

This notice extends this period for outlines to be submitted by members of the public who previously submitted written comments. This notice does not affect the date or time of the scheduled public hearing, which will be held on April 10, 2013 at 10 a.m.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue NW., entrance, 1111 Constitution Avenue NW., Washington, DC 20224.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

**LaNita VanDyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. 2013-06709 Filed 3-20-13; 11:15 am]

**BILLING CODE 4830-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R09-OAR-2012-0971; 9793-6]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of California; Redesignation of San Diego County to Attainment for the 1997 8-Hour Ozone Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve, as a revision of the California state implementation plan, a request from the California Air Resources Board to redesignate the San Diego County ozone nonattainment area to attainment of the 1997 8-hour ozone National Ambient Air Quality Standard (1997 ozone standard) because the request meets the statutory requirements for redesignation under the Clean Air Act. EPA is also proposing to approve the State's plan for maintaining the 1997 ozone standard in

San Diego County for ten years beyond redesignation, and the inventories and related motor vehicle emissions budgets within the plan, because they meet the applicable requirements for such plans and budgets.

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

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R09-OAR-2012-0971, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *Email:* [r9\\_airplanning@epa.gov](mailto:r9_airplanning@epa.gov).

3. *Fax:* 415-947-3579

4. *Mail or deliver:* John Ungvarsky (AIR-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901. Deliveries are only accepted during the Regional Office's normal hours of operation.

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

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

**FOR FURTHER INFORMATION CONTACT:** John Ungvarsky, Air Planning Office (AIR-2),

U.S. Environmental Protection Agency, Region IX, (415) 972-3963, [ungvarsky.john@epa.gov](mailto:ungvarsky.john@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

#### **Table of Contents**

- I. Summary of Today's Proposed Action
- II. Background
- III. Procedural Requirements for Adoption and Submittal of SIP Revisions
- IV. Substantive Requirements for Redesignation
- V. Evaluation of the State's Redesignation Request for the San Diego County 8-Hour Ozone Nonattainment Area
  - A. Determination That the Area Has Attained the Applicable NAAQS
  - B. The Area Must Have a Fully Approved SIP Meeting Requirements Applicable for Purposes of Redesignation Under Section 110 and Part D
    - 1. Basic SIP Requirements Under CAA Section 110
    - 2. Part D Requirements
      - a. Introduction
      - b. Subpart 1 Requirements
      - c. Subpart 2 Requirements
    - C. The Area Must Show the Improvement in Air Quality Is Due to Permanent and Enforceable Emissions Reductions
    - D. The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A
      - 1. Attainment Inventory
      - 2. Maintenance Demonstration
      - 3. Monitoring Network
      - 4. Verification of Continued Attainment
      - 5. Contingency Provisions
      - 6. Subsequent Maintenance Plan Revisions
      - 7. Motor Vehicle Emissions Budgets
- VI. Proposed Action and Request for Public Comment
- VII. Statutory and Executive Order Reviews

#### **I. Summary of Today's Proposed Action**

EPA is proposing to take several related actions. First, under Clean Air Act (CAA or "Act") section 110(k)(3), EPA is proposing to approve a maintenance plan for the 1997 8-hour ozone standard ("San Diego 8-hour maintenance plan") for the San Diego County 1997 ozone nonattainment area ("San Diego 8-hour area") as a revision to the California state implementation plan (SIP).<sup>1</sup> The San Diego 8-hour maintenance plan is included in a document titled *Redesignation Request and Maintenance Plan for the 1997 National Ozone Standard for San Diego County (December 2012)* submitted by

<sup>1</sup> On March 27, 2008 (73 FR 16436), EPA promulgated a revised 8-hour ozone standard of 0.075 ppm (the 2008 8-hour ozone standard), and on May 21, 2012, EPA designated San Diego County as nonattainment for the 2008 8-hour ozone standard (77 FR 30088). This rulemaking relates only to the 1997 8-hour ozone standard and does not relate to the 2008 8-hour ozone standard.

the California Air Resources Board (CARB) on December 28, 2012.

In connection with the San Diego 8-hour maintenance plan, EPA finds that the maintenance demonstration showing how the area will continue to attain the 1997 8-hour ozone national ambient air quality standard (1997 ozone NAAQS or 1997 ozone standard) for at least 10 years beyond redesignation (i.e., through 2025) and the contingency provisions describing the actions that the San Diego County Air Pollution Control District (SDAPCD) will take in the event of a future monitored violation meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. EPA is also proposing to approve the motor vehicle emissions budgets (MVEBs) in the San Diego 8-hour maintenance plan because we find they meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

Second, under CAA section 107(d)(3)(D), EPA is proposing to approve CARB's request that accompanied the submittal of the San Diego 8-hour maintenance plan, that is, to redesignate the San Diego 8-hour area to attainment for the 1997 ozone standard. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Our conclusion in this regard is in turn based on our proposed determination that the area has attained the 1997 ozone standard, that relevant portions of the California SIP are fully approved, that the improvement in air quality is due to permanent and enforceable reductions in emissions, that California has met all requirements applicable to the San Diego 8-hour area with respect to section 110 and part D of the CAA, and based on our proposed approval as part of this action of the San Diego 8-hour maintenance plan.

## II. Background

Ground-level ozone is generally not emitted directly by sources. Rather, directly-emitted oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOC) react in the presence of sunlight to form ground-level ozone, as a secondary pollutant, along with other secondary compounds. NO<sub>x</sub> and VOC are "ozone precursors." Reduction of peak ground-level ozone concentrations is typically achieved through controlling VOC and NO<sub>x</sub> emissions.

In 1971, under section 109 of the Act, as amended in 1970, EPA promulgated the original NAAQS for several pervasive air pollutants, including photochemical oxidants. NAAQS

represent concentration levels the attainment and maintenance of which, allowing for an adequate margin of safety, EPA has determined to be requisite to protect public health ("primary" NAAQS) and welfare ("secondary" NAAQS).

In 1978, EPA designated the San Diego Air Basin as a nonattainment area (SDAB nonattainment area) for the photochemical oxidant NAAQS. See 43 FR 8962 (March 3, 1978). In 1979, EPA revised the NAAQS from an hourly average of 0.08 parts per million (ppm) oxidant to an hourly average of 0.12 ppm ozone (1979 ozone standard). See 44 FR 8202 (February 8, 1979). The nonattainment designation for the SDAB nonattainment area for photochemical oxidants carried over to the 1979 ozone standard (SDAB 1-hour area).

During the 1980s, SDAPCD adopted a number of rules and prepared a number of nonattainment plans to address planning requirements under the CAA, as amended in 1977. CARB submitted these rules and plans to EPA at various times, and EPA approved a number of them into the California SIP. Among the rules approved by EPA as revisions to the California SIP as part of the ozone control strategy in San Diego County are SDAPCD Rules: 67.0 Architectural Coatings; 67.6.2 Vapor Degreasing Operations; and 69.2 Industrial and Commercial Boilers, Process Heaters and Steam Generators.

In 1997, EPA revised the NAAQS for ozone, setting it at 0.08 ppm averaged over an 8-hour time frame (1997 ozone NAAQS or 1997 ozone standard). EPA set the 1997 ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time, than was understood when the pre-existing 1-hour ozone standard was set. EPA determined that the 1997 ozone standard would be more protective of human health, especially for children and adults who are active outdoors, and individuals with a pre-existing respiratory disease, such as asthma.

In 2002, in light of monitored levels below the 1979 ozone standard, EPA determined that the SDAB 1-hour nonattainment area attained the 1979 ozone standard. See 67 FR 54580 (August 23, 2002). In 2003, EPA redesignated the San Diego area to attainment for the 1979 ozone standard. See 68 FR 37976 (June 26, 2003).

In 2004, EPA designated areas of the country with respect to the 1997 ozone standard. See 69 FR 23857 (April 30, 2004). Under EPA's "Phase 1" implementation rule for the 1997 ozone standard (69 FR 23951, April 30, 2004),

a nonattainment area was classified under subpart 2 based on its 8-hour ozone design value (i.e., the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration at the worst-case monitoring site in the area), if it had a 1979 1-hour ozone standard design value<sup>2</sup> at the time of designation at or above 0.121 ppm. All other areas were to be implemented under subpart 1 based on their 1997 8-hour ozone standard design values<sup>3</sup> (69 FR 23958). San Diego County was designated as a "subpart 1" ozone nonattainment area (San Diego 8-hour area) by EPA on April 30, 2004 based on air quality monitoring data from 2001–2003,<sup>4</sup> (69 FR 23887, April 30, 2004). The designation became effective on June 15, 2004.

On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacated EPA's Phase 1 implementation rule for the 1997 ozone standard (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist. v. EPA*, 472 F.3d 882 (D.C. Cir. 2006). On June 8, 2007, in response to several petitions for rehearing, the D.C. Circuit Court (Court) clarified that the Phase 1 rule was vacated only for those parts of the rule that had been successfully challenged. The June 8, 2007 clarification left intact the Court's vacature of portions of EPA's Phase 1 rule that related to implementing the 1997 ozone standard in certain nonattainment areas under subpart 1 in lieu of subpart 2 of Title 1 Part D of the CAA.

On June 15, 2007, CARB submitted the *Eight-Hour Ozone Attainment Plan for San Diego County (May 2007)* ("2007 8-hour attainment plan") to EPA as a

<sup>2</sup> The design value for the 1979 1-hour ozone standard is the fourth-highest daily maximum 1-hour ozone concentration over a three-year period at the worst-case monitoring site in the area.

