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Before the U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Energy and Power

Written Testimony on "H.R. 4775, Ozone Standards Implementation Act of 2016"
April 14, 2016

Chairman Whitfield, Ranking Member Rush, and Members of the Committee, my name is Seyed Sadredin and I currently serve as the Executive Director/Air Pollution Control Officer of the San Joaquin Valley Air Pollution Control District. It is an honor and a pleasure to be here before you today to provide testimony and answer your questions. For nearly 35 years, I have served as a public health official charged with implementing air quality management programs in the bountiful and beautiful central valley of California.

I am here today to express my gratitude to your committee for taking thoughtful and reasonable action to enact common sense changes to the Clean Air Act. As a public health official and on behalf of all of the elected officials serving on the Governing Board of the San Joaquin Valley Air Pollution Control District, I urge strong and bipartisan support for H.R. 4775, Ozone Standards Implementation Act of 2016.

The *Clean Air Act Modernization Proposal* developed by the San Joaquin Valley Air Pollution Control District presents a five prong legislative solution that preserves the federal government's ability to routinely reevaluate and set health protective air quality goals based on sound science while avoiding current duplicative requirements and confusion (see Attachment). The proposed changes would also require strategies that lead to the most expeditious air quality improvement while considering technological and economic feasibility. We are pleased that many of our recommendations for modernizing the Clean Air Act are included in H.R. 4775, which we feel will update the Clean Air Act in a manner that reflects today's realities without any roll back of health-protective measures. More specifically, the San Joaquin Valley Air Pollution Control District supports the H.R. 4775 provisions that accomplish the following:

Streamlines the Transition Between Standards: Since the 1970's, EPA has established numerous ambient air quality standards for individual pollutants. We have now reached a point where various regions throughout the nation are subject to multiple iterations of standards for a single pollutant. Currently, we are subject to four standards for ozone and four standards for PM2.5. Each of these standards requires a separate attainment plan which leads to multiple overlapping requirements and deadlines. For instance, in the San Joaquin Valley we are on the verge of having to promulgate a total

of 10 active State Implementation Plans. This results in a great deal of confusion, costly bureaucracy, and duplicative regulations, all without corresponding public health benefits.

H.R. 4775 helps reduce the current chaotic nature of the transition between standards by requiring that EPA issue guidance on implementing new standards in a timely manner and extending the timeframe to review new standards from 5 years to 10 years. In the San Joaquin Valley, these provisions will reduce the current chaotic nature of the transition between standards. The streamlining remedies provided in H.R. 4775 will not delay aggressive efforts to reduce air pollution and improve public health in the San Joaquin Valley.

Reinforces Economic Feasibility Considerations in Implementing Clean Air Act Mandates: Although the Clean Air Act is currently silent on considering economic feasibility in setting new air quality standards, EPA and others have argued that economic feasibility is incorporated in the implementation phase. Our experience, however, shows that meaningful consideration of economic feasibility is nearly impossible when faced with formula-based milestones and deadlines in the Clean Air Act that are set without considering technological achievability and economic feasibility.

Meeting the new standards that approach background concentrations call for transformative measures that require time to develop and implement. These transformative measures require new technologies that in many cases are not yet commercially available or even conceived. The formula-based deadlines and milestones that were prescribed in the Act 25 years ago now lead to mandates that are impossible to meet. H.R. 4775 will amend the Clean Air Act to require control measures that lead to the most expeditious attainment of health based standards while taking into account technological achievability and economic feasibility.

Eliminates a Contingency Mandate that is Detrimental to Expeditious Attainment of Standards and Public Health Improvement: A classic case of the well-intentioned provisions that were included in the Clean Air Act over 25 years ago that are now leading to unintended consequences is the requirement for contingency measures in areas classified as “extreme” nonattainment. By definition, a region is classified as extreme nonattainment if, despite implementing all available control measures, reductions achieved are not enough to meet the standard. The only way a region can meet the contingency requirements is to hold back on implementing clean air measures and save them for later as a contingency. Of course, this would result in delays in cleaning the air and reducing air pollution. As currently written, the requirements in the Clean Air Act that require extreme areas to include all available measures to ensure expeditious attainment and the requirement for holding back measures as contingency are contradictory. H.R. 4775 eliminates the mandate for holding back measures as contingencies in areas classified as extreme nonattainment.

Allows for Consideration of Drought and Extraordinary Stagnation as Exceptional Events: Currently, the Clean Air Act does not allow stagnation or lack of precipitation to qualify as exceptional events. The west coast recently experienced drought conditions that had not been experienced since the late 1800s with some locations breaking records over 100 years old. The extended stagnation associated with the weather emergency overwhelmed the state's control strategy and will drive particulate matter planning for years to come. Until the exceptional weather conditions experienced due to the recent drought, the San Joaquin Valley Air Pollution Control District was on track to attain the 1997 annual PM2.5 standard before the federally mandated deadline of December 2014. The District's 2008 PM2.5 Plan satisfied all federal implementation requirements for the 1997 PM2.5 standard at the time of adoption and demonstrated attainment based on projected 2012-2014 PM2.5 levels. All emission reduction commitments under that plan have been fulfilled. Due to the extreme drought, stagnation, strong inversions, and historically dry conditions experienced over the winter of 2013/14, the Valley could not show attainment even if the Valley eliminated all sources of air pollution and had zero emissions of PM2.5 released into the atmosphere for the following year (2014).

In excluding stagnation as exceptional events, we believe that the intent of the Congress at the time was to only prohibit consideration of regularly occurring stagnant weather conditions which could vary on a day-to-day basis. Extraordinary circumstances that arise from 100-year droughts should qualify as exceptional events. H.R. 4775 allows consideration of extraordinary stagnation as a potential exceptional event if all the necessary findings and documentation as prescribed by EPA are prepared and submitted.

In addressing challenges related to implementing the new national ambient air quality standard for ozone recently promulgated by the United States Environmental Protection Agency (U.S. EPA), it is important to hear from regions throughout the nation that have worked over the last four decades to comply with the federal mandates under the Clean Air Act and attain the previous standards. In my opinion, a closer examination of those efforts can provide valuable lessons as we continue our work to chart an effective course for expeditious attainment of the health-based ambient air quality standards and the resulting benefit in improved public health.

Since its adoption, the Clean Air Act has led to significant improvements in air quality and public health benefits throughout the nation. With an investment of over $40 billion, air pollution from San Joaquin Valley businesses has been reduced by over 80%. The pollution released by industrial facilities, agricultural operations, and cars and trucks is at a historical low, for levels of all pollutants. San Joaquin Valley residents' exposure to high smog levels has been reduced by over 90%.

After more than 25 years since the last amendments to the Clean Air Act in 1990, our experience shows that many well-intentioned provisions are leading to unintended

adverse consequences. Without action to address these issues, the Clean Air Act sets many regions up for failure and economic devastation as the new federal standards encroach on background pollution concentrations. The antiquated provisions of the Clean Air Act are now leading to confusion, and lack of updated congressional directive has rendered courts and non-elected government bureaucrats as policy makers. We urge the Congress and the President to take bipartisan action to modernize the Act.

The new ozone and PM2.5 standards established by EPA approach the background pollution concentrations in many regions throughout the nation including the San Joaquin Valley. As currently written, the Act does not provide for consideration of technological achievability and economic feasibility in establishing deadlines for attaining the associated federal mandates. When enacting the last amendment to the Act over 25 years ago, Congress did not contemplate the reality that we face today. It is hard to imagine that the Congress, with a nearly unanimous vote to pass the Clean Air Act, envisioned a scenario where after reducing pollution by over 80% and imposing the toughest air regulations on stationary and mobile sources of emissions, a region is left with an enormous gap in meeting the new standard – a gap so large that it cannot be filled by the formula-based deadlines prescribed in the Act. Through decades of implementing increasingly stringent air quality regulations, even the smallest sources have not been immune from regulation and the costs associated with implementation of the Clean Air Act. During most of the winter, Valley residents are banned from using their fireplaces, and other regulations impose limits on consumer products and the time that lids can be off of paint cans, just to name a few examples.

