

(i) Sacramento, San Diego, San Joaquin Valley, South Coast, Southeast Desert, Ventura.

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(233) New and amended plans for the following agencies were submitted on December 29, 1994, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(I) 15% Rate-of-Progress plan and Post-1996 Rate-of-Progress plan for the Los Angeles-South Coast Air Basin Area, as contained in the "Rate-of-Progress Plan Revision: South Coast Air Basin & Antelope Valley & Coachella/San Jacinto Planning Area," adopted on December 9, 1994.

(B) Sacramento Metropolitan Air Quality Management District.

(I) Emissions inventory, Post-1996 Rate-of-Progress plan, modeling, and ozone attainment demonstration, as contained in "Sacramento Area Attainment and Rate-of-Progress Plans," adopted by Sacramento Metropolitan Air Quality Management District on December 1, 1994; by Feather River Air Quality Management District on December 12, 1994; by El Dorado County Air Pollution Control District on December 13, 1994; by Yolo-Solano Air Pollution Control District on December 14, 1994; and by Placer County Air Pollution Control District on December 20, 1994.

(234) The California Vehicle Inspection and Maintenance Program was submitted on January 22, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(I) Motor Vehicle Inspection and Maintenance Program adopted on January 22, 1996.

(i) Health and Safety Code: Division 26, Part 5 § 39032.5; Chapter 5. Motor Vehicle Inspection Program, Article 1, Article 2, Article 3, Article 4, Article 5, Article 6, Article 7, Article 8, Article 9.

(ii) Business and Professions Code, Chapter 20.3, Automotive Repair, Article 4, § 9886, § 9886.1, § 9886.2, § 9886.4.

(iii) Vehicle Code § 4000.1, § 4000.2, § 4000.3, § 4000.6.

(iv) Title 16, California Code of Regulations, Division 33, Bureau of Automotive Repair, Article 5.5, Motor Vehicle Inspection Program, § 3340.1, § 3340.5, § 3340.6, § 3340.10, § 3340.15, § 3340.16, § 3340.16.5, § 3340.16.6, § 3340.17, § 3340.18, § 3340.22, § 3340.22.1, § 3340.22.2, § 3340.22.3, § 3340.23, § 3340.24, § 3340.28, § 3340.29, § 3340.30, § 3340.31, § 3340.32, § 3340.32.1, § 3340.33,

§ 3340.33.1, § 3340.35, § 3340.36, § 3340.41, § 3340.41.3, § 3340.41.5, § 3340.42, § 3340.42.1., § 3340.50, § 3340.50.1, § 3340.50.3, § 3340.50.4, § 3340.50.5.

(235) New and amended plans for the following agencies were submitted on May 17, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(I) Executive Order G-96-031, dated May 17, 1996, State commitment to participate in public consultative process, submit a revised attainment demonstration for the South Coast as appropriate by December 31, 1997, and submit control measures to achieve emission reductions determined to be appropriate, if any, by December 31, 1999.

(236) New and amended plans for the following agencies were submitted on June 13, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) California Air Resources Board.

(I) Letter dated June 13, 1996, from James D. Boyd to David Howekamp, including "Corrections to State and Local Measures" (Attachment A) and "Summary Emission Reduction Spreadsheets" (Attachment C).

(237) New and amended plans for the following agencies were submitted on July 10, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(I) Revised rule adoption schedule, adopted on April 12, 1996.

(238) New and amended plans for the following agencies were submitted on July 12, 1996, by the Governor's designee.

(i) Incorporation by reference.

(A) Ventura County Air Pollution Control District.

(I) "Revised Rule Adoption and Implementation Schedule" (Table 4-2) and "Architectural Coatings" (Appendix E-95, Tables E-43 and E-45) contained in "Ventura County 1995 Air Quality Management Plan Revision," adopted on December 19, 1995.

(B) San Joaquin Valley Unified Air Pollution Control District.

(I) Post-1996 Rate-of-Progress plan, as contained in "San Joaquin Valley Revised Post-1996 Rate-of-Progress Plans," adopted on September 20, 1995.

