

**IN THE UNITED STATES COURT OF APPEALS
FOR THE D.C. CIRCUIT**

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT,)	
)	No. 15-1115
Petitioner,)	(Consolidated with 15-1123)
)	
v.)	
)	
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, ET AL.,)	
)	
Respondents.)	
)	

**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT’S
MOTION FOR JUDICIAL NOTICE IN SUPPORT OF ITS PETITION
FOR PANEL REHEARING AND
MEMORANDUM IN SUPPORT THEREOF**

Pursuant to Federal Rule of Evidence 201, the South Coast Air Quality Management District respectfully requests that this Court take judicial notice of the contents of the following documents, which are attached hereto.

1. Pages VI-D-1 through VI-D-4 from the South Coast Air Quality Management District 2016 Air Quality Management Plan, Appendix VI, “Compliance with Other Clean Air Act Requirements,” Section D, regarding Transportation Conformity Budget, and in particular page VI-D-4, Tables VI-D-1 and VI-D-2, Transportation Conformity Budgets for

- the 2008 Ozone Standard in the South Coast Air Basin and in the Coachella Valley (Exhibit 1)
2. California Air Resources Board 2016 SIP Summer Planning Inventory for Reactive Organic Gases, South Coast Air Basin, Year 2011 (Exhibit 2)
 3. California Air Resources Board 2016 SIP Summer Planning inventory for Reactive Organic Gases, South Coast Air Basin, Year 2012 (Exhibit 3)
 4. Table, Calculation of Volatile Organic Compound (Reactive Organic Gases) Reasonable Further Progress Goal for 2018 Using 2011 Base Year and 2012 Base Year (Exhibit 4)
 5. Tables VI-C-1A and VI-C-1B from the South Coast Air Quality Management District 2016 Air Quality Management Plan, Appendix VI, “Compliance with Other Clean Air Act Requirements,” Section C, regarding Summary of Reasonable Further Progress Calculations (Exhibit 5)

MEMORANDUM IN SUPPORT OF MOTION FOR JUDICIAL NOTICE

Federal Rule of Evidence 201(b) provides that a court may judicially notice facts that are not subject to reasonable dispute because they are: (1) generally known within the trial court’s territorial jurisdiction, or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

Judicial notice may be taken at any stage in the proceeding, including on appeal.

Fed. R. Evid. 201(f).

Exhibits 1 and 5 are true and correct copies of excerpts from the South Coast Air Quality Management District 2016 Air Quality Management Plan, which forms part of the state implementation plan required by the Clean Air Act for the South Coast Air Basin. Cal. Health & Safety Code §§ 40460(a); 40460(d).

Exhibits 2 and 3 are true and correct copies of the California Air Resources Board Summer Planning Inventories for Reactive Organic Gases (Volatile Organic Compounds) for the South Coast Air Basin and the years 2011 and 2012, as shown on the agency's website as of April 20, 2018,

<https://www.arb.ca.gov/app/emsinv/fcemssumcat/fcemssumcat2016.php> (select 1. Summer, 2. Reactive Organic Gases, 3. Grown & controlled, 5. 2011 or 2012, 5. All Sources except Natural, 6. Air Basin: South Coast.

Exhibit 4 is a calculation of the 2018 volatile organic compound reasonable further progress goal for the South Coast Air Basin using the starting inventories from 2011 and 2012 from Exhibits 2 and 3 and calculating the remaining emissions with a 3% per year reduction from 2011 and 2012 respectively.

The Court may take judicial notice of the official enactments and regulations issued by any public agency. *See Newcomb v. Brennan*, 558 F.2d 825, 829 (7th Cir. 1977) (finding matters of public record including statutes, city charters, and

ordinances are proper subjects of judicial notice). Specifically, this Court has taken judicial notice of information in EPA's databases and on agency websites. *See Nebraska v. EPA*, 331 F.3d 995, 999 (D.C. Cir. 2003) (taking judicial notice of information on the EPA's database that was not included in the administrative record). This principle applies to contents of state agencies' websites. *Coleman v. Dretke*, 409 F.3d 665, 667 (5th Cir. 2005). Exhibits 1, 2, 3, and 5 are official documents and websites of government entities and are proper subjects for judicial notice in determining the contents of the South Coast Air Quality Management District state implementation plan.