<sup>3</sup> The design value for the 1997 8-hour ozone standard is the three-year average of the annual fourth-highest daily maximum 8-hour ozone concentration at the worst-case monitoring site in the area.

<sup>4</sup> That portion of San Diego County that excludes the areas listed below: La Posta Areas #1 and #2; Cuyapaipe Area; Manzanita Area; and Campo Areas #1 and #2. The boundaries for these designated areas are based on coordinates of latitude and longitude derived from EPA Region 9's GIS database and are illustrated in a map entitled "Eastern San Diego County Attainment Areas for the 8-Hour Ozone NAAQS," dated March 9, 2004, including an attached set of coordinates. The map and attached set of coordinates are available at EPA's Region 9 Air Division office. The designated areas roughly approximate the boundaries of the reservations for these tribes, but their inclusion is intended for CAA planning purposes only and is not intended to be a federal determination of the exact boundaries of the reservations. Also, the specific listing of these tribes does not confer, deny, or withdraw Federal recognition of any of the tribes so listed nor any of the tribes not listed.

revision to the California SIP. The 2007 8-hour attainment plan included Motor Vehicle Emissions Budgets (MVEBs) of 53 and 98 tons per day (ozone season) for VOC and NO<sub>x</sub>, respectively, for 2008. On May 23, 2008, EPA found the MVEBs in the 2007 8-hour attainment plan adequate for the purposes of transportation conformity. See 73 FR 30098 (May 23, 2008). Since the effective date of EPA's adequacy finding (i.e., June 9, 2008), the applicable metropolitan planning organization (MPO), i.e., San Diego Association of Governments, and the U.S. Department of Transportation, have been required to use these budgets in transportation conformity analyses for regional transportation plans, programs projects and amendments.

On May 14, 2012, in response to the Court's vacature of the provisions of the Phase 1 rule that allowed for implementation of the 1997 ozone standard for certain nonattainment areas, including San Diego County, solely under subpart 1, EPA classified the San Diego 8-hour area as a moderate nonattainment area for the 1997 ozone standard under subpart 2 of the CAA (77 FR 28424).

In a letter dated November 26, 2012, CARB requested parallel processing of the San Diego 8-hour maintenance plan, which was scheduled for adoption by the SDAPCD on December 5, 2012.<sup>5</sup> On December 28, 2012, CARB submitted the San Diego 8-hour maintenance plan and requested that EPA redesignate the San Diego 8-hour area to attainment for the 1997 ozone standard. We are proposing action today on CARB's December 28, 2012 redesignation request and submittal of the San Diego 8-hour maintenance plan.

### III. Procedural Requirements for Adoption and Submittal of SIP Revisions

Section 110(l) of the Act requires States to provide reasonable notice and public hearing prior to adoption of SIP revisions. In this action, we are proposing action on CARB's December 28, 2012 submittal of the San Diego 8-hour maintenance plan as a revision to the California SIP.

Documents in CARB's submittal describe the public review process followed by SDAPCD in adopting the plan prior to transmittal to CARB for

subsequent submittal to EPA as a revision to the California SIP. The documentation provides evidence that reasonable notice of a public hearing was provided to the public and that a public hearing was conducted prior to adoption.

On November 2, 2012, SDAPCD published in the *San Diego Commerce*, a newspaper of general circulation within the San Diego area, an announcement that a public hearing would be held on December 5, 2012 to consider and approve the San Diego 8-hour maintenance plan. Copies of the plan were made available for viewing at SDAPCD's offices and on their Web site.<sup>6</sup> On December 5, 2012, the Air Pollution Control Board of San Diego County adopted the San Diego 8-hour maintenance plan at the publicly noticed public hearing. Following adoption, SDAPCD forwarded the plan to CARB, the Governor of California's designee for SIP matters, and CARB then submitted the plan on December 28, 2012 as a revision to the California SIP to EPA for approval.

Based on the documentation provided by ARB, we find that the submittal of the San Diego 8-hour maintenance plan as a SIP revision satisfies the procedural requirements of section 110(l) of the Act for revising SIPs.

### IV. Substantive Requirements for Redesignation

The CAA establishes the requirements for redesignation of a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation provided that the following criteria are met: (1) EPA determines that the area has attained the applicable NAAQS; (2) EPA has fully approved the applicable implementation plan for the area under section 110(k); (3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions; (4) EPA has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and (5) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA. Section 110 identifies a comprehensive list of elements that SIPs

must include, and part D establishes the SIP requirements for nonattainment areas. Part D is divided into six subparts. The generally-applicable nonattainment SIP requirements are found in part D, subpart 1, and the ozone-specific nonattainment SIP requirements are found in part D, subpart 2.

EPA provided guidance on redesignations in a document entitled, "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," published in the **Federal Register** on April 16, 1992 (57 FR 13498), and supplemented on April 28, 1992 (57 FR 18070) (referred to herein as the "General Preamble"). Another relevant EPA guidance document includes "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, September 4, 1992 (referred to herein as the "Calcagni memo").

For the reasons set forth below in section V of this document, we propose to approve CARB's request for redesignation of the San Diego County 8-hour ozone nonattainment area to attainment for the 1997 8-hour ozone NAAQS based on our conclusion that all of the criteria under CAA section 107(d)(3)(E) have been satisfied.

### V. Evaluation of the State's Redesignation Request for the San Diego County 8-Hour Ozone Nonattainment Area

#### A. Determination That the Area Has Attained the Applicable NAAQS

CAA section 107(d)(3)(E)(i) requires that we determine that the area has attained the NAAQS. EPA generally makes the determination of whether an area's air quality meets the ozone NAAQS based upon the most recent three years of complete, quality-assured data gathered at established State and Local Air Monitoring Stations (SLAMS) in the nonattainment area and entered into the EPA Air Quality System (AQS) database. Data from air monitors operated by state/local agencies in compliance with EPA monitoring requirements must be submitted to AQS. Heads of monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, EPA relies primarily on data in AQS when determining the attainment status of areas. See 40 CFR 50.10; 40 CFR part 50, appendix I; 40 CFR part 53; 40 CFR part 58, appendices A, C, D and E. All data are reviewed to

<sup>5</sup> On November 26, 2012, James Goldstene, Executive Officer of CARB, submitted a request to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, for parallel processing of the *Redesignation Request and Maintenance Plan for the 1997 National Ozone Standard for San Diego County*, for which CARB had scheduled for Board action at a December 6, 2012 public hearing.

<sup>6</sup> The redesignation request and maintenance plan, titled "Redesignation Request and Maintenance Plan for the 1997 National Ozone Standard for San Diego County," may be found at the following SDAPCD Web address: [http://www.sdapcd.org/planning/8\\_Hour\\_O3\\_Maint-Plan.pdf](http://www.sdapcd.org/planning/8_Hour_O3_Maint-Plan.pdf).

determine the area's air quality status in accordance with 40 CFR part 50, appendix I.

Under EPA regulations at 40 CFR part 50, the 1997 ozone standard is met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. See 40 CFR 50.10; 40 CFR part 50, appendix I. This 3-year average is referred to as the design value. When the design value is less than or equal to 0.084 ppm (based on the rounding convention in 40 CFR part 50, appendix I) at each monitoring site within the area, then the area is meeting the NAAQS. The data completeness requirement is met when the three-year average percent of days with valid ambient monitoring data is at least 90% of the days during the designated ozone monitoring season, and no single year has less than 75% data completeness as determined in appendix I of 40 CFR part 50.

The SDAPCD is responsible for monitoring ambient air quality within San Diego County. SDAPCD submits monitoring network plan reports to EPA on an annual basis. These reports discuss the status of the air monitoring network, as required under 40 CFR part 58. Beginning in 2007, EPA has reviewed these annual plans for compliance with the applicable reporting requirements in 40 CFR 58.10. With respect to ozone, we have found SDAPCD's annual network plans to meet the applicable requirements under 40 CFR part 58. See EPA letters to SDAPCD concerning SDAPCD's annual

network plan reports for 2010, 2011, and 2012 included in the docket for this rulemaking. Furthermore, we concluded in our Technical System Audit Report (*System Audit of the Ambient Monitoring Program: San Diego County Air Pollution Control District, September 28–September 30, 2010*, April 2012) that SDAPCD's ambient air monitoring network currently meets or exceeds the requirements for the minimum number of monitoring sites designated as SLAMS for all of the criteria pollutants. Whereas EPA regulations require two ozone monitoring sites in this region, SDAPCD operated ten ozone monitors during the 2009–2011 attainment period, substantially exceeding the requirement. Also, SDAPCD annually certifies that the data it submits to AQS are complete and quality-assured. See, e.g., Letter dated March 2, 2012, from Mahmood Hoosain, Chief of the Monitoring & Technical Services Division, SDAPCD, to Matthew Lakin, Chief Air Quality Analysis Office, EPA Region IX.

SDAPCD operated ten ozone SLAMS monitoring sites during the 2009–2011 period<sup>7</sup> within the San Diego County ozone nonattainment area: Alpine, Camp Pendleton, Chula Vista, Del Mar, Downtown, El Cajon, Escondido, Kearney Mesa, Kearny Villa<sup>8</sup> and Otay Mesa. All ten sites have monitored ozone concentrations on a continuous basis using ultraviolet absorption monitors. The spatial scale of most of SDAPCD's ozone monitoring sites are "neighborhood" and the site types (i.e., monitoring purpose) are "background level" or "representative

concentration". The exceptions are the Otay Mesa site, whose spatial scale is "micro" and site type is "source impact," and the Alpine site, whose spatial scale is "neighborhood" and site type is "highest concentration." See *2011 Ambient Air Quality Network Plan Report*, San Diego County Air Pollution Control District.<sup>9 10</sup>

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the ozone ambient air monitoring data for the monitoring period from 2009 through 2011 collected at the monitoring sites discussed above, as recorded in AQS and summarized in table 1, and found that the data meet our completeness criteria.

Table 1 summarizes the site-specific annual fourth-highest daily maximum 8-hour ozone concentrations and 3-year ozone design values for all monitoring sites within the San Diego County 8-hour ozone nonattainment area for the period of 2009–2011. As shown in table 1, the design value for the 2009–2011 period was less than 0.084 ppm at all of the monitors. Therefore, we are proposing to determine, based on the complete, quality-assured data for 2009–2011, that the San Diego County 8-hour ozone nonattainment area has attained the 1997 8-hour ozone standard. Because the Kearny Mesa monitoring site closed in February 2012, there are nine ozone monitors currently operating in the nonattainment area. Preliminary SLAMS data for 2012 from these monitors, which are summarized in table 2, are also consistent with continued attainment.

TABLE 1—SUMMARY OF AMBIENT DATA FOR OZONE COLLECTED WITHIN SAN DIEGO COUNTY 8-HOUR OZONE NONATTAINMENT AREA, 2009–2011

Monitor	Site code	4th Highest value (ppm)			
		2009	2010	2011	2009–2011 design value
Alpine .....	06–073–1006	0.085	0.081	0.082	0.082
Camp Pendleton .....	06–073–1008	0.071	0.064	0.067	0.067
Chula Vista .....	06–073–0001	0.067	0.068	0.055	0.063
Del Mar .....	06–073–1001	0.067	0.063	0.064	0.064
Downtown .....	06–073–1010	0.060	0.058	0.060	0.059
El Cajon .....	06–073–0003	0.071	0.073	0.070	0.071
Escondido .....	06–073–1002	0.074	0.075	0.068	0.072
Kearney Mesa .....	06–073–0006	0.069	0.070	0.069	0.069
Kearny Villa <sup>a</sup> .....	06–073–1016	.....	.....	0.066	0.066
Otay Mesa .....	06–073–2007	0.061	0.056	0.059	0.058

Source: AQS Preliminary Design Value Report. January 28, 2013.

<sup>a</sup>2011 is the first year with complete data—the 4th maximum value is provided.

<sup>7</sup> San Diego County's monitoring network exceeded the number of required monitors throughout the referenced time period.

<sup>8</sup> The Kearney Villa site was not operational for the entire 2009–2011 time frame. It was established

in 2010 to replace Kearny Mesa, which closed in February 2012.

<sup>9</sup> 2011 Ambient Air Quality Network Plan Report, SDAPCD, June 30, 2012, is available at [http://www.sdapcd.org/air/reports/2011\\_network\\_plan.pdf](http://www.sdapcd.org/air/reports/2011_network_plan.pdf).

[www.sdapcd.org/air/reports/2011\\_network\\_plan.pdf](http://www.sdapcd.org/air/reports/2011_network_plan.pdf).

<sup>10</sup> In the network plan "site type" is referred to as "monitoring objective".

TABLE 2—PRELIMINARY 4TH HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR 2012

Monitor	Site code	4th Highest value (ppm)
Alpine .....	06-073-1006	0.080
Camp Pendleton .....	06-073-1008	0.059
Chula Vista .....	06-073-0001	0.064
Del Mar .....	06-073-1001	0.058
Downtown .....	06-073-1010	0.048
El Cajon .....	06-073-0003	0.067
Escondido .....	06-073-1002	0.065
Kearny Mesa .....	06-073-0006	incomplete data <sup>b</sup>
Kearny Villa .....	06-073-1016	0.066
Otay Mesa .....	06-073-2007	0.057

Source: Same as table 1.

<sup>b</sup> The Kearny Mesa site closed February 2012.

*B. The Area Must Have a Fully Approved SIP Meeting Requirements Applicable for Purposes of Redesignation Under Section 110 and Part D*

Section 107(d)(3)(E)(ii) and (v) require EPA to determine that the area has a fully approved applicable SIP under section 110(k) that meets all applicable requirements under section 110 and part D for the purposes of redesignation.

1. Basic SIP Requirements Under CAA Section 110

Section 110(a)(2) sets forth the general elements that a SIP must contain in order to be fully approved. EPA has analyzed the California SIP and determined that it is consistent with the requirements of section 110(a)(2). The San Diego County portion of the approved California SIP contains enforceable emission limitations; requires monitoring, compiling and analyzing of ambient air quality data; requires preconstruction review of new or modified stationary sources; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and provides the necessary assurances that the State maintains responsibility for ensuring that the CAA requirements are satisfied in the event that San Diego County is unable to meet its CAA obligations.<sup>11</sup>

<sup>11</sup> The applicable SIP for CARB and SDAPCD may be found at <http://yosemite.epa.gov/r9/r9sips.nsf/Casips?readform&count=100&state=California>. We note that SIPs must be fully approved only with respect to applicable requirements for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). Thus, for example, CAA section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing

On numerous occasions, CARB has submitted and we have approved provisions addressing the basic CAA section 110 provisions. There are no outstanding or disapproved applicable SIP submittals with respect to the San Diego County portion of the SIP that prevent redesignation of the San Diego County 8-hour ozone nonattainment area for the 1997 8-hour ozone standard. Therefore, we propose to conclude that CARB and San Diego County have met all SIP requirements for San Diego County applicable for purposes of redesignation under section 110 of the CAA (General SIP Requirements).

2. Part D Requirements

a. Introduction

The CAA contains two sets of provisions, subparts 1 and 2, that

a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, we do not believe that these requirements should be construed to be applicable requirements for purposes of redesignation. In addition, EPA believes that the other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The State will still be subject to these requirements after the San Diego County ozone planning area is redesignated. The section 110 and part D requirements that are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request.

This policy is consistent with EPA's existing policy on applicability of conformity (i.e., for redesignations) and oxygenated fuels requirement. See Reading, Pennsylvania, proposed and final rulemakings 61 FR 53174-53176 (October 10, 1996), 62 FR 24816 (May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking 61 FR 20458 (May 7, 1996); and Tampa, Florida, final rulemaking 60 FR 62748 (December 7, 1995). See also the discussion of this issue in the Cincinnati redesignation 65 FR 37890 (June 19, 2000), in the Pittsburgh redesignation 66 FR 50399 (October 19, 2001), and in the South Coast redesignation 72 FR 6986 (February 14, 2007) and 72 FR 26718 (May 11, 2007). Again, EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation.

address planning and emission control requirements for ozone nonattainment areas. Both of these subparts are found in title I, part D of the CAA; sections 171-179 and sections 181-185, respectively. Subpart 1 contains general, less prescriptive requirements for all nonattainment areas of any pollutant, including ozone, governed by a NAAQS. Subpart 2 contains additional, more specific requirements for ozone nonattainment areas classified under subpart 2.

b. Subpart 1 Requirements

The applicable subpart 1 requirements are contained in sections 172(c)(1)-(9) and 176 of the CAA. A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992).

Since EPA is proposing here to determine that the San Diego area has attained the 1997 ozone standard, under 40 CFR 51.918, if these determinations are finalized, the requirements to submit certain planning SIPs related to attainment, including attainment demonstration requirements (the reasonably available control measure (RACM) requirement of section 172(c)(1) of the CAA, the reasonable further progress (RFP) and attainment demonstration requirements of sections 172(c)(2) and (c)(6) of the CAA, and the requirement for contingency measures for RFP and attainment in section 172(c)(9) of the CAA, would be suspended for the area as long as it continues to attain the NAAQS and would cease to apply upon redesignation. In addition, in the context of redesignations, EPA has interpreted requirements related to attainment as not applicable for purposes of redesignation. For example, in the General Preamble EPA stated that:

*[t]he section 172(c)(9) requirements are directed at ensuring RFP and attainment by*

the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans \* \* \* provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas. See “General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990, (General Preamble) 57 FR 13498, 13564 (April 16, 1992).

See also Calcagni memo (“The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.”).

Each subpart 1 requirement and how it is addressed with respect to the San Diego 8-hour area is described below.

- Implementation of all RACM, including, at a minimum, reasonably available control technology for existing sources and attainment of the standard (section 172(c)(1)).

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area’s attainment demonstration. Because attainment has been reached, no additional measures are needed to provide for attainment, and the section 172(c)(1) requirement is no longer considered to be applicable as long as the area continues to attain the standard until redesignation. See 40 CFR 51.918.

- Reasonable further progress (section 172(c)(2)).

The RFP requirement under section 172(c)(2) is defined as progress that must be made toward attainment. This requirement is not relevant for purposes of redesignation because the San Diego County area has monitored attainment of the ozone NAAQS. See General Preamble (57 FR 13564, April 16, 1992). See also 40 CFR 51.918.

- A comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the area (section 172(c)(3)).

CAA section 172(c)(3) requires states submit a comprehensive, accurate, current inventory of actual VOC and NO<sub>x</sub> emissions for the baseline year from all sources within the nonattainment area. The inventory is to address actual VOC and NO<sub>x</sub> emissions

during the ozone season, and all stationary (generally referring to larger stationary source or point sources), area (generally referring to smaller stationary and fugitive (non-smokestack) sources), and mobile (on-road, nonroad, locomotive and aircraft) sources are to be included in the inventory. We interpret the Act such that the emission inventory requirements of section 172(c)(3) are satisfied by the inventory requirements of the maintenance plan. See 57 FR 13498, at 13564 (April 16, 1992). Thus, our proposed approval of the San Diego 8-hour maintenance plan and related VOC and NO<sub>x</sub> emission inventories and our proposed approval of CARB’s redesignation request would satisfy the requirements of section 172(c)(3) for the purposes of redesignation of the San Diego 8-hour area to attainment for the 1997 ozone NAAQS.

- Identification and quantification of the emissions, if any, of any such pollutants which will be allowed in accordance with section 173(a)(1)(B) (i.e., new or modified stationary sources located in established economic development zones) (section 172(c)(4)).

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in a zone identified by the Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone where economic development should be targeted. We note that the State has not sought to exercise the option available under CAA section 172(c)(4) (identification and quantification of certain emissions increases).

- Permits for the construction and operation of new and modified major stationary sources in the nonattainment area (section 172(c)(5)).

Section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. To meet the requirements, states must submit SIP revisions that meet the requirements under 40 CFR 51.165 (“Permit requirements”), and EPA regulations at 40 CFR 51.914 extend the SIP requirements of 40 CFR 51.165 to areas designated as nonattainment for the 1997 8-hour ozone standard.

Under 40 CFR 51.165, states are required to submit SIP revisions that establish certain requirements for new or modified stationary sources in nonattainment areas, including provisions to ensure that major new sources or major modifications of existing sources of nonattainment

pollutants incorporate the highest level of control, referred to as the “Lowest Achievable Emission Rate” (LAER), and that increases in emissions from such stationary sources are offset so as to provide for reasonable further progress towards attainment in the nonattainment area.

The process for reviewing permit applications and issuing permits for new or modified major stationary sources of air pollution is referred to as “New Source Review” (NSR). With respect to nonattainment pollutants in nonattainment areas, this process is often referred to as “nonattainment NSR.” With respect to pollutants for which an area is designated as attainment or unclassifiable, states are required to submit SIP revisions that ensure that major new stationary sources and major modifications of existing stationary sources meet the federal requirements for “Prevention of Significant Deterioration” (PSD), including application of “Best Available Control Technology” (BACT), for each applicable pollutant emitted in significant amounts, among other requirements.

SDAPCD is responsible for stationary source emissions units, and SDAPCD regulations govern air pollutant permits issued for such units. Under the Clean Air Act Amendments of 1977, states with designated nonattainment areas were required to amend their NSR rules to impose LAER and offset requirements on new major sources and major modifications of nonattainment pollutants in nonattainment areas. As noted previously, under the 1977 Act Amendments, we designated the San Diego Air Basin as a nonattainment area for photochemical oxidants, later changed to ozone. To address the nonattainment NSR requirements arising from the 1977 Act Amendments, SDAPCD amended its nonattainment NSR rules, and CARB submitted them to EPA for approval as part of the California SIP. In 1981, we approved the following amended NSR rules: 20—Standards for Granting Applications; 20.1—Definitions, Emission Calculations, Emission Offsets and Banking, Exemptions, and Other Requirements; 20.2—Standards for Authority to Construct—Best Available Air Pollution Control Technology; 20.3—Standards for Authority to Construct—Air Quality Analysis; 20.4—Standards for Authority to Construct—Best Available Air Pollution Control Technology; 20.5—Power Plants; and 20.6—Standards for Authority to Construct—Air Quality Analysis. See 46 FR 21749 (April 14, 1981). Under these SIP-approved rules, LAER and offsets

have been required for new “point sources” that cause emissions greater than 100 tons per year of ozone precursors in ozone nonattainment areas.

The 1990 Clean Air Act Amendments retained the core nonattainment NSR elements of LAER and offsets but revised the applicability thresholds based on an area’s non-attainment classification. The San Diego 8-hour area is currently classified as a moderate ozone non-attainment area, and therefore the NSR applicability thresholds at which LAER and offsets are required is 100 tpy of NO<sub>x</sub> or VOC for new sources and 40 tpy for modifications made to existing major sources. EPA has reviewed SDAPCD’s existing SIP-approved NSR rules and determined that they meet the current 40 CFR 51.165 requirements related to the application of LAER and offsets for areas classified as moderate for ozone. Thus, San Diego County has a nonattainment NSR program meeting the requirements of 40 CFR 51.165 for sources within the San Diego 8-hour area.

SDAPCD does not currently have an approved PSD program. Even if EPA finalizes the actions in today’s proposed rulemaking, the federal PSD requirements under 40 CFR 52.21 will not apply to new major sources or major modifications to existing major sources of ozone precursors under SDAPCD’s jurisdiction until the San Diego County 8-hour area is redesignated to attainment for the 2008 ozone standard. On April 4, 2012, SDAPCD adopted Rule 20.3.1 to address PSD requirements, and CARB submitted the rule to EPA on February 13, 2013 for inclusion in the SIP. If it is approved by EPA, SDAPCD will have a SIP-approved PSD program.

- Enforceable emission limitations as may be necessary or appropriate to provide for attainment of such standard in such area by the applicable attainment date (section 172(c)(6)).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. Because attainment has been reached, no additional measures are needed to provide for attainment.

- Compliance with section 110(a)(2) of the Act (section 172(c)(7)).

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the California SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

- Use of equivalent modeling emission inventory, and planning

procedures if approved by EPA (CAA section 172(c)(8)).

The State of California has not sought to exercise the options available under CAA section 172(c)(8).

- Contingency measures for RFP and attainment of the NAAQS (CAA section 172(c)(9)).

Because the San Diego 8-hour area has attained the 1997 ozone NAAQS and is no longer subject to an RFP requirement, the requirement to submit the section 172(c)(9) contingency measures is not applicable for purposes of redesignation. See General Preamble (57 FR 13564, April 16, 1992). See also 40 CFR 51.918.

- Interagency consultation and enforceability for the purposes of transportation conformity (CAA section 176(c)(5) and 40 CFR 51.390).

Under section 176(c) of the Clean Air Act Amendments of 1990, states are required to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. Section 176(c) further provides that state conformity provisions must be consistent with federal conformity regulations that the CAA requires EPA to promulgate. EPA’s conformity regulations are codified at 40 CFR part 93, subparts A (referred to herein as “transportation conformity”) and B (referred to herein as “general conformity”). Transportation conformity applies to transportation plans, programs, and projects developed, funded, and approved under title 23 U.S.C. or the Federal Transit Act, and general conformity applies to all other federally-supported or funded projects. SIP revisions intended to address the conformity requirements are referred to herein as “conformity SIPs.”

EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of a redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. See also, 60 FR 62748 (December 7, 1995).

#### c. Subpart 2 Requirements

With respect to the requirements associated with subpart 2, we note that, as discussed in more detail above, the San Diego 8-hour area is classified as moderate nonattainment for the 1997 ozone standard under subpart 2 of part D of the CAA. See 77 FR 28424 (May 14, 2012). EPA issued a final rule classifying the San Diego 8-hour area as

moderate for the 1997 ozone standard, along with a number of other areas of the country (2012 ozone classification). States with these affected areas, including California, were given one year from the effective date of the 2012 ozone classification to submit SIP revisions that applied to the areas as a result of their new classification. See 77 FR 28426 and 28429 (May 14, 2012). The effective date of EPA’s classification of the San Diego 8-hour area as moderate for the 1997 ozone standard was June 13, 2012. Therefore, the deadline for California to submit any necessary SIP revisions that are now required for the San Diego 8-hour area, due to the area’s new moderate classification, is June 13, 2013.

CARB has not submitted any SIP revisions for the San Diego 8-hour area in response to the area’s 2012 ozone classification as moderate. However, as EPA articulated in the 2012 ozone classification, EPA believes that this fact does not preclude redesignation based upon the following factors: (1) EPA’s longstanding policy of evaluating requirements in accordance with the requirements due at the time a redesignation request is submitted; and (2) consideration of the inequity of applying retroactively any requirements that might in the future be applied.

First, CARB submitted the redesignation request on December 28, 2012, well before the State’s June 13, 2013 deadline to submit subpart 2 requirements. Under EPA’s longstanding interpretation of section 107(d)(3)(E) of the CAA states requesting redesignation to attainment must meet only the relevant SIP requirements that came due prior to the submittal of a complete redesignation request. See the Calcagni memo and September 17, 1993, Michael Shapiro Memorandum (“State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,” Memorandum from Michael Shapiro, Acting Assistant Administrator for Air and Radiation), and: 60 FR 12459, 12465–66 (March 7, 1995) (Redesignation of Detroit-Ann Arbor, Michigan); *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004) (upholding this interpretation); and 68 FR 25418, 25424, 25427 (May 12, 2003) (redesignation of St. Louis, Missouri).

Moreover, it would be inequitable to retroactively apply any new SIP requirements that were not applicable at the time the request was submitted. The D.C. Circuit Court (Court) has recognized the inequity in such

retroactive rulemaking (see *Sierra Club v. Whitman*, 285 F. 3d 63 (D.C. Cir. 2002)), in which the Court upheld a district court's ruling refusing to make retroactive an EPA determination of nonattainment that was past the statutory due date. Such a determination would have resulted in the imposition of additional requirements on the area. The Court stated, "[a]lthough EPA failed to make the nonattainment determination within the statutory frame, Sierra Club's proposed solution only makes the situation worse. Retroactive relief would likely impose large costs on the states, which would face fines and suits for not implementing air pollution prevention plans in 1997, even though they were not on notice at the time." *Id.* at 68. Similarly here, it would be unfair to penalize the San Diego 8-hour area by applying to it, for purposes of

redesignation, additional SIP requirements under subpart 2 that were not in effect or yet due at the time it submitted its redesignation request, or the time that the San Diego 8-hour area attained the 1997 ozone NAAQS.