The reality that we face today sets up regions such as the San Joaquin Valley for failure leading to costly sanctions and severe economic hardship. We face these dire consequences despite having already done all of the following:

- ✓ Toughest air regulations on stationary sources (600 rules since 1992)
- ✓ Toughest air regulations on farms and dairies
- ✓ Tough air regulations on what residents can do within the confines of their homes (residential water heaters, residential HVAC furnaces, charbroilers, ban on fireplace installation and use)
- ✓ $40 billion spent by businesses on clean air
- ✓ Over $1 billion dollars of public/private investment on incentive-based measures reducing over 100,000 tons of emissions
- ✓ Toughest regulations on cars and trucks
- ✓ Toughest regulations on consumer products
- ✓ Reduced emissions by 80% - but need another 90% reduction in emissions to meet the new standard

The background ozone concentration in the San Joaquin Valley is estimated to be greater than 50 ppb with some estimates as high as 60 ppb. The new ozone standard set at 70 ppb leaves little or no room for man-made local emissions. Additionally, the latest federal PM2.5 standards of 35 $\mu g/m^3$ (24-hour) and 12 $\mu g/m^3$ (annual) also

approach natural background levels. Meeting these new standards requires a virtual ban on fossil-fuel combustion or emissions (see Figures 1 and 2).

Figure 1: San Joaquin Valley NOx Emissions and Targets for Attainment of Federal 8-hour Ozone Standards