Exhibit 4 constitutes simple calculations showing the Volatile Organic Compound reasonable further progress goal for the year 2018 for the South Coast Air Basin, starting with the 2011 and 2012 inventories as set forth in Exhibits 2 and 3, and applying a three percent per year reduction. This document is subject to judicial notice because it is based on judicially noticeable material (i.e., the state website record of emission inventories) and is calculated using simple mathematics to reach the 2018 goal.

Moreover, these documents are relevant to the present petition for panel rehearing because they demonstrate that (1) the South Coast Air Basin transportation conformity budgets were based on a base year of 2012, and (2) the reasonable further progress goal for the year 2018 for the South Coast Air Basin is

more stringent (i.e., lower) using a 2012 base year than it would be using a 2011 base year. Finally, Exhibit 5 merely shows that the South Coast Air Basin used NOx substitution to reach its 2018 VOC reduction goal (this is not essential to the argument but is included for completeness).

For the foregoing reasons, Petitioner South Coast Air Quality Management District respectfully requests that this Court take judicial notice of these documents.

Respectfully submitted,

DATE: April 20, 2018

BARBARA BAIRD, Chief Deputy Counsel
MEGAN E. LORENZ ANGARITA,
Pr. Deputy District Counsel

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT

/s/ *Barbara Baird*

Barbara Baird, Chief Deputy Counsel
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, CA 91765
Phone: (909) 396-2302
Facsimile: (909) 396-2961
E-mail: bbaird@aqmd.gov

*Counsel for Petitioner
South Coast Air Quality Management
District*

**CERTIFICATE OF COMPLIANCE
REGARDING WORD LIMITATION**

I certify that pursuant to Federal Rule of Appellate Procedure Rule 32(g)(1), the attached **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT'S MOTION FOR JUDICIAL NOTICE IN SUPPORT OF ITS PETITION FOR PANEL REHEARING AND MEMORANDUM IN SUPPORT THEREOF** is proportionately spaced, has a typeface of Times New Roman, 14 points, and contains **824 words**, including footnotes, but excluding the parts of the document exempted in Fed. R. App. P. 32(f). I have relied on Microsoft Word's word count feature for the calculation.

DATED: April 20, 2018

BARABAR BAIRD, Chief Deputy Counsel
MEGAN E. LORENZ ANGARITA,
Pr, Deputy District Counsel
SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT

/s/ Barbara Baird

Barbara Baird

Chief Deputy Counsel

South Coast Air Quality Management District

21865 Copley Drive

Diamond Bar, CA 91765

Phone: (909) 396-2302

Facsimile: (909) 396-2961

E-mail: bbaird@aqmd.gov

Counsel for Petitioner

South Coast Air Quality Management

District

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2018, I electronically filed the foregoing **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT'S MOTION FOR JUDICIAL NOTICE IN SUPPORT OF ITS PETITION FOR PANEL REHEARING AND MEMORANDUM IN SUPPORT THEREOF** with the Clerk of the United States Court of Appeals for the D.C. Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

John Charles Cruden
Beveridge & Diamond PC
1350 I Street N.W., Suite 700
Washington D.C. 20005-3311

Dated: April 20, 2018

/s/ Barbara Baird

Barbara Baird

EXHIBIT 1

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT



Appendix VI

Compliance with Other Clean Air Act Requirements

2016 AIR QUALITY MANAGEMENT PLAN



Transportation Conformity Budget

Background

Section 176(c) of the Federal Clean Air Act (CAA) establishes transportation conformity requirements which are intended to ensure that transportation activities do not interfere with air quality progress. The CAA requires that transportation plans, programs, and projects that obtain federal funds or approvals be consistent with, or *conform to* applicable state implementation plans (SIP) before being approved by a Metropolitan Planning Organization (MPO). Conformity to the SIP means that proposed transportation activities must not:

- (1) Cause or contribute to any new violation of any standard,
- (2) Increase the frequency or severity of any existing violation of any standard in any area, or
- (3) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

A SIP analyzes the region's total emissions inventory from all sources necessary to demonstrate reasonable further progress (RFP), attainment, or maintenance of the National Ambient Air Quality Standards (NAAQS). The portion of the total emissions inventory from on-road highway and transit vehicles which provides RFP and attainment of the NAAQS in these analyses becomes the "motor vehicle emissions budget."¹ Motor vehicle emissions budgets are the mechanism for ensuring that transportation planning activities conform to the SIP. Budgets are set for each criteria pollutant or its precursors that the area does not attain and it is set for each RFP milestone year and the attainment year.

