

and requires such new or modified sources locating within the nonattainment area to obtain offsets in addition to installing control equipment representing the lowest achievable emission rate.

However, on August 29, 2001, the U.S. Court of Appeals for the Ninth Circuit vacated our approval of Clark County's new source review program. See *Hall v. EPA*, 273 F.3d 1146 (9th Cir. 2001). The court vacated our approval, not because EPA had acted unreasonably in finding that the program complies with the specific requirements of section 172(c)(5), but rather, because EPA did not have an adequate basis under section 110(l) of the Act to conclude that the new program, even if it met the minimum requirements of section 172(c)(5), would not interfere with attainment of the NAAQS by the applicable deadline.

We intend to re-propose an action on the new source review program in a separate notice in the near future. However, we note here that the emissions inventory and attainment demonstration from the 2000 CO plan that we are proposing to approve in this notice includes stationary sources and the projections of emissions from those sources appear to be generally consistent with the new source review program as submitted to EPA. Specifically, the 2000 CO plan assumes that CO emissions from major CO stationary sources will remain unchanged (which is consistent with the offset requirement in their new source review program) whereas the plan projects growth in CO emissions from non-major stationary sources (which are not subject to federally-enforceable offsets under their program).

Section 187(c) of the Act requires that, in the case of CO nonattainment areas classified as serious and subject to significant stationary source emissions of CO, the term "major stationary source" is to include any stationary source which emits, or has the potential to emit, 50 tons per year or more of CO. The 2000 CO plan concludes that Las Vegas Valley is not subject to significant stationary source emissions of CO and thus not subject to the requirements of section 187(c). Generally, significance in this context is associated with areas with individual stationary sources that generate 5,000 tons of CO per year or more. (See guidance provided in a memorandum from William G. Laxton, Director, Technical Support Division, EPA, dated May 13, 1991.) Since the highest CO-emitting facility shown in the stationary source inventory for the 2000 CO plan emits only 1,100 tons per year of CO, we agree with the

conclusion that stationary sources are not significant contributors to ambient CO levels in Las Vegas Valley and that section 187(c) of the Act does not apply within the Las Vegas Valley CO nonattainment area.

I. What Expected Growth of Vehicle Traffic Is Projected for the Area?

Section 187(a)(2)(A) of the Act requires states with CO nonattainment areas with design values greater than 12.7 ppm, such as Las Vegas Valley, to submit a plan revision that contains a forecast of vehicle miles traveled (VMT) in the nonattainment area for each year until attainment of the CO NAAQS. Also, this plan revision must provide for annual updates of the VMT forecasts to be submitted to EPA along with annual reports regarding the extent to which the preceding annual forecasts proved to be accurate. These annual reports must contain estimates of actual VMT in each year for which a VMT forecast was required.

The 2000 CO plan provides VMT forecasts for every year from 1997 through the attainment year of 2000 and then nearly every year between 2001 and 2030. The VMT forecasts were estimated using recent transportation modeling results from RTC that incorporated more recent socioeconomic data than had been used for VMT forecasts contained in the earlier plans. The VMT forecasts are displayed in Table 7-1 of Chapter 7 of the 2000 CO plan. The forecasts are broken down by roadway type. The forecasts predict increases in VMT of roughly 5% each year through 2005 consistent with recent trends, then roughly 4% each thereafter until 2020, and then marginal decreases each year between 2020 and 2030 based on an assumption of highway saturation by that time resulting in a mode shift to mass transit, ride sharing, and other modes.

RTC is the local agency responsible for preparing VMT forecasts. Through Resolution No. 149, as adopted on July 13, 1995, RTC has committed to preparing annual VMT estimates and forecasts and to submitting these reports ("VMT tracking reports") to EPA. Under section 187(a)(3) of the Act, annual VMT tracking reports provide a potential basis for triggering implementation of contingency measures in the event that estimates of actual VMT exceed the forecasts contained in the prior annual VMT tracking report.

We propose to approve the VMT forecasts contained in the 2000 CO plan as meeting the section 187(a)(2)(A) requirements. However, it is noted that

section 187(a)(2)(A) does not require forecasts extending as far into the future as those provided in the 2000 CO plan, and, while our approval of the emissions budgets through 2020 discussed in this notice implies approval of the VMT forecasts through 2020, no such implied approval is intended for VMT forecasts beyond 2020. Also, we propose to approve RTC's commitment through Resolution No. 149 to prepare and submit annual VMT tracking reports.

J. Does the Plan Include Contingency Measures?

Section 187(a)(3) of the Act requires states with CO nonattainment areas with design values greater than 12.7 ppm, such as Las Vegas Valley, to submit a plan revision that provides for contingency measures. The Act specifies that such measures are to be implemented if any estimate of VMT submitted in an annual VMT tracking report exceeds the VMT predicted in the most recent prior forecast or if the area fails to attain the NAAQS by the attainment date. As a general rule, contingency measures must be structured to take effect without further action by the state or EPA upon the occurrence of certain triggering events.

EPA believes that, for exceedances of a VMT forecast, one appropriate choice of contingency measures would be to provide for the implementation of sufficient VMT reductions or emissions reductions to counteract the effect of 1 year's growth in VMT while the state revised its SIP (including VMT projections) to provide for attainment by the applicable date. These measures may offset either the excess VMT in the nonattainment area or the additional CO emissions in the area that are attributable to the additional VMT. In the case of Las Vegas Valley, the annualized rate of growth in VMT over the 2000 to 2005 period is approximately 5 percent; therefore, the contingency measures should have the potential to achieve that level of reduction in VMT or a corresponding reduction in CO emissions, which would be approximately 16 tons per day based on the 2000 CO motor vehicle estimate of 310 tons per day.

For a failure to attain the CO NAAQS by the attainment date, EPA believes that contingency measures should have the potential to provide a reduction in CO emissions equivalent to 3 percent of the CO inventory. In this instance, 3 percent of the total CO inventory projection in 2000 (387 tons per day) is approximately 12 tons per day.

The three contingency measures included in the 2000 CO plan include: