this analysis has been placed in the docket for this rulemaking. The analysis addresses EPA's current modeling guidance and argues for elimination of the 1985 episode under a weight of evidence approach. Attachment B to the November 18, 1998, SCAQMD correspondence addresses the acceptability of the remaining 4 episodes as a basis for an attainment demonstration. The SCAQMD provides evidence that the episodes are representative of the types of meteorological episodes expected in the South Coast Air Basin 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 episodes shows a high systematic bias (for example, ozone underprediction of 44% for June 24 and 40% for June 25; 47% for September 8 and 38% for September 9). This underprediction is significantly reduced if motor vehicle VOC emissions are doubled. For example, the underprediction becomes 24% for June 24 and 19% for June 25; and 2% for September 8 and 3% for September 9.

The SCAQMD contends that this inventory adjustment is warranted, since it is generally conceded that motor vehicle VOC emissions were substantially underestimated in the 1987 historical episode emissions calculations. If this inventory adjustment is valid, model performance for the UAM simulation is within EPA's acceptable range of accuracy.

The 1997 ozone plan's modeling analysis predicts attainment with VOC emissions are reduced to 413 tons per day (tpd) and NO_X emissions are reduced to 530 tpd. For comparison purposes, the 1994 ozone SIP projected attainment with carrying capacities of 323 tpd VOC and 553 tpd NO_X, while the final 1994 AQMP identifies the carrying capacities as 313 tpd VOC and 274 tpd NO_X.

The ozone plan's modeled attainment demonstration is based on emission reductions from the 1997 ozone plan's suite of control measures. As discussed in section II.D., EPA proposes to disapprove these control measures for the 3 reasons discussed in section II.D. The 1997 ozone plan therefore does not meet the CAA section 182(c)(2)(A) requirement that the plan include ''(a) demonstration that the plan, as revised, will provide for attainment of the ozone national ambient air quality standard by the applicable attainment date.'' EPA proposes to disapprove the ozone plan with respect to the attainment demonstration requirements of CAA section 182(c)(2)(A), because of the deficiencies in the control measure portions of the plan.

E. Quantitative milestones and reasonable further progress (RFP)

1. Clean Air Act Provisions

CAA section 182(c)(2) requires that ozone SIPs include quantitative milestones that are to be achieved every 3 years until the area is redesignated 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, CAA 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 moderate areas. EPA believes that ''(by) meeting the specific 3 percent reduction requirements (of CAA section 182(c)(2)), the State will also satisfy the general RFP requirements of section 172(c)(2) for the time period discussed.'' (General Preamble, April 16, 1992, 57 FR 13518.)

The 1997 ozone plan shows reductions consistent with the 3 percent per year rate of progress requirement for 1999 through use of VOC emission reductions alone. Beginning in 2002, however, the plan does not have enough creditable VOC reductions to meet the milestones, and must substitute NO_X reductions, as allowed by CAA section 182(c)(2)(C). The schedule for these milestone years in the 1997 ozone plan is 6 percent VOC and 3 percent NO_X in 2005; 0.5 percent VOC and 8.5 percent NO_X in 2008; and 0.5 percent VOC and 5.5 percent NO_X in 2010. The rate of progress schedule in the 1994 ozone SIP far exceeds the CAA progress requirements for each milestone year using VOC emission reductions alone (see EPA's final approval of the 1994 ozone SIP, January 8, 1997, 62 FR 1181, table entitled ''South Coast ROP Forecasts'').

Compliance with the milestone and RFP requirements 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 EPA proposes to disapprove the control measure provisions in the ozone plan, EPA also proposes to disapprove the plan with respect to the CAA section 182(c)(2) quantitative milestone and reasonable further progress requirements.

F. Summary of Proposed EPA Actions

EPA proposes the following actions on elements of the South Coast ozone plan, as submitted on February 5, 1997:

(1) Approval of procedural requirements, under sections 110(a)(1) and 110(k)(3) of the CAA;

(2) Approval of baseline and projected emission inventories, under sections 110(a)(1), 110(k)(3), 172(c)(3) and 182(a)(1) of the CAA;

(3) Disapproval of the VOC and NO_X control measure provisions, under CAA sections 110(k)(3), 110(l), 172(c)(6), and 182(e)(5);

(4) Disapproval of the attainment demonstration, under CAA sections 110(k)(3) and 182(c)(2)(A) of the CAA; and

(5) Disapproval of quantitative milestones and reasonable further progress, under sections 110(k)(3) and 182(c)(2) of the CAA.

As discussed above, the partial disapproval of the ozone SIP revision does not trigger mandatory sanctions under CAA section 179, since EPA's approval of the 1994 South Coast ozone

[16] U.S.E.P.A., Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA–454/B–95–007 (1996).

