

Appendix J

Summary of Significant Comments and Responses

2013 Plan for the Revoked 1-Hour Ozone Standard
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SUMMARY OF SIGNIFICANT COMMENTS FOR THE AUGUST PROPOSED PLAN FOR THE REVOKED 1-HOUR OZONE STANDARD

WRITTEN COMMENTS, AUGUST 20, 2013 PROPOSED PLAN

1 comment letter was received following the posting of the *Proposed 2013 Plan for the Revoked 1-Hour Ozone Standard* from the Air Coalition Team (ACT).¹

- COMMENT:** ACT urges the District to adopt this plan for the revoked 1-hour ozone standard, as it represents a well-balanced approach to control emissions in the Valley. However, ACT is concerned that a great deal of effort has been spent drafting a plan for attaining an air quality standard that was revoked in 2005, as a result of EPA's failure to act timely on the original 2004 1-hour ozone plan. This 2013 1-hour ozone plan is largely duplicative of the District's efforts to achieve the newer, 8-hour ozone standard. These federal regulatory procedures create uncertainty for the public and industry groups.

RESPONSE: Comment noted.

- COMMENT:** The 2017 attainment deadline is reasonable, within legal requirements, and is conservative while at the same time being expeditious. Based on photochemical modeling for this plan, the 2017 date is reasonably achievable with the District's currently adopted emission reduction strategies. In addition, the 2017 date is fully authorized by sections 172(a)(2)(A) and 179(d)(3) of the federal Clean Air Act (CAA). However, ACT is concerned that EPA is requiring an attainment demonstration for this plan after revoking the 1-hour ozone standard and previously announcing attainment findings would no longer be made for this standard. This creates further uncertainty in federal regulatory procedures for the public.

RESPONSE: Comment noted.

- COMMENT:** ACT agrees that reliance on existing measures to attain the revoked 1-hour ozone standard is fully authorized by the federal CAA. The only requirements upheld after the revocation of the 1-hour ozone standard were anti-backsliding provisions, which require nonattainment areas to have emission control strategies in place that are at least as stringent as they were before the standard was revoked. EPA does not have the authority to require additional

¹ The following groups are represented in the ACT comment letter: California Cotton Ginners and Growers Association, county farm bureaus from Kings, Fresno, Madera, Merced, Kern, Stanislaus, and Tulare Counties, and various agricultural trade associations and industries.

controls for the attainment of this revoked standard and the current plan demonstrates attainment can be reached with existing control strategies.

It is questionable that the District could legally adopt additional controls because California Health and Safety Code Section 39602 states that state implementation plans shall only include provisions necessary to meet the requirements of the CAA. Also, as discussed in this plan, there are no additional feasible control measures that could be adopted, as all District rules already meet federal reasonably available control technology (RACT), best available retrofit control technology (BARCT), and/or best available control technology (BACT) requirements.

RESPONSE: Comment noted.

4. **COMMENT:** ACT strongly supports the District's use of incentive programs to achieve emission reductions. These programs have resulted in significant emission reductions, especially from sources that the District has no direct regulatory authority over, such as mobile sources, and are a major reason why the Valley is close to attaining the revoked 1-hour ozone standard.

RESPONSE: Comment noted.

SUMMARY OF SIGNIFICANT COMMENTS FOR THE APRIL DRAFT OF THE REVOKED 1-HOUR OZONE PLAN

VERBAL COMMENTS, APRIL 16, 2013 PUBLIC WORKSHOP

Approximately 10 people (non-District, non-ARB) in attendance (5 Fresno, 5 Bakersfield, 0 Modesto)

Aera Energy (Aera)
Association of Irrigated Residents (AIR)
Earthjustice (EJ)
Southern California Gas Company (SCGC)
West Kern Water (WKW)

5. **COMMENT:** Mobile sources contribute to 80% of pollution in the Valley. ARB should be enforcing more stringent mobile source regulations to achieve necessary emissions reductions for the Valley to come into attainment of the federal standards. (WKW)

RESPONSE: The District recognizes the tremendous commitment the Valley's stationary sources have made to reduce emissions. ARB has adopted numerous regulations for mobile sources that are contributing to improved air quality in the Valley. The District will continue to work with ARB and EPA to find regulatory opportunities to reduce emissions from mobile sources.

