



**VIA ELECTRONIC MAIL**

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**Re: Comments on Draft South Coast Ozone Contingency SIP Revision**

I write comment on the South Coast Air Quality Management District's (Air District) Draft South Coast Ozone Contingency SIP Revision (Draft Plan) currently under review, and to express serious concerns about the agency's ability to address its attainment deficit stemming from past planning failures. We simply cannot accept the Air District's claim that it has already implemented all "feasible measures" as part of this round of contingency planning. The current proposal not only repeats the same flawed approach that contributed to the South Coast Air Basin's ("Air Basin") failure to attain the 1997 8-hour ozone standard, but it also repeats a familiar pattern of ignoring past planning failures that will undoubtedly jeopardize future attainment of the 2015 8-hour Ozone Standard currently being assessed as part of this plan.

Air planning plays a critical role in attaining ozone standards, and the events that trigger contingency measures under the Plan make the consequences of not getting strong enough measures even more dire for the breathing public. Section 172(c)(9) of the Clean Air Act (CAA) requires that "specific measures be undertaken if the air fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date." Considering past planning failures, this plan falls short of delivering the necessary measures, and it must be amended to account for stronger commitments to emissions reductions that are now necessary.

**The Air District Has Not Implemented All Feasible Measures**

While this contingency measure plan is important, we cannot ignore the gaping hole in air planning left behind by the District's failure to achieve a valid Contingency Measure plan to address the region's continued use of Section 182(e)(5) "Black Box" measures. For years, advocates have warned against the District's reliance on "Black Box" measures—a regulatory placeholder that has failed by delaying tough decisions and relying on federal action or future

technologies to close the emissions reduction gaps. We know now that those reductions never materialize, nor can we count on federal actions. At the same time, critical rules and valid control measures have languished, largely due to coordinated misinformation campaigns by polluters and delays designed to derail the agency's ability to protect the public.

We need look no further than Proposed Rule 2304- The Indirect Source Rule (ISR)—Commercial Marine Ports for an example. While the District has known for decades that more action is needed to address emissions, particularly port-derived NO<sub>x</sub> emissions, and that an indirect source rule would offer the strongest solution, a Ports ISR remains unfinished after more than four years of official rulemaking. This speaks directly to the current Plan's credibility and the Air District's claim that there are no additional unimplemented feasible measures. There are—the District has simply chosen not to pursue them with the type of urgency required.

To that end, we urge the Air District to do the following:

- **Finalize and adopt an Indirect Source Rule for Commercial Marine Ports** that goes beyond infrastructure planning and sets enforceable emission reduction targets to reduce emissions across the port complex.
- **Adopt Strong Zero-NO<sub>x</sub> emission rules for residential and commercial appliances** with the aim of phasing out NO<sub>x</sub>-emitting fossil fuel-based units.
- **Expedite Implementation Timelines** for rules driving zero-emission technologies to meet the urgency of the moment while prioritizing equity programs and support needed to ensure all Air Basin residents benefit from the deployment of zero-emission technology.
- **Amend general conformity requirements** to push federally funded projects to achieve real, quantifiable emissions reductions.
- **Adopt zero-emission standards** for all remaining large combustion sources without further delay.
- **Implement previously “shelved” measures** from the 2016 and 2022 Air Quality Management Plans that were abandoned under the farce that the District had met its “global tonnage commitment.”

These stronger measures must be pursued to address the gap left by black box measures. The Air District is currently out of compliance with its Section 185(e)(5) obligations and has yet to address the 108 tpd attainment gap left in the wake of a failed “Black Box” contingency measure plan. The District cannot simply move on to the next standard while ignoring this gap, as the current plan proposes. Doing so is the definition of backsliding.

### **The Air District Must Develop Stronger Contingency Measures**

The Draft Plan for the 2018 8-hour ozone standard under Section 182(c)(9) can still be improved. This plan offers an opportunity to strengthen compliance—but only if the District commits to

correcting the policy mistakes that have thwarted rulemaking in the past and created unnecessary regulatory off-ramps.

Consider Rules 1111 and 1121, currently undergoing rulemaking for revision. The rules address NOx pollution from certain furnaces and water heaters. As currently proposed, the rules would offer an alternative compliance pathway—allowing manufacturers to comply by incrementally increasing the share of zero-NOx units over the next twelve years, but never fully reaching 100% zero-emissions. That kind of incremental regulatory design—one that allows for ongoing pollution indefinitely—is a prime candidate for swifter action when the region fails to attain a standard.

Automatically closing regulatory loopholes and disrupting gradualism when the region has failed to attain a standard is precisely what the contingency plan should offer. This would prompt the Air District to act decisively and with the urgency that attainment failures require. We recommend that the District use contingency measure planning to review any alternative compliance pathway that prolongs the use of polluting technologies and instead requires a full transition to zero-emissions once the plan is triggered. This is especially urgent in the wake of the region's ever-expanding nonattainment woes and concomitant public health crisis.

## **Conclusion**

Communities in the South Coast Air Basin cannot afford half-measures as part of contingency planning. The Air District must be fully accountable for its contingency planning requirements, and that includes addressing the gaps left by the failed black box plan. We need contingency plans to result in real actions that ideally would never become necessary if the Air District were to deliver on its promises to secure a zero-emissions future through focused rulemaking.

Sincerely,

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