Based on the above, EPA proposes to find that the San Diego 8-hour area has a fully approved SIP meeting requirements applicable for purposes of redesignation under CAA section 110 and title I part D.

### C. The Area Must Show the Improvement in Air Quality Is Due to Permanent and Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) precludes redesignation of a nonattainment area to attainment unless EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from

implementation of the applicable SIP and applicable federal air pollution control regulations and other permanent and enforceable regulations. Under this criterion, the state must be able to reasonably attribute the improvement in air quality to emissions reductions which are permanent and enforceable. Attainment resulting from temporary reductions in emissions rates (e.g., reduced production or shutdown due to temporary adverse economic conditions) or unusually favorable meteorology would not qualify as an air quality improvement due to permanent and enforceable emission reductions.

Table 3 summarizes the reductions in ozone precursors (i.e., VOCs and NO<sub>x</sub>) between 2002 and 2011 sufficient to attain the 1997 ozone standard in the San Diego County 8-hour ozone nonattainment area (San Diego 8-hour area).

TABLE 3—SAN DIEGO COUNTY 2002–2011 REDUCTIONS IN OZONE PRECURSOR EMISSIONS (TONS PER DAY, TPD)<sup>12</sup>

Source category	VOC 2002	VOC 2011	VOC reduction (percent)	NO <sub>x</sub> 2002	NO <sub>x</sub> 2011	NO <sub>x</sub> reduction (percent)
Consumer Solvent Products .....	22.5	17.9	3	.....	.....	.....
On-road Motor Vehicles .....	63.4	35.3	15	119.9	70.9	25
Non-road Mobile Sources .....	49.1	40.3	5	68.0	58.6	5
Stationary and Area Sources .....	48.0	49.1	0	10.1	8.1	1
Total .....	183.1	142.6	22	198.1	137.5	31

Source: California Air Resources Board, Southern California 2012 SIP Baseline Emission Projection—Version 1.02 Planning Inventory Tool Web site.

The effectiveness of the control measures to reduce VOC and NO<sub>x</sub> emissions can be assessed by comparing emissions in 2002 (the nonattainment base year, for planning purposes) with those in 2011 (an attainment year for the area). The emission reductions presented in table 3 were calculated relative to the 2002 base year emissions inventory of 183 tpd of VOC and 198 tpd of NO<sub>x</sub>. Between 2002 and the 2011 attainment year VOC and NO<sub>x</sub> emissions were reduced 22% and 31%, respectively. On-road motor vehicle control programs provided reductions of 15% and 25% of the VOC and NO<sub>x</sub>, and non-road mobile sources control programs resulted in reductions of 5% from both VOC and NO<sub>x</sub>. These reductions were achieved despite an increase in population and vehicle

miles traveled (VMT) of approximately 7% and 9%, respectively, during the same time period.<sup>13</sup>

The emissions reductions between 2002 and 2011 resulted primarily from EPA and CARB mobile source control programs. SDAPCD's stationary source control programs had mostly been implemented and provided significant emissions reductions prior to 2002; however, SDAPCD Rules 67.6.1—Cold Solvent Cleaning and Stripping Operations and 67.6.2—Vapor Degreasing Operations,<sup>14</sup> adopted in 2007, provided an additional 1 tpd of VOC reductions towards attainment,

and these reductions occurred after the 2002 base year.

Source categories for which CARB has primary responsibility for reducing emissions in California include most new and existing on- and off-road engines and vehicles, motor vehicle fuels, and consumer products. In addition, California has unique authority under CAA section 209 (subject to being granted a waiver by EPA) to adopt and implement new emission standards for many categories of on-road vehicles and engines, and new and in-use off-road vehicles and engines. California has been a leader in the development of some of the most stringent control measures nationwide for on-road and off-road mobile sources and the fuels that power them. These measures have helped reduce VOC and NO<sub>x</sub> in the San Diego ozone nonattainment area and throughout the State.

CARB has provided a summary of the measures adopted and implemented by the State. See "Air Resources Board's Proposed State Strategy for California's 2007 State Implementation Plan," release date: April 26, 2007 (2007 State

<sup>12</sup> Emissions data reflect a "summer day," as required by EPA policy guidance. Emissions data assume no emissions reductions from NSR or Title V permit programs. Source category-specific data are listed in Appendix A of the San Diego 8-hour maintenance plan. Emission reduction percentages are relative to the 2002 base year emissions totals of 183 tpd of VOC and 198 tpd of NO<sub>x</sub> for the entire SDAPCD.

<sup>13</sup> See Figure 4–1 in the San Diego 8-hour maintenance plan. Additional information provided in personal communication (via email) from Carl Selnick, SDAPCD, to John Ungvarsky, USEPA, on January 2, 2013.

<sup>14</sup> These rules were approved by EPA on October 13, 2009. See 74 FR 52427. EPA intends to act in the coming months on SDAPCD Rules 67.0—Architectural Coatings (amended) and 67.11—Wood Products Coating Operation, for possible inclusion in the SIP. Documentation included in the submittal to EPA for these two rules indicates that together they have achieved approximately 1.5 tpd in VOC reductions. And again, these reductions occurred after the 2002 base year.



Strategy). From 1994 to 2006, the State took approximately 45 rulemaking actions which have achieved significant emission reductions contributing to attainment and continued attainment in the San Diego 8-hour area. See 2007 State Strategy, p. 38.<sup>15</sup> These measures include new emission standards and in-use requirements that have resulted in significant reductions in emissions of VOCs and NO<sub>x</sub> from mobile source

categories such as passenger cars, trucks, buses, motorcycles, locomotives, cargo handling equipment, and large off-road equipment. EPA has generally approved all of the State's measures that the State has submitted to EPA as revisions to the SIP and that are not subject to the CAA section 209 waiver process. See, for example, EPA's final approval of the San Joaquin Valley PM<sub>2.5</sub> plan at 76 FR 69896 (November 9,

2011) and accompanying *Technical Support Document and Responses to Comments*.<sup>16</sup> Since 2006, ARB has adopted additional measures that will provide further reductions in the San Diego 8-hour area. The 2007 State Strategy measures listed in table 4 reduce emissions of VOCs and NO<sub>x</sub> and have been approved into the SIP or granted a waiver.

TABLE 4—STATUS OF CONTROL MEASURES IN CARB'S 2007 STATE STRATEGY CONTRIBUTING TOWARDS ATTAINMENT AND/OR CONTINUED ATTAINMENT OF THE 1997 OZONE NAAQS IN THE SAN DIEGO 8-HOUR AREA

Measure	Date of adoption	Current status
Modifications to Reformulated Gasoline .....	June 14, 2007 .....	Approved 75 FR 26653, May 12, 2010.
Clean Up Existing Harbor Craft .....	November 15, 2007 .....	Waiver granted; 76 FR 77521, December 13, 2011.
Ship Auxiliary Engine Cold Ironing and Clean Technology.	December 6, 2007 .....	Waiver granted; 76 FR 77515, December 13, 2011.
Consumer Products Program Regulations .....	May 6, 2005; September 26, 2007; May 5, 2009; August 6, 2010.	Approved: 74 FR 57074, November 4, 2009; 76 FR 27613, May 12, 2011; 77 FR 7535, February 13, 2012.
Smog Check Improvements .....	August 31, 2009 .....	Elements approved 75 FR 38023, July 1, 2010.
Cleaner In-Use Heavy-Duty Trucks .....	December 16, 2010 .....	Approved 77 FR 20308, April 4, 2012.
Cleaner In-Use Off-Road Equipment .....	December 17, 2010 .....	Waiver decision pending.
Port Truck Modernization .....	December 17, 2010 .....	Adopted December 2007 and December 2008.

A detailed list of the SDAPCD, CARB, and EPA measures, including those adopted and implemented prior to 2002, contributing to attainment and maintenance of the 1997 ozone standard can be found in Appendix B of the San Diego 8-hour maintenance plan.<sup>17</sup>

We note that the control measures cited in the San Diego 8-hour maintenance plan, in particular those for on-road and non-road sources, have provided emissions reductions since 2002, and thus, the improvement in air quality since 2002 may reasonably be attributed to them. For instance, the federal gasoline and diesel fuel standards adopted in 2010 (65 FR 6698, February 10, 2000) have greatly lowered the allowable sulfur content of fuels and resulted in lower emissions, especially NO<sub>x</sub>, from cars and trucks. The State and federal on-road and nonroad vehicle and engine standards have contributed to improved air quality through the gradual, continued turnover and replacement of older model

vehicles with newer model vehicles manufactured to meet increasingly stringent tailpipe emissions standards.

With respect to the connection between emissions reductions and improvement in air quality, we also conclude that the air quality improvement since 2002 in the San Diego 8-hour area is not the result of a local economic downturn or unusual or extreme weather patterns. San Diego did not observe any anomaly over the period from 2002 to 2011 relative to long-term averages. We do recognize that a significant economic slowdown occurred nationally starting in 2008, but we note that the downward trend in VOC and NO<sub>x</sub> emissions had already been established before that time.<sup>18</sup> We also reviewed temperature data for the 1993–2011 period<sup>19</sup> and the analysis of this data included in the San Diego 8-hour maintenance plan. The data indicate that although the 2009–2011 attainment period was slightly cooler than the long-term average, there were

six other three-year periods since 1993 that were at least as cool or cooler than the 2009–2011 period, that also had 8-hour design values above the 1997 ozone NAAQS. Thus, the temperature records support the conclusion that attainment did not result from unusually favorable meteorology during 2009–2011.