6. **COMMENT:** What progress has been made on a study to determine the levels of naturally occurring ozone in the Valley? EPA should not lower the ozone standard if it goes below the naturally occurring ozone levels. (WKW)

RESPONSE: Studies have been conducted to examine naturally occurring ozone levels in the Valley. In 2011, the American Chemical Society published a paper entitled "Establishing Policy Relevant Background (PRB) Ozone Concentrations in the United States", which examined the concentrations of ozone that would occur in the U.S. in the absence of anthropogenic emissions from North America. In addition, the District is taking a close look at transboundary ozone emissions, which are pollutants traversing from sources within other countries and settling in the Valley. In 2011, the District awarded the University of California at Davis funding for the installation of a transboundary ozone and PM2.5 monitoring station to build evidence that transported pollutants from Asia may be entering the Valley. Monitoring and data collection is slated to continue through June 2013. See Chapter 2 for additional information regarding this study.

Given the complexity of this measurement, it is difficult to draw definite conclusions. As EPA continues to lower the national ozone standards, this issue will become increasingly important for the Valley's attainment efforts.

7. **COMMENT:** Will affected stakeholders be involved in the further study measure for flares - Rule 4311? (Aera)

RESPONSE: The further study measure for Rule 4311 is a commitment to review the Flare Minimization Plans and Annual Monitoring Reports recently submitted to the District by affected facilities. If any potential opportunities to amend this rule are identified as a result of the further study, then the District will work closely with affected stakeholders through a rule development process before any amendments to the rule would be adopted.

8. **COMMENT:** How is EPA's Vehicle Miles Traveled (VMT) Offset Demonstration requirement related to Senate Bill 375 (SB-375)? (SCGC)

RESPONSE: SB-375 is a state regulation focused on achieving greenhouse gas reductions through transportation control strategies that will reduce VMT. However, those strategies are still being developed by Metropolitan Planning Organizations, and the District can only rely on adopted control strategies for the VMT Offset Demonstration. Once the transportation control strategies for SB-375 are approved, the District would then be able to account for those VMT reductions in the emission inventories and VMT Offset Demonstrations of future plans.

9. **COMMENT:** Are relative response factor (RRF) models more accurate than deterministic models? (SCGC)

RESPONSE: Yes, the RRF method is better because air quality models do not exactly replicate the measurements. For that reason, RRF method is much more scientifically defensible than the absolute deterministic method.

10. **COMMENT:** Do other air districts throughout the state, including the South Coast Air Quality Management District (SCAQMD), utilize "band" RRFs rather than "single" RRFs like the District did in this plan? (SCGC)

RESPONSE: EPA did not provide specific modeling guidance for RRFs for the 1-hour ozone standard since the District and SCAQMD were the only two air districts required to submit a new 1-hour ozone plan. As a result, ARB worked with EPA, the District, and SCAQMD to develop the modeling protocol for RRFs for this 1-hour ozone plan. For the 8-hour ozone and 24-hour/Annual PM2.5

standards, EPA recommended a “single” RRF approach; however, for the 1-hour ozone standard ARB, the District, and EPA determined that utilizing RRFs for bands of ozone concentrations (high, medium, and low) was a more thorough approach. SCAQMD had a shorter timeline for their 1-hour ozone plan so they ended up using “single” RRFs instead of “band” RRFs.

11. **COMMENT:** How can the District estimate that Arvin-Bear Mountain will be in compliance with the 1-hour ozone standard and later verify that the region is in attainment without the monitor being operational? (EJ, AIR)

RESPONSE: ARB was able to use the 2005-2007 data from the Arvin monitoring site to model attainment for future years since 2007 is the base modeling year. As noted in Chapter 2 of the plan, the District is sponsoring a saturation study in Arvin to measure relative differences in ozone concentrations in the Arvin area in August and September 2013.

12. **COMMENT:** How will the District’s legislative strategy result in improved air quality? (EJ)

RESPONSE: The District has a robust legislative platform built upon significant collaboration with the state and federal government. Through the legislative strategy, the District has secured additional incentive funding, pushed for legislative changes that resulted in reduced emissions, and challenged legislative actions that may be detrimental to the Valley’s air quality.