3. 40 CFR part 52 is amended by adding a new section 52.238 to read as follows:

§ 52.238 Commitment to undertake rulemaking.

(a) The Administrator shall undertake rulemaking after the South Coast

mobile source public consultative process, to promulgate any VOC and NO_x mobile source controls which are determined to be appropriate for EPA and needed for ozone attainment in the Los Angeles-South Coast Air Basin Area.

4. 40 CFR part 52 is amended by adding a new section 52.241 to read as follows:

§ 52.241 Interim approval of enhanced inspection and maintenance program.

(a) Under section 348(c) of the National Highway Systems Designation Act (Pub. L. 104-59), the California SIP is approved as meeting the provisions of section 182(c)(3) for applicable ozone areas and section 187(a)(6) for applicable carbon monoxide areas with respect to the requirements for enhanced motor vehicle inspection and maintenance. This approval expires on August 7, 1998, or earlier if by such earlier date the State has submitted as a SIP revision the required demonstration that the credits are appropriate and that the program is otherwise in compliance with the Clean Air Act and EPA takes final action approving that revision.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[CA114-0025; FRL-5665-9]

Approval and Promulgation of Implementation Plans; California; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the California State Implementation Plan (SIP) for ozone for Santa Barbara County. Specifically, EPA is approving the emissions inventory, control measures, and 15% rate-of-progress plan. The California Air Resources Board (CARB) submitted this SIP revision to EPA on November 14, 1994.

EPA is approving this revision to the California SIP under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submissions for nonattainment areas.

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

ADDRESSES: Materials relevant to this rulemaking are contained in Docket No.

A-96-13, which is available for viewing during normal business hours at the following location: Air Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

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

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

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

In addition, copies of the relevant local plan, the State plan (1994 California Ozone SIP), public comments, and EPA's technical support documents for this rulemaking are available at the following location: Santa Barbara Air Pollution Control District, 26 Castilian Drive B-23, Goleta, California.

Electronic Availability

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

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

SUPPLEMENTARY INFORMATION

I. Background.

A. Summary

EPA is finalizing approval of the emissions inventory, control measures, and 15% rate-of-progress (ROP) plan for the Santa Barbara County ozone nonattainment area, as included in the 1994 California Ozone SIP.¹ This action was proposed on March 18, 1996, as part of action on the 1994 California Ozone SIP (61 FR 10920-10962). EPA has separately finalized approval of all elements proposed for approval in that document, with the exception of Santa Barbara plan elements. The reader is referred to the notice of proposed rulemaking for additional detail on the SIP submittal (including State measures and analyses), as well as a summary of relevant Clean Air Act requirements and

EPA interpretations of those requirements.

Santa Barbara is currently classified as a moderate nonattainment area for ozone (40 CFR 81.305). As a result, the SIP must contain adequate control measures and commitments to demonstrate attainment of the ozone national ambient air quality standards (NAAQS) by 1996, in accordance with sections 181(a)(1) and 172(c)(6) of the CAA.

The 1994 SIP employed an urban airshed modeling analysis to demonstrate that the control strategy will result in NAAQS attainment by the deadline. After the 1994 SIP had been prepared, exceedances of the ozone NAAQS were recorded during both 1994 and 1995. This precluded Santa Barbara from achieving the ozone standard by 1996.²

Section 181(a)(5) of the Act, however, authorizes EPA to grant a one-year extension of the attainment date upon request by the State, if an area has complied with all requirements in the SIP and records no more than one exceedance during the attainment year. Based on this provision, EPA proposed to approve Santa Barbara's plan as meeting the attainment demonstration requirements of section 182(b)(1)(A) of the Act, assuming that the area experienced no more than one exceedance during the 1996 ozone season.