We find that the improvement in air quality in the San Diego 8-hour area is the result of permanent and enforceable emissions reductions from a combination of federal vehicle and fuel measures and EPA-approved state and local control measures. As such, we propose to find that the criterion for redesignation set forth at CAA section 107(d)(3)(E)(iii) is satisfied.

*D. The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A*

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from

<sup>15</sup> The 2007 State Strategy can be found at: <http://arb.ca.gov/planning/sip/2007sip/apr07draft/sipback.pdf>. See page 38 for a list of actions.

<sup>16</sup> This document, titled "Technical Support Document and Responses to Comments: Final Rule on the San Joaquin Valley 2008 PM<sub>2.5</sub> State Implementation Plan," dated September 30, 2011, can be found on the Internet in the docket for EPA's final approval of the San Joaquin Valley plan to attain the 1997 PM<sub>2.5</sub> NAAQS at: <http://www.regulations.gov/#/documentDetail;D=EPA-R09-OAR-2010-0516-0175>.

<sup>17</sup> In addition, the U.S. Secretary of State has accepted the designation by the International Maritime Organization of an Emission Control Area (ECA) in the waters off the North American coasts. Under this designation, ships are required to meet tighter fuel and emissions standards than would otherwise apply. Within the North American ECA, the effective date of the first-phase fuel sulfur standard was August 2012, and the second phase begins January 2015. Beginning in 2016, NO<sub>x</sub> aftertreatment requirements become applicable. San Diego County will benefit from the ECA because

ships complying with ECA standards will reduce their emissions of NO<sub>x</sub>, sulfur oxides, and fine particulate matter. Appendix B of the San Diego 8-hour maintenance plan does not include this measure.

<sup>18</sup> See Figure 4–1, titled "San Diego County VOC + NO<sub>x</sub> Emission Reductions Despite Growth," on page 4–3 of the San Diego 8-hour maintenance plan.

<sup>19</sup> See Figure 4–2, titled "San Diego County Three-Year Average Ozone Season Daily Maximum Temperatures," on page 4–5 of the San Diego 8-hour maintenance plan.

nonattainment to attainment. We interpret this section of the Act to require, in general, the following core elements: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and contingency plan. See Calcagni memo, pages 8 through 13.

Under CAA section 175A, a maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency provisions, that EPA deems necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area to attainment. Based on our review and evaluation of the plan, as detailed below, we are proposing to approve the San Diego maintenance plan because we believe that it meets the requirements of CAA section 175A.

#### 1. Attainment Inventory

A maintenance plan for the 1997 8-hour ozone standard must include an inventory of emissions of ozone precursors (VOC and NO<sub>x</sub>) in the area to identify a level of emissions that are sufficient to attain the 1997 ozone NAAQS. This inventory must be consistent with EPA's most recent guidance on emissions inventories for nonattainment areas available at the time and should represent emissions during the time period associated with the monitoring data showing attainment. The inventory must also be comprehensive, including emissions from stationary, area, nonroad mobile, and on-road mobile sources, and must be based on actual "ozone season data" (i.e., summertime) emissions.

SDAPCD selected year 2011 as the year for the attainment inventory in the San Diego maintenance plan. The attainment inventory will generally be the actual inventory during the time period the area attained the standard. Thus, SDAPCD's selection of 2011 for the attainment inventory is acceptable.

In addition to the 2011 attainment inventory, the San Diego 8-hour maintenance plan also includes emissions inventories for 2002, 2015, 2020, and 2025. Based on our review of the San Diego 8-hour maintenance plan, we find that the emissions inventories in the plan are comprehensive in that they include estimates of VOC and NO<sub>x</sub>

emissions for 2002, 2011, 2015, 2020, and 2025 from 69 relevant source categories, which the plan groups among stationary, areawide, on-road mobile, and non-road mobile sources. See tables A-1 and A-2 in Appendix A of the San Diego 8-hour maintenance plan.

The stationary source category includes non-mobile, fixed sources of air pollution. Examples of sources included in this category include fuel combustion (e.g., electric utilities), waste disposal (e.g., landfills), and oil and gas production. SDAPCD's 2002, 2011, 2015, 2020, and 2025 inventories for stationary sources were developed using ARB's Southern California 2012 SIP Baseline Emission Projection—Version 1.02 Planning Inventory Tool, which is based on methodologies in CARB's *California Almanac of Emissions and Air Quality—2009 Edition* (CARB's 2009 Almanac).<sup>20</sup> Information reported by emission sources to SDAPCD and entered into the California Emission Inventory Development and Reporting System (CEIDARS) database<sup>21</sup> was also used to generate actual emissions data for stationary sources. For areawide sources, CARB calculated emissions based on reported data for fuel usage, product sales, population, employment data, and other parameters covering a wide range of activities.<sup>22</sup>

The on-road mobile source category consists of mobile sources such as trucks, automobiles, buses, and motorcycles. The on-road emissions inventory estimates in the San Diego 8-hour maintenance plan were prepared by CARB using EMFAC2011, a CARB model for on-road motor vehicle emissions.<sup>23</sup> The vehicle miles traveled

<sup>20</sup> CARB's 2009 Almanac contains information about current and historical air quality and emissions in California. In addition, forecasted emissions are presented. See <http://www.arb.ca.gov/aqd/almanac/almanac09/almanac09.htm>.

<sup>21</sup> The CEIDARS database consists of two categories of information: source information (for further information, see: <http://www.arb.ca.gov/ei/drei/maintain/dbstruct.htm#source>) and utility information (for further information, see: <http://www.arb.ca.gov/ei/drei/maintain/dbstruct.htm#utility>). Source information includes the basic inventory information generated and collected on all point and area sources. Utility information generally includes auxiliary data, which helps categorize and further define the source information. Used together, CEIDARS is capable of generating complex reports based on a multitude of category and source selection criteria.

<sup>22</sup> For more information on emissions from the area-wide source category, see the CARB Web site: <http://www.arb.ca.gov/ei/areasc/areameth.htm>.

<sup>23</sup> See 78 FR 14533 (March 6, 2013) regarding EPA approval of the latest version of the California EMFAC model (short for EmissionFACTOR) and announcement of its availability. The software and detailed information on the EMFAC vehicle emission model can be found on the following

estimates needed for input into the emissions model were developed by the San Diego Association of Governments (SANDAG) for the 2050 Regional Transportation Plan. The transportation modeling process used by SANDAG is described in Appendix B (Air Quality Planning and Transportation Conformity) of the 2050 Regional Transportation Plan.<sup>24</sup>

With respect to nonroad mobile sources, the category includes aircraft, trains and boats, and off-road vehicles and equipment used for construction, farming, commercial, industrial, and recreational activities. CARB used its OFFROAD2007 model to calculate the nonroad emissions.<sup>25</sup> In general, emissions are calculated using equipment population, engine size and load, usage activity, and emission factors.

Tables 5 and 6 below present the VOC and NO<sub>x</sub> emissions inventory estimates contained in the San Diego 8-hour maintenance plan for actual 2011 emissions and projected 2015, 2020, and 2025 emissions. Based on the 2011 estimates in tables 5 and 6, mobile sources accounted for 53% of the VOC and 94% of NO<sub>x</sub> emissions within the San Diego 8-hour area. Stationary sources, consumer products, and other areawide sources represented 22%, 12%, and 13% of VOC emissions, respectively. Stationary and areawide sources accounted for only 6% of the NO<sub>x</sub> emissions. Future emissions levels for 2015, 2020, and 2025 are forecasted by adjusting the attainment year emissions inventory to reflect projected growth in emitting activities and additional control of emission rates that will be provided by continued implementation of the existing federal, State and SDAPCD emissions control regulations. Growth in emitting activities is projected based on

CARB Web site: <http://www.arb.ca.gov/msei/msei.htm>.

<sup>24</sup> SANDAG's transportation activity modeling process is described in Appendix B (Air Quality Planning and Transportation Conformity) of the 2050 Regional Transportation Plan, which can be found on the Internet at: [http://www.sandag.org/index.asp?projectid=349&fuseaction=projects\\_detail](http://www.sandag.org/index.asp?projectid=349&fuseaction=projects_detail).

<sup>25</sup> See <http://www.arb.ca.gov/msei/offroad/offroad.htm>.

<sup>26</sup> Because potential changes in military activities do not follow socio-economic factors, SDAPCD obtained from the Department of the Navy, for inclusion in the maintenance demonstration, a projection of future mobile source emissions from potential additional military activity (beyond that assumed in the baseline emissions) that may occur during the maintenance period at Coast Guard, Navy, and Marine Corps facilities in San Diego County. See "Department of Navy Emissions Growth Increment Request for the San Diego Air Pollution Control District," May 24, 2011.

forecasted growth in socio-economic industrial production, and vehicle miles factors such as population, employment, of travel.

TABLE 5—2011 AND PROJECTED 2015, 2020, AND 2025 VOC EMISSIONS TOTAL DAILY EMISSIONS [tpd, average summer weekday]

Source category	VOC			
	2011	2015	2020	2025
Stationary .....	31.1	33.1	35.8	36.8
Consumer Products .....	17.9	16.9	17.6	18.3
Other Areawide .....	18.0	18.4	19.1	19.2
On-road Motor Vehicles .....	35.3	26.4	20.5	18.3
Non-road Mobile .....	40.3	37.1	35.4	36.1
Banked Emission Credits .....	.....	0.9	0.9	0.9
Military <sup>26</sup> .....	.....	1.0	1.0	1.0
<b>Total</b> .....	<b>142.6</b>	<b>133.9</b>	<b>130.3</b>	<b>130.6</b>

Source: Appendix A, San Diego 8-hour maintenance plan.