13. **COMMENT:** In Appendix A (Ambient 1-hour Ozone Data Analysis), the District states that only Clovis has 1-hour ozone violations from 2009-2011 and only Clovis and Fresno had violations for 2010-2012. The District left out the Arvin-Bear Mountain site, which had 5 violations over the 2009-2011 period. (AIR)

RESPONSE: Appendix A has been clarified. Since the Arvin-Bear Mountain site was closed in December 2010, complete 3-year averages for 2009-2011 and 2010-2012 are not available. However, as shown in Table A-1, Arvin Bear Mountain had 3 exceedances in 2009 and 2 in 2010, for a total of 5 in 2009-2011. So the 3-year average of 2009-2011 had two sites that failed the attainment test, those being Clovis and Arvin-Bear Mountain. The average during the 3-year timeframe of 2010-2012 had only the Clovis and Fresno-Drummond sites fail the attainment test.

14. **COMMENT:** Does the Valley have a 1-hour ozone violation for the 2011-2013 period at the Fresno-Drummond monitor? (AIR)

RESPONSE: One of the 4 exceedances for the Fresno-Drummond Monitor is currently being evaluated as a possible exceptional event. Upon formal documentation of the event and concurrence by EPA, this data point would be removed from attainment calculations for the District.

15. **COMMENT:** Fresno-Drummond originally had two 1-hour ozone violations in 2012. Why does the violation on August 10, 2012 have an asterisk? Also, why was the violation on August 11, 2012 adjusted downward from 125 ppb to 124 ppb? (AIR)

RESPONSE: As noted at the bottom of page A-9 of Appendix A, the asterisk means that the August 10, 2012 1-hour ozone exceedance has been flagged as an exceptional event, and would thus not be used towards the District's attainment determination upon the District's submittal of supporting documentation and concurrence by EPA. The August 11, 2012 exceedance was attributable to a preliminary value of 125 ppb (parts per billion); however, after accounting for equipment bias and completing the quality assurance procedures, the final concentration was determined to be 124 ppb (below the exceedance threshold).

WRITTEN COMMENTS, APRIL 16, 2013 PUBLIC WORKSHOP

Two comment letters were received after the public comment period following the public workshop on April 16, 2013, but before posting of the proposed plan. One comment letter was submitted by Earthjustice² (May 6, 2013), and the other was submitted by the Central Valley Air Quality Coalition (CVAQ)(August 7, 2013).

- 16. COMMENT:** The April draft Plan states that the Valley will achieve attainment of the 1-hour ozone standard by 2019. EPA published its determination of the Valley's failure to attain on December 30, 2011 so the District's attainment deadline should be December 30, 2016. (Earthjustice)

RESPONSE: Under CAA §172(a)(2)(A), the initial attainment deadline is five years from the finding of failure to submit (2012). Additional modeling and other analysis has been added to the plan to show that the Valley will attain the 1-hour ozone standard by 2017. Refer to Chapter 2 (Scientific Foundation, Trends, and Modeling Results) and related appendices for the updated modeling and attainment information.

- 17. COMMENT:** The Plan should note that replacement of the Arvin Bear Mountain monitor is necessary to show attainment of the 1-hour ozone standard, and that the number of exceedances recorded over the last two years is likely low because of the removal of the Arvin monitor. (Earthjustice)

RESPONSE: It has not been determined that the Arvin Bear Mountain monitor must be replaced to demonstrate attainment of the 1-hour ozone standard. As seen in Appendix A, 1-hour ozone exceedances throughout the Kern County area continue to decrease as ozone precursor emissions are further reduced. However, as noted in Chapter 2 of the plan, removal of the Arvin Bear Mountain monitor was unforeseen, as the property owner declined to renew the lease for the monitoring site and continues to decline requests to allow the site to be reinstalled. A new Arvin monitoring site was established just 2.2 miles away, in an area that is more representative of population exposure. The District is sponsoring a saturation study in Arvin to measure relative differences in ozone concentrations in the Arvin area in August and September 2013.