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

plan with respect to the same requirements remains in force.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

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 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 this action 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 proposes to approve and disapprove 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 30, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 99–666 Filed 1–11–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63 and 302

[FRL–6216–8]

RIN 2060–AI08

Redefinition of the Glycol Ethers Category Under Section 112(b)(1) of the Clean Air Act and Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule, upon promulgation, will amend the Clean Air Act (CAA) list of hazardous air pollutants (HAP) in section 112(b)(1). Under section 112(b)(3)(D), EPA may delete specific substances from listed categories. This proposed rule modifies the definition of the glycol ethers category in a manner to exclude each of the compounds known as surfactant alcohol ethoxylates and their derivatives (SAED). This delisting action is being proposed by EPA in response to an analysis of potential exposure and hazards of SAED that was prepared by the Soap and Detergent Association (SDA) and submitted to EPA. Based on this information, EPA has made an initial determination that there are adequate data on the health and environmental effects of these substances to determine that emissions, ambient concentrations, bioaccumulation, or deposition of these substances may not reasonably be anticipated to cause adverse human health or environmental effects. By today's document, EPA is also proposing to make conforming changes in the definition of glycol ethers with respect to designation of hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

DATES: Written comments must be received by EPA on or before March 15, 1999. The EPA will hold a public hearing if EPA receives a written request for such a hearing on or before February 11, 1999. If a hearing is requested in a timely manner, EPA will publish an additional document in the **Federal Register** advising interested persons of the date, time, and location of the hearing. Moreover, if a hearing is held, EPA will keep the record open for 30 days after such hearing to receive rebuttal or supplementary information.

ADDRESSES: *Comments.* Comments on both of the proposed actions discussed in this notice should be submitted (in duplicate if possible) to the EPA's Air and Radiation and Information Docket (6101), Attention Docket Number A–98–39, Room M1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. *Docket.* Docket No. A–98–39, which includes a copy of the submission by the SDA, and an EPA analysis of that submission, will be available for inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the EPA's Air and Radiation and Information Docket, Room M1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Dr. Roy L. Smith, Environmental Protection Agency, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, NC 27711; (919) 541–5362.

SUPPLEMENTARY INFORMATION:

I. Listing and Delisting of HAP

Section 112 of the CAA contains a mandate for EPA to evaluate and control emissions of HAP. Section 112(b)(1) includes an initial list of HAP that is composed of specific chemical compounds and groups of compounds. This list is used to identify source categories for which the EPA will subsequently promulgate emissions standards.

Section 112(b)(2) requires EPA to conduct periodic reviews of the initial list of HAP set forth in section 112(b)(1) and outlines criteria to be applied in deciding whether to add or delete particular substances. Section 112(b)(2) identifies pollutants that should be added to the list as:

> * * * pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise * * *

Section 112(b)(3) establishes general requirements for petitioning EPA to modify the HAP list by adding or deleting a substance. In general, the burden is on a petitioner to include sufficient information to support the requested addition or deletion under the substantive criteria set forth in section 112(b)(3)(B) and (C). The Administrator must either grant or deny a petition within 18 months of receipt. If the Administrator decides to grant a petition, the Agency publishes a written explanation of the Administrator's decision, along with a proposed rule to add or delete the substance. If the Administrator decides to deny the petition, the Agency publishes a written explanation of the basis for denial. A decision to deny a petition is final Agency action subject to review in the D.C. Circuit Court of Appeals under section 307(b).

To promulgate a final rule deleting a substance from the HAP list, section 112(b)(3)(C) provides that the Administrator must determine that:

> * * * there is adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation, or deposition of the substance may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects.

The EPA will grant a petition to delete a substance and publish a proposed rule to delete that substance if it makes an initial determination that this criterion has been met. After affording an opportunity for comment and for a hearing, EPA will make a final determination whether the criterion has been met.

The Administrator may also act to add or delete a substance on her own initiative. In this instance, the EPA has been engaged in a substantive dialogue with the SDA, a national trade association representing manufacturers of cleaning products and ingredients, concerning the toxicity of and exposure to SAED, a group of compounds which is within the current definition of the glycol ethers category as listed in section 112(b)(1). At the request of EPA, the SDA compiled information on this class of compounds needed by EPA to apply the statutory criteria for delisting under section 112(b)(3). The SDA submitted the resulting report to EPA. Although the SDA has elected not to formally petition EPA to delete SAED compounds from the HAP list, EPA has made an initial determination based on the SDA report that the statutory criteria for delisting SAED are satisfied, and is, therefore, issuing this proposal.

EPA does not interpret section 112(b)(3)(C) to require absolute certainty that a pollutant will not cause adverse effects on human health or the environment before it may be deleted