TABLE 6—2011 AND PROJECTED 2015, 2020, AND 2025 NO<sub>x</sub> EMISSIONS TOTAL DAILY EMISSIONS [tpd, average summer weekday]

Source category	NO <sub>x</sub>			
	2011	2015	2020	2025
Stationary .....	6.3	5.6	5.5	5.6
Areawide .....	1.7	1.8	1.9	2.0
On-road Motor Vehicles .....	70.9	52.5	35.9	27.6
Non-road Mobile .....	58.6	54.9	50.4	47.5
Banked Emission Credits .....	.....	0.7	0.7	0.7
Military <sup>27</sup> .....	.....	4.4	4.4	4.4
<b>Total</b> .....	<b>137.5</b>	<b>119.9</b>	<b>98.9</b>	<b>87.8</b>

Source: Appendix A, San Diego 8-hour maintenance plan.

Based on our review of the emissions inventories (and related documentation) from the San Diego 8-hour maintenance plan, we find that the 2011 attainment year emissions inventory is comprehensive, that the methods and assumptions used by SDAPCD and CARB to develop the inventory are reasonable, and that the inventory reasonably estimates actual ozone season emissions in the 2011 attainment year. Moreover, we find that the 2011 emissions inventory reflects the latest planning assumptions and emissions models available at the time the plan was developed, and provides a comprehensive and reasonably accurate basis upon which to forecast ozone precursor emissions for years 2015, 2020 and 2025.

2. Maintenance Demonstration

CAA section 175A(a) requires that the maintenance plan “provide for the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation.” Generally, a state may demonstrate maintenance of the 1997 ozone standard

by either showing that future emissions will not exceed the level of the attainment year inventory or by modeling to show that the future mix of sources and emissions rates will not cause a violation of the NAAQS. For areas that are required under the Act to submit modeled attainment demonstrations, the maintenance demonstration should use the same type of modeling. See Calcagni memo, page 9. The San Diego 8-hour area was not required to submit a modeled attainment demonstration, and thus, the San Diego 8-hour maintenance plan may demonstrate maintenance based on a comparison of existing and future emissions of ozone precursors.<sup>28</sup>

In addition to accounting for area-wide growth trends, SDAPCD included a growth increment for potential future military projects that may become operational during the maintenance period at Coast Guard, Navy, or Marine Corps facilities in the San Diego 8-hour area. SDAPCD also added to the

maintenance-year inventory banked emissions reduction credits (ERCs) of 0.9 tpd of VOCs and 0.7 tpd of NO<sub>x</sub> from stationary sources in the event that the ERCs are used for the purpose of issuing permits for new or modified stationary sources in the San Diego 8-hour area. We have reviewed the methods and assumptions, as described in connection with the attainment year inventory, that SDAPCD and CARB used to project emissions to 2015, 2020, and 2025 for the various source categories and find the methods and assumptions to be reasonable.

Tables 5 and 6 compare the VOC and NO<sub>x</sub> emissions estimated for the San Diego 8-hour area for the 2011 attainment year with the 2015 and 2020 interim years, and 2025 maintenance year. By 2025, San Diego County ozone precursor emissions are projected to decrease by 12.1 tons per day (8%) for VOC and 49.7 tons per day (36%) for NO<sub>x</sub> relative to the 2011 attainment year inventory. The projected VOC and NO<sub>x</sub> emissions show that VOC and NO<sub>x</sub> emissions would remain well below the attainment year levels through 2025 and thereby adequately demonstrate

<sup>27</sup> See previous footnote.

<sup>28</sup> A maintenance demonstration need not be based on ozone modeling. See *Wall v. EPA*, 375 F.3d 537 (7th Cir. 2004). See also 66 FR 53094, at pages 53099–53100 (October 19, 2001), and 68 FR 25413, pages 25430–25432 (May 12, 2003).

maintenance through at least a 10-year period.

### 3. Monitoring Network

Continued ambient monitoring of an area is generally required over the maintenance period. As discussed in section V.A of this document, ozone is currently monitored by SDAPCD at nine sites within the San Diego 8-hour area. SDAPCD also commits to continue operating the ambient ozone monitoring network, quality assuring the resulting monitoring data, and entering all data into the AQS in accordance with federal requirements and guidelines to verify continued attainment of the 1997 8-hour ozone NAAQS.<sup>29</sup> See page 5–5 of the San Diego 8-hour maintenance plan. We find SDAPCD's commitment for continued ambient ozone monitoring as set forth in its San Diego 8-hour maintenance plan to be acceptable.

### 4. Verification of Continued Attainment

CARB and SDAPCD have the legal authority to implement and enforce the requirements of the San Diego 8-hour maintenance plan. This includes the authority to adopt, implement and enforce any emission control contingency measures determined to be necessary to correct violations of the 1997 ozone standard. To verify continued attainment, SDAPCD commits to the continued operation of an ozone monitoring network in accordance with federal requirements and guidelines to verify continued attainment of the 1997 ozone standard. SDAPCD also commits to annually reviewing ozone monitoring data from the three most recent, consecutive years to verify continued attainment of the 1997 ozone standard through the maintenance period.

In addition, the transportation conformity process, which requires a comparison of on-road motor vehicle emissions that would occur under new or amended regional transportation plans and programs with the MVEBs in the San Diego 8-hour maintenance plan, represents another means by which to verify continued attainment of the 1997 ozone standard in the San Diego 8-hour area. This alternate means of verifying continued attainment during the maintenance period is especially relevant for the San Diego 8-hour area, given the importance of motor vehicle emissions to the overall emissions

inventories of ozone precursors in the area. It is important to note also that conformity applies to an area during its entire maintenance period. See page 5–3 of the San Diego 8-hour maintenance plan.

Lastly, while not cited in the San Diego 8-hour maintenance plan, CARB and SDAPCD must inventory emissions sources and report to EPA on a periodic basis under 40 CFR part 51, subpart A (“Air Emissions Reporting Requirements”). These emissions inventory updates will provide a third means with which to track emissions in the area relative to those projected in the maintenance plan and thereby verify continued attainment of the 1997 ozone standard. These methods are sufficient for the purpose of verifying continued attainment.

### 5. Contingency Provisions

Section 175A(d) of the Act requires that maintenance plans include contingency provisions, as EPA deems necessary, to promptly correct any violations of the NAAQS that occur after redesignation of the area to attainment. Such provisions must include a requirement that the state will implement all measures with respect to the control of the air pollutant concerned which were contained in the SIP for the area before redesignation of the area as an attainment area.

Under section 175A(d), contingency measures identified in the contingency plan do not have to be fully adopted at the time of redesignation. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a specified event. The maintenance plan should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific timeline for action by the state. As a necessary part of the plan, the state should also identify specific indicators or triggers, which will be used to determine when the contingency measures need to be implemented.

As required by section 175A of the CAA, SDAPCD has adopted a contingency plan to address possible future ozone air quality problems. See section 5.7 of the San Diego 8-hour maintenance plan. SDAPCD commits to annually review ozone monitoring data from the three most recent, consecutive years to verify continued attainment of the 1997 ozone standard through the maintenance period.

California's on-going emissions control program includes several recently adopted CARB mobile source

control regulations (collectively referred to as California's Advanced Clean Cars Program) that will be implemented and achieve additional reductions in the San Diego 8-hour area during the maintenance period regardless of monitored ozone levels. The Advanced Clean Cars Program (ACCP), adopted on January 27, 2012,<sup>30</sup> will progressively tighten emissions control requirements for motor vehicles through model year 2025, and thus will provide additional emissions reductions over and above those needed for attainment and beyond those that are relied on to demonstrate maintenance in the San Diego 8-hour maintenance plan. The ACCP was not reflected in EMFAC2011, and the emissions inventories used for the maintenance demonstration in the San Diego 8-hour maintenance plan are based on EMFAC2011.<sup>31</sup> Therefore, the emission reductions from the ACCP are surplus to the maintenance demonstration, and thus the ACCP is eligible as a contingency measure.

The ACCP will provide continuing emissions reductions through the maintenance period and provide adequate additional reductions to address the CAA's contingency requirements. By 2025, the existing control program, not including CARB's ACCP adopted in 2012, is projected to reduce ozone precursor emissions in the San Diego 8-hour area by 20 tpd (14%) for VOC, and 52 tpd (39%) for NO<sub>x</sub>, below the 2011 attainment year emissions levels. Therefore, if new violations were to occur during the maintenance period, sufficient continuing emissions reductions are projected to ensure any violation will be quickly corrected and then provide for continued maintenance of the 1997 ozone NAAQS in the San Diego 8-hour area through the maintenance period. In a March 6, 2013 letter to EPA, SDAPCD clarified information in the San Diego 8-hour maintenance plan by stating the ACCP is the initial contingency measure for promptly correcting a violation. If after implementation of the ACCP a subsequent violation occurs, SDAPCD commits to work with EPA and CARB to adopt and implement additional contingency measure(s), as deemed necessary, as soon as possible but no later than 12 months after the date of the second violation.