- 18. COMMENT:** The Plan should state that the Section 185 Ozone Fee provides for deposit in the federal treasury only when EPA is forced to collect the nonattainment fees because the District refuses to do so. Where the District

² The following groups are represented in the Earthjustice comment letter: Sierra Club California, Medical Advocates for Healthy Air, National Parks Conservation Association, Association of Irrigated Residents, Global Community Monitor, Center on Race, Poverty & the Environment, and the Central Valley Air Quality Coalition Watchdog Committee.

collects fees, that money belongs to the District and can be used as the District sees fit. (Earthjustice)

RESPONSE: The discussion on Section 185 fees in Chapter 3 has been updated to provide further detail.

19. **COMMENT:** The Plan should provide emission targets for advancing attainment and an analysis of the available and feasible air pollution controls that could be adopted to meet these targets. (Earthjustice)

RESPONSE: Chapter 4 includes discussion of what it would take to achieve 2017 emissions levels (i.e., projected attainment emissions levels) in 2016. The plan concludes that there are no unused reasonable control measures, and there would not be sufficient additional NO_x emission reductions available to formally demonstrate attainment in 2016.

This is not to say that attainment before 2017 is not possible. In fact, the San Joaquin Valley's 1-hour ozone air quality has greatly improved over the past several years through the implementation of already-adopted control measures. As of the posting of this plan, attainment could be possible as early as 2013. On the other hand, it takes as little as four hours over a three-year period (where those four hours occur on four separate days at a single air monitoring site) to keep an area out of attainment, and a single episode of ozone build up could prolong nonattainment past 2013. Therefore, 2017 is the official attainment year for this plan, per the modeling and other analyses conducted as part of this planning effort. The 2017 attainment year is consistent with the five-year attainment timeframe of CAA §172(a)(2)(A); in addition, this plan is not using the full 10-year attainment timeframe allowed under CAA §172(a)(2), nor does it rely on yet-to-be-identified "black box" emission reductions under CAA §182(e)(5).

20. **COMMENT:** The Plan should include sufficient information for the emissions inventory to demonstrate what the assumptions are for economic growth, how subsidy programs such as the Carl Moyer program are accounted for in projections of future emissions, and the control effectiveness of various control measures. Stakeholders should be able to confirm that the emission inventory does not include credit for the District's Indirect Source Review Rule, AERO, or "black box" emission reductions. (Earthjustice)

RESPONSE: The emissions inventory does not account for ISR, AERO, or "black box" emission reductions. The District and ARB recently met with CVAQ members, per their request, to answer questions regarding growth assumptions. The District and ARB continue to be available to answer questions related to the emissions inventory.

21. **COMMENT:** Removing exemptions for agricultural burning could provide significant VOC and NOx reductions. The Plan says that the District will review Rule 4103 (Open Burning) in 2015, and that burning is managed to ensure that it does not occur on days that might cause or contribute to a violation of any NAAQS. Rule 4103 should be evaluated for this Plan. (Earthjustice)

RESPONSE: Rule 4103 is evaluated on pages C-94 to C-95 of Appendix C (Stationary and Area Source Control Strategy Evaluation). As discussed in that evaluation, RACT is already in place for this source category and there are no additional feasible emission reduction opportunities. Under the District's Smoke Management System (SMS), agricultural burning is prohibited on days when an exceedance of a federal standard is forecast to occur. The District evaluated the feasibility and cost effectiveness of alternatives to burning in the *2010 Final Staff Report and Recommendations for Agricultural Burning (2010 Report)*. The District determined, and ARB concurred, that there were no economically feasible alternatives to open burning of certain crop categories as outlined in the *2010 Report*; this conclusion was reaffirmed in the *2012 Update: Recommendations on Agricultural Burning (2012 Report)* and the analysis for Rule 4103 in Appendix D of the *2012 PM2.5 Plan*. The District will reevaluate the exemptions in Rule 4103 in 2015, as planned. Refer to the analysis for Rule 4103 in Appendix C of this plan for additional information.

22. **COMMENT:** The District should target VOC emission reductions from sources such as dairies, consumer products, and coatings. (Earthjustice)

RESPONSE: Modeling for this plan and other District ozone State Implementation Plans shows that the Valley is a NOx-limited area, and that additional VOC emission reductions will not advance the District's attainment of the 1-hour ozone standard.