Requirements for Demonstrating Conformity

The Southern California Association of Governments (SCAG), the MPO in Southern California, prepares a long range regional transportation plan (RTP) at least every four years and a short range funding program, or regional transportation improvement program (RTIP), every two years. Contents of both the RTP and RTIP are specified in federal transportation law found at Titles 23 and 49 of the federal code of regulations and applicable sections of state transportation planning law.

Before adopting the RTP/RTIP, SCAG prepares a regional emissions analysis using the proposed plan and program as specified in the federal conformity regulation and compares those emissions to the emission budgets in the SIP. The MPO may determine the RTP/RTIP conforms if the emissions from the proposed actions are less than the emissions budgets in the SIP. The conformity determination also signifies that

¹ Federal transportation conformity regulations are found in 40 CFR Part 51, subpart T – Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. of the Federal Transit Laws. Part 93, subpart A of this chapter was revised by the EPA in the August 15, 1997 Federal Register.

the MPO has met other transportation conformity requirements such as interagency consultation and financial constraint.

Conformity Budgets in the 2016 AQMP

The 2016 AQMP establishes transportation conformity emissions budgets for ozone in the South Coast Air Basin and the Coachella Valley. The AQMP also establishes conformity budgets and emissions trading mechanisms for both the annual and 24-hour PM_{2.5} nonattainment areas in the South Coast Air Basin. The emissions budgets presented below use EMFAC2014 with SCAG modeled VMT and speed distributions. The VMT and speed distribution data are from the 2016 RTP/SCS adopted by SCAG in April 2016. Air Resources Board (ARB) staff released a revised emission rate program, EMFAC2014, which updates the emission rates and planning assumptions used in calculating conformity budgets. EMFAC2014 was approved for use in SIPs and transportation conformity by U.S. EPA on December 14, 2015.

Calculation Methodology

All the budgets in this plan have been constructed in consultation with SCAG and U.S. EPA using emissions for a summer average day consistent with the ozone attainment and progress demonstrations, and average annual emissions for the PM_{2.5} budgets consistent with the progress and attainment demonstrations for the annual and 24-hour PM_{2.5} standards, using the following method²:

- 1) Calculate the on-road motor vehicle emissions totals for the appropriate pollutants (VOC, NO_x and PM_{2.5}) from EMFAC2014.
- 2) For the PM_{2.5} budgets, obtain the re-entrained paved road dust, re-entrained unpaved road dust and road construction dust emissions from the planning inventory which can be found in the Appendix III of the 2016 AQMP.
- 3) Sum each pollutant and round each total up to the nearest ton for VOC, NO_x and PM_{2.5}.

Tables VI-D-1 through VI-D-4 below contain the emissions budgets for the South Coast Air Basin and the Coachella Valley.

² ARB and SCAQMD use the same vehicle activity data. The minor variations in emissions result from slight differences in the methodology used to allocate SCAG activity by the vehicle classes used in the EMFAC model.

Table VI-D-1. Transportation Conformity Budgets* for the 2008 8-hour Ozone standard in the South Coast Air Basin

South Coast Air Basin (tons per summer day)	2018		2021		2024		2027		2030		2031	
	VOC	NOx	VOC	NOx	VOC	NOx	VOC	NOx	VOC	NOx	VOC	NOx
Baseline Emissions	92.97	168.93	75.13	127.58	64.27	84.79	57.22	74.13	51.49	67.48	49.49	65.73
Total	92.97	168.93	75.13	127.58	64.27	84.79	57.22	74.13	51.49	67.48	49.49	65.73
Conformity Budget	93	169	76	128	65	85	58	75	52	68	50	66

*Budgets calculated with EMFAC2014 using SCAG 2016 RTP activity. Budgets are rounded up to the nearest ton.

Table VI-D-2. Transportation Conformity Budgets* for the 2008 8-hour Ozone standard in the Coachella Valley

Coachella Valley (tons per summer day)	2018		2021		2024		2026	
	VOC	NOx	VOC	NOx	VOC	NOx	VOC	NOx
Baseline Emissions	4.24	9.98	3.46	7.47	3.10	4.37	2.93	4.12
Total	4.24	9.98	3.46	7.47	3.10	4.37	2.93	4.12
Conformity Budget	5	10	4	8	4	5	3	5

*Budgets calculated with EMFAC2014 using SCAG 2016 RTP activity. Budgets are rounded up to the nearest ton.