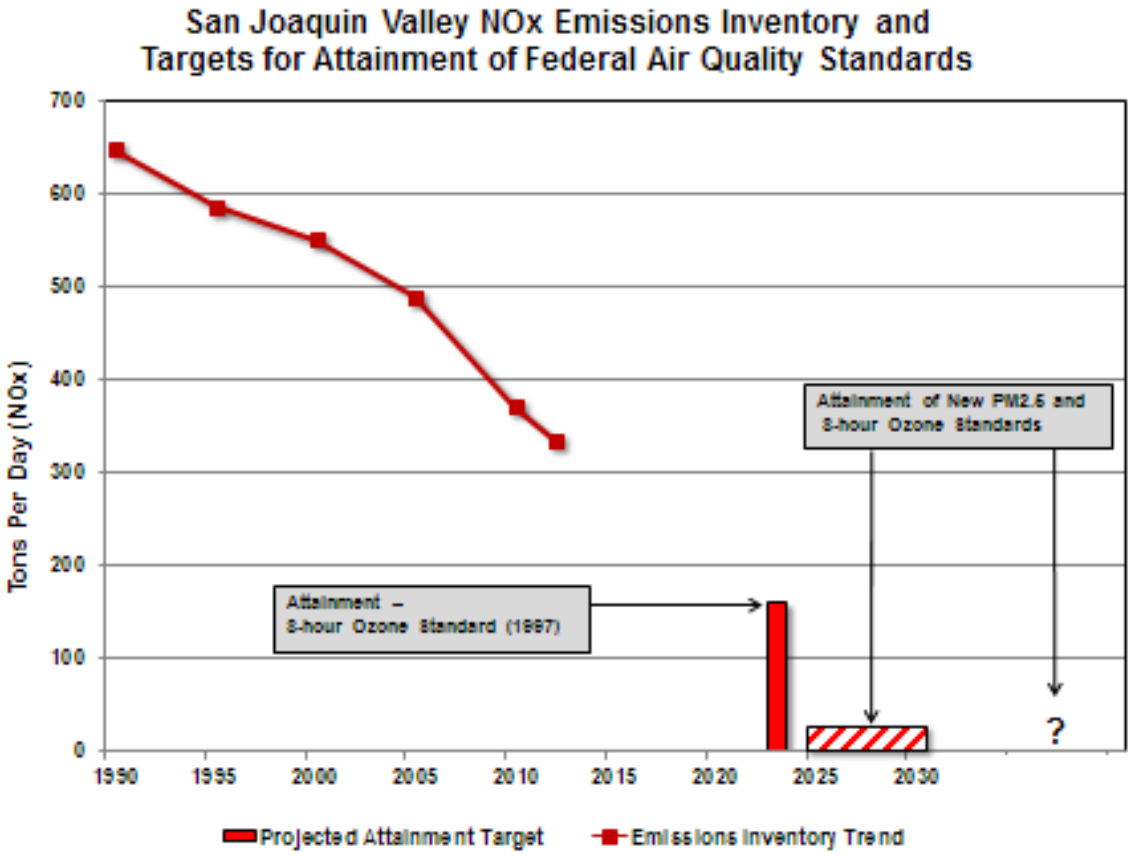
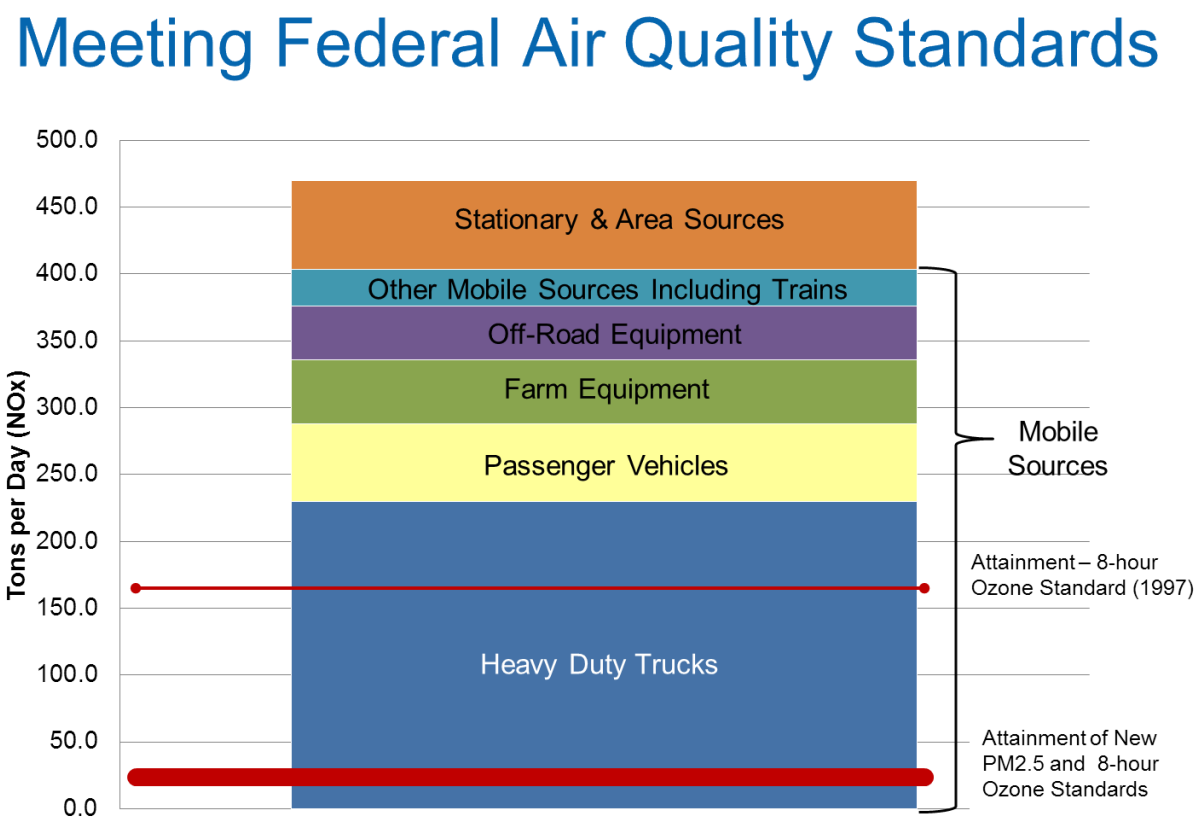


Figure 2: San Joaquin Valley NOx Emissions by Source Category and Targets for Attainment of New Federal Ozone and PM2.5 Standards



Eliminating fossil fuel emissions from all industrial, agricultural, and transportation activities is a daunting task. Nonetheless in our region, we are committed to develop and deploy the needed transformative measures as expeditiously as possible. We support the well-intentioned concepts in the Clean Air Act that call for routine review of health-based air quality standards, clean air objectives that are technology-forcing, and clean-air deadlines that ensure expeditious clean-up and timely action. However, success requires fine-tuning of the federal Clean Air Act to ensure rapid progress towards meeting the standards without unduly penalizing regions with mature air quality programs and disadvantaged communities.