However, the District did evaluate its dairy rule, Rule 4570 (Confined Animal Facilities), and each of the 10 District coatings regulations in Appendix C of this plan. The District discusses the following findings:

- **Rule 4570 (Confined Animal Facilities):** The District did not identify any cost effective or technologically feasible emission reduction opportunities at this time. This rule is already the most stringent in the nation, and has been approved as at least meeting RACT for this source category. This determination has also been upheld by the courts. Refer to the analysis for Rule 4570 on pages C-100 to C-101 of Appendix C for additional information.
- **District Coatings Rules:** Each of the Districts' coating rules meet or exceed RACT guidelines and no technologically feasible or cost effective emission reduction opportunities were identified at this time. The District

did include a recommendation to evaluate some of SCAQMD's new architectural coatings emissions limits that exceed RACT requirements during the development of the next ozone plan. Refer to pages C-44 through C-63 of Appendix C for the full analyses of the District's coating regulations.

- ARB regulates consumer products and has numerous VOC-reducing rules in place.

- 23. COMMENT:** ARB and the District should revise the in-use (off-road) fleet rules to require more zero-emitting electric equipment. The revised standards could establish a future compliance date and the District could continue to use incentive funding to subsidize early replacement of technologies, such as forklifts. (Earthjustice)

RESPONSE: As discussed in Chapter 3, ARB has several regulations in place for off-road equipment, and implementation of these regulations is phased in to reduce emissions through 2017 and beyond. These rules are the most stringent in the nation, and will be implemented at a great cost to the state's and Valley's economies. The District has not identified any additional feasible regulatory measures to accelerate compliance. In addition to the reductions being achieved by these rules, the District continues to achieve significant emissions reductions through its various incentive programs for the replacement and retrofit of forklifts, off-road vehicle engines, and agricultural pump engines.

- 24. COMMENT:** The District and ARB should adopt standards that require the retrofit and replacement of agricultural equipment where replacement, especially to zero-emitting equipment, has been demonstrated through the District's incentive programs. (Earthjustice)

RESPONSE: ARB is in the process of developing a rule to implement emissions standards for agricultural equipment. Concurrently, the District and United States Department of Agriculture Natural Resources Conservation Service incentive programs, combined with agricultural sector investments, continue to accelerate the replacement or retrofit of agricultural equipment. As documented in the District's 2013 Annual Demonstration Report under recently adopted Rule 9610 (SIP-Creditability of Emissions Reductions Generated through Incentive Programs), these combined efforts to date will result in 7.11 tons per day of NOx reductions in 2017.

- 25. COMMENT:** The District should explore the conversion of off-road equipment, besides forklifts, to electric equipment for categories that have limited range and operational requirements for its potential to reduce emissions. (Earthjustice)

RESPONSE: The District welcomes feedback on any specific electric off-road equipment available to offset emissions from current technologies. The District has supported a number of projects involving the demonstration of zero/near-zero off-road technologies through its Technology Advancement Program, and will continue to promote the deployment of such technologies as they become commercially available and feasible.

26. **COMMENT:** The discussion of the District's political agenda (i.e., the District's discussion of its legislative strategy in Chapter 3) is not relevant to attainment of the 1-hour ozone standard. (Earthjustice)

RESPONSE: The commenter does not appear to understand that the District's legislative strategy is one component of the District's innovative, multi-faceted emission reduction strategy. Through the legislative platform, the District has secured additional incentive funding, pushed for legislative changes that resulted in reduced emissions, and challenged legislative actions that may be detrimental to the Valley's air quality. As such, the legislative platform is extremely relevant to the attainment of the 1-hour ozone standard and the District's attainment goals for other federal air quality standards.

