

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[CA258-0397A; FRL-7528-8]

**Approval and Promulgation of Ozone Attainment Plan; State of California, San Francisco Bay Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a state implementation plan (SIP) revision, the 2001 San Francisco Bay Area Ozone Attainment Plan (2001 Plan), submitted by the State of California to EPA to attain the 1-hour ozone national ambient air quality standard (NAAQS) in the San Francisco Bay Area as meeting the requirements of the Clean Air Act (CAA). The plan contains the following components: Emission inventories, a reasonably available control measure demonstration, control measure commitments, an attainment assessment and its associated motor vehicle emissions budgets, commitments to study specified measures to determine if additional emissions reductions can be achieved, a commitment to complete a mid-course review by December 15, 2003, and a commitment to adopt a revised plan by March 2004, to submit the revised plan by April 15, 2004, and to adopt additional measures as necessary to attain the standard by 2006.

In 2001, EPA disapproved certain components of the 1999 ozone attainment plan for the Bay Area: The RACM demonstration, the attainment demonstration, and the motor vehicle emissions budgets. Because of this disapproval the Bay Area became subject to the imposition of the 2 to 1 offset sanction under CAA section 179(b)(2) on April 22, 2003. Elsewhere in this **Federal Register** we are making an interim final determination that the 2001 Plan corrects these deficiencies. As a result of this determination the offset sanction will be stayed while EPA considers whether to issue a final full approval. A final full approval action on these elements would terminate the sanctions; if EPA disapproves the attainment plan on the basis that one or more of the disapproved components is still insufficient, the offset sanction will be reapplied at that time.

**DATES:** Comments on the proposed actions must be received on or before August 15, 2003.

**ADDRESSES:** Comments may be mailed to: Ginger Vagenas, Planning Office,

[AIR-2], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901; or to [vagenas.ginger@epa.gov](mailto:vagenas.ginger@epa.gov).

The 2001 Plan is available on the Bay Area Air Quality Management District's Web site at <http://www.baaqmd.gov/planning/2001sip/2001sip.htm> and at their offices at 939 Ellis Street, San Francisco, California, 94109. A copy of this proposed rule and related information are available in the air programs section of EPA Region 9's Web site, <http://www.epa.gov/region09/air>. The docket for this rulemaking is available for inspection during normal business hours at EPA Region 9, Planning Office, Air Division, 75 Hawthorne Street, San Francisco, California 94105. A reasonable fee may be charged for copying parts of the docket. Please call (415) 972-3964 for assistance.

**FOR FURTHER INFORMATION CONTACT:**

Ginger Vagenas (415) 972-3964, Planning Office (AIR-2), Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105; [vagenas.ginger@epa.gov](mailto:vagenas.ginger@epa.gov).

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**I. Background****A. 1998 Redesignation to Nonattainment**

In 1978, the San Francisco Bay Area (Bay Area) was originally designated under section 107 of the CAA, as amended in 1977, as nonattainment for the federal 1-hour ozone standard. Following the 1990 Clean Air Act Amendments, the Bay Area retained its nonattainment designation and was classified as "moderate" under section 181 of the CAA by operation of law. 56 FR 56694 (Nov. 6, 1991). EPA redesignated the Bay Area to attainment in 1995 based on then current air quality data (60 FR 27028, May 22,

1995) and subsequently redesignated the area back to nonattainment on July 10, 1998 (63 FR 37258). See 40 CFR 81.305 (1999).<sup>1</sup>

EPA's action in 1998 was prompted by persistent air quality problems in the two years following the redesignation to attainment. Ozone levels exceeded the federal 1-hour ozone standard on 11 days in 1995 and 8 days in 1996. As provided under section 107(d)(3) of the CAA, EPA revised the Bay Area's designation on the basis of those air quality data. The intent of the redesignation was to return healthy air as quickly as possible to the Bay Area.

**B. Nonattainment Area Requirements**

In an effort to focus on near-term air quality gains, EPA set an expedited attainment deadline of November 15, 2000 under CAA section 172(a)(2) in its redesignation action. At that time, EPA believed the Bay Area could attain by that date. EPA also required the State to submit an attainment plan for the Bay Area by June 15, 1999 that addressed the section 172(c) requirements and specifically required a 1995 baseline emissions inventory, an assessment of the emissions reductions needed for attainment, and adopted control measures (or commitments to adopt and implement control measures) sufficient to meet reasonable further progress (RFP) and to attain the 1-hour ozone standard by the attainment deadline. The plan was also required to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable. Finally, the plan was required to include contingency measures that would take effect should attainment not be achieved by November 15, 2000, and new motor vehicle emissions budgets capping on-road emissions of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) emissions for ozone consistent with the new attainment plan. 63 FR at 37275-37276. See also CAA section 172(c)(1)-(3), (6)-(7) and (9).

<sup>1</sup> As a moderate nonattainment area, the Bay Area was subject to the moderate area requirements of title I, part D, subpart 2 of the CAA that were added as part of the 1990 Amendments. In redesignating the Bay Area back to nonattainment, EPA looked at the longstanding general nonattainment provisions of subpart 1 of the CAA as well as the subpart 2 provisions. EPA concluded that the statute was ambiguous as to which subpart should apply and for a number of policy reasons described at length in the proposed and final redesignation actions, determined that the Act is best interpreted as placing the Bay Area under subpart 1 upon redesignation back to nonattainment. Thus the Bay Area was not classified under Section 181 upon redesignation. (See 62 FR 66578, December 19, 1997; 63 FR 3725, July 10, 1998).