I thank you for considering this important legislation. We support and want to retain the core elements in the Act that serve to protect public health through the establishment and pursuit of science-based ambient air quality standards. The modifications proposed in H.R. 4775 will provide the administrative relief that is necessary without delaying our ongoing efforts to clean the air as expeditiously as possible and improve public health.

Attachment: Clean Air Act Modernization Proposal (8 pages)

Federal Clean Air Act Modernization Proposal

Since its adoption, the Clean Air Act has led to significant improvements in air quality and public health benefits throughout the nation. In many areas of the nation, air pollution levels have been reduced to historical lows. We support the well-intentioned concepts in the Clean Air Act that call for routine review of health-based air quality standards, clean air objectives that are technology-forcing, and clean-air deadlines that ensure expeditious clean-up and timely action.

The Clean Air Act was last amended in 1990. Over the last 25 years, local, state, and federal agencies and affected stakeholders have learned important lessons from implementing the law and it is clear now that a number of well-intentioned provisions in the Act are leading to unintended consequences. This experience can inform efforts to enhance the Clean Air Act with much needed modernization. The following proposal is designed to provide specific language aimed at improving the Act's effectiveness and efficiency.

1. PROBLEM: Since the 1970's, EPA has established numerous ambient air quality standards for individual pollutants. We have now reached a point where various regions throughout the nation are subject to multiple iterations of standards for a single pollutant. For instance, there are currently 4 pending standards for ozone and 4 pending standards for PM2.5. Each of these standards requires a separate attainment plan which leads to multiple overlapping requirements and deadlines. This in turn results in a great deal of confusion, costly bureaucracy, and duplicative regulations, all without corresponding public health benefits.

SOLUTION: When a new standard is published, the old standard for that pollutant should be subsumed. States should be allowed to develop a single attainment plan that harmonizes increments of progress and other milestones without allowing for any rollback or backsliding.

PROPOSED AMENDMENTS: To avoid duplicative requirements and confusion, the RFP milestones must be synchronized when a new standard is published, for any region with a pending implementation plan for an older version of the standard for that pollutant. Towards that end, the first RFP milestone for the new standard should be aligned with the next required milestone for the old standard. The reductions required for aligned milestones shall be either 3 percent of the baseline for the new standard or the RFP emission reduction targets established under the existing plan, whichever is greater.

For ozone, add new subsection 182(k) as follows:

(*k) RFP Milestone Alignment for Areas with Pending Attainment Plans*

Notwithstanding any other provisions of this section, the RFP milestones and emission reduction targets in areas that have submitted a plan to the Administrator for the older version of a standard for the same pollutant being addressed by a new standard shall be set as follows:

The first RFP milestone for the new standard shall be set at the next RFP milestone date for the existing standard addressed in the current plan. Subsequent milestones will be every three years from the first milestone until attainment. The reductions required at the aligned milestones that address more than one standard shall be either 3 percent of the baseline for the new standard or the RFP emission reduction targets established under the current plan for the older standard, whichever is greater.

For particulates, add new subsection 189(c)(4) as follows:

(4) RFP Milestone Alignment for Areas with Pending Attainment Plans

Notwithstanding any other provisions of this section, the RFP milestones and emission reduction targets in areas that have submitted a plan to the Administrator for the older version of a standard for the same pollutant being addressed by a new standard shall be set as follows:

The first RFP milestone for the new standard shall be set at the next RFP milestone date for the existing standard addressed in the current plan. Subsequent milestones will be every three years from the first milestone until attainment. The reductions required at the aligned milestones that address more than one standard shall be either those required for the new standard or the RFP emission reduction targets established under the current plan for the older standard, whichever is greater.

2. PROBLEM: Mobile and stationary sources throughout the nation have now been subject to multiple generations of technology forcing regulations that have achieved significant air quality benefits. Meeting the new standards that approach background concentrations call for transformative measures that require time to develop and implement. These transformative measures require new technologies that in many cases are not yet commercially available or even conceived. The formula-based deadlines and milestones that were prescribed in the Act 25 years ago now lead to mandates that are impossible to meet.

SOLUTION: In establishing deadlines and milestones, the Act should be amended to require control measures that lead to the most expeditious attainment of health based standards while taking into account technological and economic feasibility. These deadlines and milestones should also consider background pollution concentrations and

the region's geography, topography, and meteorology that affect pollutant formation and dispersion.

PROPOSED AMENDMENTS:

In relation to RFP targets for ozone, amend subsection 182(b)(1)(A)(ii)(III) as follows:

the plan reflecting a lesser percentage than 15 percent includes all measures that can feasibly be implemented in the area, in light of technological achievability and economic feasibility.

In relation to RFP targets for ozone, amend subsection 182(c)(2)(B)(ii) as follows:

an amount less than 3 percent of such baseline emissions each year, if the State demonstrates to the satisfaction of the Administrator that the plan reflecting such lesser amount includes all measures that can feasibly be implemented in the area, in light of technological achievability and economic feasibility.

In relation to RFP targets for ozone, amend subsection 182(e) as follows:

Each State in which all or part of an Extreme Area is located shall, with respect to the Extreme Area, make the submissions described under subsection (d) of this section (relating to Severe Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. ~~The provisions of clause (ii) of subsection (c)(2)(B) of this section (relating to reductions of less than 3 percent), t~~The provisions of paragaphs [6] (6), (7) and (8) of subsection (c) of this section (relating to de minimus [7] rule and modification of sources), ~~and the provisions of clause (ii) of subsection (b)(1)(A) of this section (relating to reductions of less than 15 percent)~~ shall not apply in the case of an Extreme Area. For any Extreme Area, the terms "major source" and "major stationary source" includes [8] (in addition to the sources described in section 7602 of this title) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 10 tons per year of volatile organic compounds.

In relation to RFP targets for particulates, amend subsection 189(c)(1) as follows:

Plan revisions demonstrating attainment submitted to the Administrator for approval under this subpart shall contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section 7501(1) of this title, and which take into account technological achievability and economic feasibility, toward attainment by the applicable date.

In relation to the attainment deadlines for ozone:

Amend section 181(a) by adding the following new subsection 181(a)(6):

Notwithstanding table 1, if an area is already classified as extreme for an existing standard, then the area shall be classified as extreme at the time of designation for the new standard.

Amend section 181(a) by amending table 1 as follows:

TABLE 1

Area class	***Design value****	***Primary standard attainment date***
Marginal	*0.121 up to 0.138*	*3 years after November 15, 1990*
Moderate	*0.138 up to 0.160*	*6 years after November 15, 1990*
Serious	*0.160 up to 0.180*	*9 years after November 15, 1990*
Severe	*0.180 up to 0.280*	*15 years after November 15, 1990*
Extreme	*0.280 and above*	*~~20 years after November 15, 1990~~ As prescribed in section 181(a)(7)*

Amend section 181(a) by adding the following new subsection 181(a)(7):

Areas shall attain the standard as expeditiously as possible with the most effective measures that take into account technological achievability and economic feasibility. The area shall quantify reductions needed to achieve attainment consistent with section 182(e)(5). Every 5 years after the plan is approved by the Administrator, the area shall demonstrate that all measures that are technologically achievable and economically feasible are implemented or will be included in the plan to ensure expeditious implementation. The plan shall also include measures for advancing the development and deployment of new technologies.

Amend section 182(e)(5) as follows:

(5) New technologies
The Administrator may, in accordance with section 7410 of this title, approve provisions of an implementation plan for an Extreme Area which anticipate development of new control techniques or improvement of existing control technologies, and an attainment demonstration based on such provisions, ~~if the State demonstrates to the satisfaction of the Administrator that—~~

~~(A)such provisions are not necessary to achieve the incremental emission reductions required during the first 10 years after November 15, 1990; and~~

~~*(B)the State has submitted enforceable commitments to develop and adopt contingency measures to be implemented as set forth herein if the anticipated technologies do not achieve planned reductions.*~~