Upon our review of the plan and the March 6, 2013 clarification, as summarized above, we find that the

<sup>29</sup> Although the San Diego 8-hour maintenance plan is not explicit in this regard, we presume that SDAPCD's intention to continue operation of a monitoring network means that the agency intends to do so consistent with EPA's monitoring requirements in 40 CFR part 58 (“Ambient Air Quality Surveillance”).

<sup>30</sup> On January 9, 2013, EPA approved CARB's request for a waiver of preemption under section 209(b) for its ACC regulations. See 78 FR 2112.

<sup>31</sup> See page 5–5 of San Diego 8-hour maintenance plan.

contingency provisions of the San Diego 8-hour maintenance plan identify specific contingency measures, contain tracking and triggering mechanisms to determine when contingency measures are needed, contain a description of the process of recommending and implementing contingency measures, and contain specific timelines for action. Thus, we conclude that the contingency provisions of the San Diego 8-hour maintenance plan are adequate to ensure prompt correction of a violation and therefore comply with section 175A(d) of the Act.

#### 6. Subsequent Maintenance Plan Revisions

CAA section 175A(b) provides that states shall submit a SIP revision eight years after redesignation providing for maintaining the NAAQS for an additional ten years. In the San Diego 8-hour maintenance plan, SDAPCD commits to prepare and submit a revised maintenance plan eight years after redesignation to attainment. See pages 5–6 of the San Diego 8-hour maintenance plan.

#### 7. Motor Vehicle Emissions Budgets

Transportation conformity is required by section 176(c) of the CAA. Our transportation conformity rule (codified in 40 CFR part 93, subpart A) requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do so. Conformity to the SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards or delay any required interim milestones.

Ozone maintenance plan submittals must specify the maximum emissions of transportation-related VOC and NO<sub>x</sub> emissions allowed in the last year of the maintenance period, i.e., the motor vehicle emissions budgets (MVEBs). (MVEBs may also be specified for additional years during the maintenance period.) The MVEBs serve as a ceiling on emissions that would result from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble describes how to establish MVEBs in the SIP and how to revise the MVEBs if needed.

A maintenance plan submittal must also demonstrate that these emissions levels, when considered with emissions from all other sources, are consistent with maintenance of the NAAQS. In order for us to find these emissions

levels or “budgets” adequate and approvable, the submittal must meet the conformity adequacy provisions of 40 CFR 93.118(e)(4) and (5). For more information on the transportation conformity requirements and applicable policies on MVEBs, please visit our transportation conformity Web site at: <http://www.epa.gov/otaq/stateresources/transconf/index.htm>.

EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and, (3) making a finding of adequacy or inadequacy. The process for determining the adequacy of a submitted MVEB is codified at 40 CFR 93.118.

The San Diego 8-hour maintenance plan contains new VOC and NO<sub>x</sub> MVEBs for 2020 and 2025 as shown in table 7. The MVEBs are the projected on-road mobile source VOC and NO<sub>x</sub> emissions for the San Diego 8-hour area for 2020 and 2025. They include a small safety margin created by rounding up the projected on-road mobile source emissions to the next whole number and adding two tons per day. The MVEBs are compatible with the 2020 and 2025 on-road mobile source VOC and NO<sub>x</sub> emissions included in the San Diego 8-hour maintenance plan's 2020 and 2025 VOC and NO<sub>x</sub> emission inventories, as summarized above in tables 5 and 6. The conformity rule allows for a safety margin, and even with the small safety margin added to the on-road emissions, the overall emissions in the San Diego 8-hour area are consistent with continued maintenance of the 1997 ozone standard. The derivation of the MVEBs is discussed in section 5.3 of the San Diego 8-hour maintenance plan. The MVEBs incorporate: (1) On-road motor vehicle emission inventory factors of EMFAC2011; and (2) updated recent vehicle activity data from SANDAG generated using TransCAD 5.0, ArcInfo, and other information sources as described in Appendix B of the 2050 Regional Transportation Plan (October, 2011).<sup>32</sup>

TABLE 7—MOTOR VEHICLE EMISSIONS BUDGETS IN THE SAN DIEGO 8-HOUR MAINTENANCE PLAN

Budget year	VOC (tpd, average summer weekday)	NO <sub>x</sub> (tpd, average summer weekday)
2020 ..	23	38

<sup>32</sup> See [http://www.sandag.org/uploads/2050RTP/F2050rtp\\_all.pdf](http://www.sandag.org/uploads/2050RTP/F2050rtp_all.pdf).

TABLE 7—MOTOR VEHICLE EMISSIONS BUDGETS IN THE SAN DIEGO 8-HOUR MAINTENANCE PLAN—Continued

Budget year	VOC (tpd, average summer weekday)	NO <sub>x</sub> (tpd, average summer weekday)
2025 ..	21	30

**Source:** Table 5–3 on page 5–4 of the San Diego 8-hour maintenance plan.

The availability of the SIP submission with MVEBs was announced for public comment on EPA's Adequacy Web site on December 20, 2012, at: <http://www.epa.gov/otaq/stateresources/transconf/currstips.htm>, which provided a 30-day public comment period. The comment period for this notification ended on January 22, 2013, and EPA received no comments from the public. On March 11, 2013, EPA determined the 2020 and 2025 MVEBs were adequate.<sup>33</sup> The new MVEBs will be effective 15 days after a notice of adequacy is published in the **Federal Register**. After the effective date the new MVEBs must be used in future transportation conformity determinations for the San Diego 8-hour area.

EPA proposes to approve 2020 and 2025 MVEBs in the San Diego 8-hour maintenance plan for transportation conformity purposes in the final rulemaking on CARB's redesignation request for the San Diego 8-hour area. EPA has determined through its thorough review of the submitted maintenance plan that the MVEB emission targets are consistent with emission control measures in the SIP and that the San Diego 8-hour area can maintain attainment of the 1997 ozone NAAQS. The details of EPA's evaluation of the MVEBs for compliance with the budget adequacy criteria of 40 CFR 93.118(e) are provided in a separate adequacy letter<sup>34</sup> included in the docket of this rulemaking. As indicated above, the MVEBs must be used in any conformity determination made after the adequacy finding on the budgets is effective, which will be 15 days after the notice of adequacy is published in the **Federal Register**.<sup>35</sup>

<sup>33</sup> See March 11, 2013 letter from Deborah Jordan, Director, Air Division, USEPA Region 9, to James Goldstone, Executive Officer, CARB. A notice of adequacy will also be published in the **Federal Register** to notify the public that the Agency has found that the MVEBs for ozone for the years 2020 and 2025 are adequate for transportation conformity purposes.

<sup>34</sup> See March 11, 2013 letter in footnote 33 and enclosure titled, “Transportation Conformity Adequacy Review,” for Motor Vehicle Emission Budgets in San Diego 8-hour maintenance plan.

<sup>35</sup> The **Federal Register** notice announcing the notice of adequacy will be in the docket for this

## VI. Proposed Action and Request for Public Comment

Under CAA section 110(k)(3), and for the reasons set forth above, EPA is proposing to approve CARB's submittal dated December 28, 2012 of the *Redesignation Request and Maintenance Plan for the 1997 National Ozone Standard for San Diego County* (December 2012) as a revision to the California state implementation plan (SIP). In connection with the San Diego 8-hour maintenance plan, EPA finds that the maintenance demonstration showing how the area will continue to attain the 1997 8-hour ozone NAAQS for 10 years beyond redesignation (i.e., through 2025) and the contingency provisions describing the actions that SDAPCD and CARB will take in the event of a future monitored violation meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. EPA is also proposing to approve the motor vehicle emissions budgets (MVEBs) in the San Diego 8-hour maintenance plan (shown in table 7 of this document) because we find they meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

Second, under CAA section 107(d)(3)(D), we are proposing to approve CARB's request, which accompanied the submittal of the maintenance plan, to redesignate the San Diego County 8-hour ozone nonattainment area to attainment for the 1997 8-hour ozone NAAQS. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Our conclusion in this regard is in turn based on our proposed determination that the area has attained the 1997 ozone NAAQS, that relevant portions of the California SIP are fully approved, that the improvement in air quality is due to permanent and enforceable reductions in emissions, that California has met all requirements applicable to the San Diego 8-hour area with respect to section 110 and part D of the CAA, and based on our proposed approval as part of this action of the San Diego 8-hour maintenance plan.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. We will accept comments from the public on this proposal for the next 30 days. We will consider these comments before taking final action.

rulemaking and on EPA adequacy web page: <http://www.epa.gov/otaq/stateresources/transconf/reg9sips.htm#ca>.

## VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. Redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, these actions merely propose to approve a State plan and redesignation request as meeting Federal requirements and do not impose additional requirements beyond those by State law. For these reasons, these proposed actions:

- Are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address

disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law. Nonetheless, in accordance with EPA's 2011 Policy on Consultation and Coordination with Tribes, EPA has notified Tribes located within the San Diego County 8-hour ozone nonattainment.

### List of Subjects

#### 40 CFR Part 52

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

#### 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 14, 2013.

#### Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2013-06767 Filed 3-22-13; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA-HQ-OAR-2012-0233; FRL-9793-7]

### EPA Responses to State and Tribal 2010 Sulfur Dioxide Designation Recommendations: Notice of Availability and Public Comment Period

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

**ACTION:** Notice of reopening of public comment period.

**SUMMARY:** The EPA is announcing the reopening of the public comment period for the EPA's responses to state and tribal designation recommendations for the 2010 Sulfur Dioxide National Ambient Air Quality Standard. The EPA sent the responses directly to the states and tribes on or about February 7, 2013. On February 15, 2013, the EPA published a notice of availability in the