After the proposed approval of the Santa Barbara plan was issued in March 1996, several locations in Santa Barbara recorded exceedances of the ozone standard. These exceedances now disqualify the area from receiving a one-year attainment deadline extension. Therefore, there is no longer a basis for EPA's proposed approval of the attainment demonstration and the supporting modeling analysis. For this reason, CARB has withdrawn the attainment demonstration portion of the SIP.³

² Attainment of the ozone NAAQS is achieved when the number of exceedances at each monitoring site within the area, averaged over the past 3 calendar years, is less than or equal to 1. An exceedance is a daily maximum hourly average ozone concentration that is greater than the 0.12 ppm standard. (40 CFR 50, App. H)

³ November 6, 1996 letter from Michael P. Kenny, Executive Officer, CARB, to Felicia Marcus, Regional Administrator, EPA, withdrawing the Santa Barbara ozone attainment demonstration. The letter also encloses an October 18, 1996 letter from Douglas W. Allard (SBCAPCD) to Michael P. Kenny, requesting withdrawal of the attainment demonstration. Allard's letter notes that, on October 17, 1996, "the Air Pollution Control Board directed me to request that the Air Resources Board withdraw the attainment demonstration element from the 1994 Clean Air Plan (CAP), a component of the State Implementation Plan."

Because the State has withdrawn this SIP element, EPA is not responding in this document to extensive Environmental Defense Center comments on EPA's proposed approval of Santa Barbara's modeling and attainment demonstration. EPA encourages the State and local agencies to address those comments, to the extent that they remain relevant, in the preparation of attainment demonstrations in the future.

B. SIP Submittals

On November 15, 1994, CARB adopted and submitted a revision to the "State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards" (ozone SIP). The revision consists of: (a) The State's comprehensive ozone plan, including the State's own measures and the State's summaries of, and revisions to, the local plans; (b) the State's previously adopted regulations for consumer products and reformulated gasoline and diesel fuels; and (c) local plans addressing the ozone attainment demonstration and ROP requirements. EPA has previously finalized approval of all of the State's measures and most of the elements of the local plans, with the exception of the plan for Santa Barbara.

EPA is today approving elements from the following ozone SIP submittals:

1. "1994 Clean Air Plan for Santa Barbara County," adopted by the Board of the Santa Barbara County Air Pollution Control District on November 2, 1994. The November 14, 1994, submittal letter for this plan is from James Boyd, Executive Officer of CARB, to EPA Regional Administrator Felicia Marcus.

2. On March 30, 1995, CARB submitted revised 1990 base year emission inventories for each of the California ozone nonattainment areas. EPA is approving in this document the Santa Barbara portion of the State's submittal.

C. EPA Completeness Findings

On April 18, 1995 the EPA issued a finding of completeness, pursuant to 40 CFR Part 51, Appendix V, for the Santa Barbara plan portion of the November 1994 and March 1995 submittals with regard to: (1) 15% ROP requirement of section 182(b)(1)(A); and (2) 1990 base year inventory requirements of section 182(a)(1).⁴

⁴ 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).

¹ The Federal ozone nonattainment area is the "Santa Barbara-Santa Maria-Lompoc Area," which comprises the entire County of Santa Barbara (see 40 CFR 81.305).

II. Review of the SIP Submittal, Response to Comments on Specific SIP Issues, and EPA Final Action

A. Emissions Inventory

The Environmental Defense Center (EDC) provided two comments on the emissions inventory. First, EDC stated that significant amounts of emissions from variances and violations, construction activities, and small source exemptions are excluded from the inventory. Second, EDC stated that the 1996 inventory misstates emissions by not removing from the inventory those emissions associated with the shutdown of the Battles Gas plant in July 1995, thus allowing banking of these emissions.

The emission inventories for Santa Barbara were developed in accordance with EPA guidance, using the most accurate data available.⁵ The SIP's base year and projected inventories include the District's best estimations of emissions from construction activities and, to the extent data are available, emissions from unpermitted sources. The 1990 baseline inventories and the projected inventories also address variances and violations through use of control factors that reflect general estimations of rule effectiveness.

The Battles Gas Plant was not shut down but under permit and in operation when the Clean Air Plan was adopted. EPA's emissions inventory guidelines and 15% rate-of-progress guidelines do not require that projected inventories eliminate emissions from sources that may be shut down in the future.⁶

EPA is finalizing approval of the Santa Barbara emission inventories as meeting the requirements of section 182(a)(1) of the Act.