27. **COMMENT:** Rule 4311 (Flares) should be strengthened. In particular, Rule 4311 allows emergency flares for economic reasons and other broadly interpreted situations. In addition, the flare minimization component is extremely weak and lacks detail. In contrast, Santa Barbara APCD Rule 359 has far stricter definitions of what would constitute an emergency, and has a very specific flare minimization target of 5% of the total gas produced. District Rule 4311 should be at least as strict as similar rules found elsewhere in the state to help reduce NOx emissions. (CVAQ)

RESPONSE: The District performed a thorough analysis of flare rules in other air districts in California during the development of the District's *2012 PM2.5 Plan*, and this plan. Both analyses concur with the conclusion reached by staff during the 2009 rule-amending project, that District Rule 4311 is as stringent as or more stringent than flare rules in other air districts. EPA concurs with this assessment, as illustrated by the approval of the rule as a State Implementation Plan revision in 2011. The District has analyzed Santa Barbara APCD Rule 359, and has found while it appears to include a performance standard restricting the use of flaring, it actually allows flaring under broad conditions, and the District's rule is at least as stringent. That said, in the *2012 PM2.5 Plan* the District committed to a further study of the flare rules to continue to evaluate potential opportunities for additional emission reductions from these sources. This further study is also a proposed commitment in this plan. This further study is an ongoing work in progress and will be completed by the end of 2013, consistent with District commitments. Because flares are a relatively small source of ozone precursor

emissions, attempting to expedite this further study would not affect the Valley's projected 1-hour ozone attainment year.

- 28. COMMENT:** Under California Health and Safety Code Section 40914(a)(4), the District could, like South Coast, adopt rules to reduce emissions from government owned, licensed, or subcontracted vehicle fleets (not exclusive to refuse/garbage trucks). South Coast has approved rules for street sweepers, public fleet vehicles, transit buses, airport ground access vehicles, school buses, and refuse trucks. (CVAQ)

RESPONSE: Advancing the turnover of fleets is a critical component of reducing emissions. ARB has adopted fleet rules that have greatly reduced emissions from public fleet vehicles, and have superseded efforts at local levels to reduce emissions from those same fleets. The District also operates some of the most effective and robust vehicle grant programs in the nation. The District will continue to look into opportunities for new fleet rules, but at this time the District advances the turnover of fleets through the use of incentive funds.

- 29. COMMENT:** The District should do more to support alternative fueling infrastructure, and should add something to the plan about this. (CVAQ)

RESPONSE: The District has undertaken a variety of efforts to support alternative fuel infrastructure. The District is currently participating in three committees aimed at promoting, developing, and supporting alternative fuel technology and infrastructure. In addition to these committees, the District currently offers incentive funding for Alternative Fuel Mechanic Training and for Alternative Fuel Infrastructure projects, and the District's Technology Advancement Program has awarded funding to innovative projects that advance alternative fuel infrastructure technologies. See Chapter 3 for further discussion on the District's efforts to support alternative fueling infrastructure.

The District continues to look for additional opportunities to launch incentive programs and contribute to other efforts to expand the Valley's alternative fuel infrastructure.

- 30. COMMENT:** The District's Indirect Source Review (ISR) rule is good, but doesn't go far enough. The District should expand ISR to:
- Improve the connection between ISR fees and actual emissions reductions achieved
 - Make sure mitigation measures are actually implemented
 - Work to improve communications among land use, transportation, and other agencies that have roles in approving or rejecting a development

- Provide advanced credit for projects that go beyond minimum requirements. (CVAQ)

RESPONSE: This comment does not include any specific suggestions, and are generally already included in the ISR. The District is the first air agency to adopt an indirect source rule regulating new development projects. The District's rule is recognized as the benchmark, or best available control, for regulating indirect sources. The legal issues associated with adopting and implementing indirect source regulations are numerous and complex, as is evidenced by the fact that the District has spent over five years successfully defending its existing rule in state and federal court. The following provides additional insight into the broad issues included in this comment:

- The District produces an annual report of District ISR activities and makes this report available on the District web page (<http://www.valleyair.org/ISR/ISRResources.htm#ISRReports>). This annual report details the connection between ISR fees and emission reductions achieved.
- District rules define the regulatory standards, and then District's Permit Services and Compliance Departments act to ensure compliance with said rule requirements.
- The District regularly communicates with agencies and the public regarding ISR via public meetings, trainings, and the District's ListServe. The District welcomes suggestions for additional outreach methods.
- The District provides advanced credit for projects that go beyond minimum requirements for large projects that commit to five-year fleet turnovers, as this goes well beyond the minimum requirements. The District welcomes suggestions for additional ways to provide advanced credit for projects that go beyond minimum requirements.

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