~~*Such contingency measures shall be submitted to the Administrator no later than 3 years before proposed implementation of the plan provisions and approved or disapproved by the Administrator in accordance with section 7410 of this title. The contingency measures shall be adequate to produce emission reductions sufficient, in conjunction with other approved plan provisions, to achieve the periodic emission reductions required by subsection (b)(1) or (c)(2) of this section and attainment by the applicable dates. If the Administrator determines that an Extreme Area has failed to achieve an emission reduction requirement set forth in subsection (b)(1) or (c)(2) of this section, and that such failure is due in whole or part to an inability to fully implement provisions approved pursuant to this subsection, the Administrator shall require the State to implement the contingency measures to the extent necessary to assure compliance with subsections (b)(1) and (c)(2) of this section.*~~

~~*Any reference to the term "attainment date" in subsection (b), (c), or (d) of this section which is incorporated by reference into this subsection, shall refer to the attainment date for Extreme Areas.*~~

3. PROBLEM: The Act as it relates to the demonstration of Reasonable Further Progress or Rate of Progress treats all precursors the same, regardless of their potency in harming public health or achieving attainment. Driven by a rapidly expanding body of scientific research, there is now a growing recognition within the scientific community that from an exposure perspective, the National Ambient Air Quality Standards metrics for progress are a necessary but increasingly insufficient measure of total public health risk associated with air pollutants. In particular, control strategies for sources of PM2.5 and ozone do not necessarily account for qualitative differences in the nature of their emissions. For PM2.5, toxicity has been shown to vary depending on particle size, chemical species, and surface area. In the case of ozone, differences in the relative potency of ozone precursors, VOCs in particular, is not captured by a strict, mass-based approach to precursor controls.

SOLUTION: The Act should be amended to allow states to focus efforts on meeting new standards in the most expeditious fashion through deployment of scarce resources in a manner that provides the utmost benefit to public health. Towards that end, we recommend a more strategic approach in which public health serves as the key factor in prioritizing control measures, regulated pollutants, and sources of emissions. In establishing Reasonable Further Progress or Rate of Progress, the Act should give a greater weight to pollutants that have greater impact on achieving attainment and improving public health. Additionally, in evaluating Reasonably Available Control Technology (RACT), measures that reduce precursors with more impact on ozone formation should be given higher scores than measures that may reduce greater amounts of less potent ozone precursors.

For example, VOC compounds vary significantly in their contribution to the formation of ozone in the San Joaquin Valley. Similarly, NOx emissions reductions have been demonstrated to be approximately 20 times more effective than VOC emissions reductions in reducing the formation of ozone in the San Joaquin Valley. We therefore recommend that in demonstrating Reasonable Further Progress, EPA allow for an alternative approach that can demonstrate equivalent reductions in ozone concentrations as compared to the straight requirement of 3% per year reduction of VOCs and/or NOx.

PROPOSED AMENDMENTS:

Amend Section 182:

(C) NOx control
The revision may contain, in lieu of the demonstration required under subparagraph (B), a demonstration to the satisfaction of the Administrator that the applicable implementation plan, as revised, provides for reductions of emissions of VOC's and oxides of nitrogen (calculated according to the creditability provisions of subsection (b)(1)(C) and (D) of this section), that would result in a reduction in ozone concentrations at least equivalent to that which would result from the amount of VOC emission reductions required under subparagraph (B). Within 1 year after November 15, 1990, the Administrator shall issue guidance concerning the conditions under which NOx control may be substituted for VOC control or may be combined with VOC control in order to maximize the reduction in ozone air pollution. In accord with such guidance, a lesser percentage of VOCs may be accepted as an adequate demonstration for purposes of this subsection. <u>The Administrator shall allow the use of NOx reductions in lieu of VOC reductions. The credit for NOx reductions shall be weighted in proportion to their effectiveness in reducing ozone concentrations in relation to the effectiveness of VOC reductions as demonstrated by the attainment modeling submitted with the plan.</u>

4. PROBLEM: Requiring contingency measures in extreme nonattainment areas is irrational and unnecessary. The Act requires all attainment plans to include contingency measures, defined as extra control measures that go into effect without further regulatory action, if planned emissions controls fail to reach the goals or targets specified in the attainment plan. While requiring backup measures was a well-intentioned provision, it does not make sense in areas that have been classified as "extreme" non-attainment for ozone. These areas, by definition, have already implemented all available and foreseeable measures and still need a "black box" of future measures to define and employ. The term "black box" refers to reductions that are needed to attain the standard, but technology to achieve such reductions does not yet exist. No measures are held in reserve in areas that are classified as "extreme" non-attainment for ozone. With no stones left unturned in such plans, requiring contingency measures in such areas makes no sense.