B. Control Measures

EDC objected to the SBCAPCD's wholesale deletion of 1982 control measures, including measures which required development of rules incorporating the relative ozone formation potential of various emissions.

In general, the 1994 SIP does not delete the 1982 SIP measures but rather updates them. EPA does not believe that the CAA requires the District to retain

its prior commitments to develop reactivity-based rules, which are neither specifically mandated by the CAA nor associated with particular emission reductions or ambient air quality benefits in the 1982 SIP.

EDC stated that the inadequacy of the SIP control measures is apparent, given Santa Barbara's violations of the ozone NAAQS. EPA interprets the comment as meaning that EDC does not believe that the control measures achieve sufficient emission reductions to attain the ozone NAAQS by 1996. The Agency is not addressing this issue because, as noted above, the State has withdrawn the attainment demonstration portion of the Santa Barbara plan. EPA is, however, approving the individual control measures in the SIP (1994 Clean Air Plan, Tables 4-2 and 5-1) under the provisions of CAA sections 110(k)(3) and 301(a), because they strengthen the SIP.

Table 5-1 of Santa Barbara's plan describes the area's transportation control measures (TCMs), which supersede the TCM list in the previously approved 1982 SIP. On May 1, 1995, EPA took direct final action to approve TCM-5, and to delete the Goleta Transit Center from the 1982 SIP (60 FR 21045). The 1994 Clean Air Plan shows that all of the 1982 TCMs have either been fully implemented or replaced by 1994 TCMs.

All non-transportation related control measures identified in the Santa Barbara Clean Air Plan have been fully adopted in regulatory form. If any of these regulations, which are assumed in the baseline of the Clean Air Plan, are relaxed or in practice achieve fewer emission reductions than relied upon in the SIP, the District must submit replacement rules on an expeditious schedule.

Under sections 110(k)(3) and 301(a) of the Clean Air Act, EPA takes final action to approve the SIP control measures, including contingency measure T-21, because these measures strengthen the SIP.

C. ROP Provisions

EPA is finalizing approval of the ROP plan as meeting the 15% ROP requirements of section 182(b)(1) of the Act. The ROP ROG targets, projected ROG emissions, and creditable ROG reductions are shown below in the table labeled "Santa Barbara ROP Forecasts and Targets." Creditable emission reductions from fully adopted regulations reduce emissions below the ROP target level for 1996.

SANTA BARBARA ROP FORECASTS AND TARGETS

[In tons of ROG per summer day; excludes OCS emissions]

1990 Base Year Inventory	57
1996 Projections (Adopted Measures)	41
1996 ROP Target	42

III. Summary of EPA Actions

EPA approves the following elements of the 1994 California Ozone SIP for Santa Barbara, as meeting applicable CAA requirements:

(1) Emission Inventories for Santa Barbara under section 182(a)(1) of the CAA.

(2) 15% ROP Plan for Santa Barbara under section 182(b)(1).

(3) Santa Barbara's control measures, including contingency measure T-21, under sections 110(k)(3) and 301(a) of the CAA.

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

IV. Regulatory Process

A. Executive Order 12886

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 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

⁵ See the list of SIP inventory guidance documents in the supplement to EPA's General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, issued on April 28, 1992 (57 FR 18070-18071).

⁶ Indeed, Rate-of-Progress projected inventories generally should be based on allowable levels. See EPA's Emission Inventory Requirements for Ozone State Implementation Plans (EPA-450/4-91-010), March 1991, pp. 36-7. Until permits are surrendered, sources should be assumed to be in operation.

Federal SIP approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal/state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

C. 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 costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements

under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 10, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by

reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 7, 1996.

Felicia Marcus,
Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(211)(i)(A)(2), and (c)(213)(i)(A)(1)(i) to read as follows:

§ 52.220 Identification of plan.

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- (c) * * *
- (211) * * *
- (i) * * *
- (A) * * *

(2) Emissions inventory, 15% Rate-of-Progress plan, and control measures, as contained in "1994 Clean Air Plan for Santa Barbara County," adopted on November 2, 1994.

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