SOLUTION: We recommend that the Act be amended to eliminate the requirement for contingency measures in areas classified as "extreme" non-attainment by EPA.

PROPOSED AMENDMENTS:

Add to 172(c)(9) as follows:

(9) Contingency measures
Such plan shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or the Administrator.
Notwithstanding this or other sections, contingency measures shall not be required for extreme ozone nonattainment areas.

5. PROBLEM: The Act requirements for severe and extreme ozone nonattainment areas to address vehicle-related emissions growth must be clarified. Section 182(d)(1)(A) requires such areas to develop enforceable transportation control measures (TCMs) and transportation strategies *"to offset any growth in emissions from growth in vehicle miles traveled … and to attain reduction in motor vehicle emissions as necessary."* An area's vehicle miles traveled (VMT) may increase due to increases in population (i.e., more drivers), people driving further (i.e., sprawl), or increases in pass-through traffic (i.e., goods movement).

Historically, EPA's section 182(d)(1)(A) approach has allowed the use of vehicle turnover, tailpipe control standards, and the use of alternative fuels to offset the expected increase in VMT. This has allowed for the actual emissions reductions occurring from motor vehicles to be considered in meeting the applicable requirements. A recent Ninth Circuit Court decision, however, has called EPA's current approach for demonstrating the offsetting of vehicle mile-related emissions growth into question, and has forced EPA to reevaluate its approach. Any change in approach that would require regions to offset vehicle growth regardless of population growth, and without recognition of emission reduction measures such as vehicle turnover and tailpipe control standards, would have a significant impact on many regions' ability to develop an approvable attainment strategy and, under a strict interpretation, would actually render attainment impossible. Many TCMs and transportation strategies have already been implemented in nonattainment areas, and remaining opportunities are scarce and extremely expensive to implement, with relatively small amounts of emissions reductions available. A less inclusive section 182(d)(1)(A) approach would effectively penalize nonattainment areas for having population growth, and would not give credit to the significant emissions reductions being achieved from motor vehicles.

To illustrate this issue, such an interpretation applied to the District's 1997 8-hour ozone standard attainment plan would require the elimination of 5.1 million vehicles, while the vehicle population of the Valley is projected to be only 2.6 million vehicles in 2023.

EPA recently established new guidance to address this issue that provides a potential path for reasonably addressing this CAA requirement. However, the path provided under this guidance will undoubtedly be challenged in court as it is utilized by regions like the San Joaquin Valley in the coming years. To provide certainty moving forward, the CAA should be amended to clearly include the methodology for reasonably satisfying this requirement.

SOLUTION: The Act should be amended to allow states to take credit for all transportation control measures and strategies and not punish areas that have implemented transportation control measures and strategies that have achieved early reductions in emissions.

PROPOSED AMENDMENTS:

(1) Vehicle miles traveled

(A) Within 2 years after November 15, 1990, the State shall submit a revision that identifies and adopts specific enforceable transportation control strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area and to attain reduction in motor vehicle emissions as necessary, in combination with other emission reduction requirements of this subpart, to comply with the requirements of subsection [5] (b)(2)(B) and (c)(2)(B) of this section (pertaining to periodic emissions reduction requirements). The State shall consider measures specified in section 7408(f) of this title, and choose from among and implement such measures as necessary to demonstrate attainment with the national ambient air quality standards; in considering such measures, the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them. <u>As new ozone standards are established, for areas that have implemented early transportation control strategies and transportation control measures, the baseline for demonstrating compliance under this subsection shall remain fixed at 1990 independent of the baseline date for the new plan.</u>