Table VI-D-3. Transportation Conformity Budgets* for the 2012 Annual PM2.5 standard in the South Coast Air Basin

South Coast Air Basin Tons per Annual Day	2019			2022			2025			2028		
	VOC	NOx	PM2.5	VOC	NOx	PM2.5	VOC	NOx	PM2.5	VOC	NOx	PM2.5
Baseline Emissions: Exhaust, Tire and Brake Wear	82.52	168.13	10.82	68.22	126.26	10.25	58.51	86.26	10.05	52.68	76.28	10.00
Paved Road Dust			8.15			8.38			8.53			8.63
Unpaved Road Dust			0.59			0.59			0.59			0.58
Road Construction Dust			0.25			0.27			0.28			0.29
Total	82.52	168.13	19.81	68.22	126.26	19.48	58.51	86.26	19.44	52.68	76.28	19.50
Conformity Budget	83	169	20	69	127	20	59	87	20	53	77	20

*Budgets calculated with EMFAC2014 using SCAG 2016 RTP activity. Budgets are rounded up to the nearest ton. **Bold** figures indicate a budget number. Paved, unpaved and road construction dust are from the planning inventory in the Appendix III of the 2016 AQMP

Emissions Trading Mechanism for the 1997 Annual PM2.5 Standard

This Plan continues the emissions trading mechanism established by the 2007 AQMP as revised in 2011. That trading mechanism established per Section 93.124 of the conformity regulations allow transportation

EXHIBIT 2



CEPAM: 2016 SIP - Standard Emission Tool

Emission Projections By Summary Category

Reactive Organic Gases

SOUTH COAST AIR BASIN

REPORT TYPE: GROWN AND CONTROLLED

SEASON: SUMMER

BASE YEAR: 2012

All emissions are represented in Tons per Day and reflect the most current data provided to ARB
 Download this data as a comma delimited file.
 Download more detail data as a comma delimited file.

STATIONARY SOURCES	
SUMMARY CATEGORY NAME	2011
FUEL COMBUSTION	
ELECTRIC UTILITIES	0.747
COGENERATION	0.164
OIL AND GAS PRODUCTION (COMBUSTION)	0.110
PETROLEUM REFINING (COMBUSTION)	1.143
MANUFACTURING AND INDUSTRIAL	4.258
FOOD AND AGRICULTURAL PROCESSING	0.035
SERVICE AND COMMERCIAL	4.857
OTHER (FUEL COMBUSTION)	0.311
* TOTAL FUEL COMBUSTION	11.626
WASTE DISPOSAL	
SEWAGE TREATMENT	0.186
LANDFILLS	8.309
INCINERATORS	0.062
SOIL REMEDIATION	0.006
OTHER (WASTE DISPOSAL)	6.425
* TOTAL WASTE DISPOSAL	14.987
CLEANING AND SURFACE COATINGS	
LAUNDERING	0.152
DEGREASING	10.037
COATINGS AND RELATED PROCESS SOLVENTS	18.148

PRINTING	1.515
ADHESIVES AND SEALANTS	3.373
OTHER (CLEANING AND SURFACE COATINGS)	1.914
* TOTAL CLEANING AND SURFACE COATINGS	35.139
PETROLEUM PRODUCTION AND MARKETING	
OIL AND GAS PRODUCTION	2.263
PETROLEUM REFINING	5.136
PETROLEUM MARKETING	23.216
OTHER (PETROLEUM PRODUCTION AND MARKETING)	0.060
* TOTAL PETROLEUM PRODUCTION AND MARKETING	30.674
INDUSTRIAL PROCESSES	
CHEMICAL	4.176
FOOD AND AGRICULTURE	1.106
MINERAL PROCESSES	0.266
METAL PROCESSES	0.031
WOOD AND PAPER	0.223
GLASS AND RELATED PRODUCTS	0.000
ELECTRONICS	0.000
OTHER (INDUSTRIAL PROCESSES)	2.974
* TOTAL INDUSTRIAL PROCESSES	8.775
** TOTAL STATIONARY SOURCES	101.201
AREAWIDE SOURCES	
SUMMARY CATEGORY NAME	2011
SOLVENT EVAPORATION	
CONSUMER PRODUCTS	89.180
ARCHITECTURAL COATINGS AND RELATED PROCESS SOLVENTS	13.945
PESTICIDES/FERTILIZERS	1.418
ASPHALT PAVING / ROOFING	0.861
* TOTAL SOLVENT EVAPORATION	105.403
MISCELLANEOUS PROCESSES	
RESIDENTIAL FUEL COMBUSTION	2.317
FARMING OPERATIONS	2.027
CONSTRUCTION AND DEMOLITION	0.000
PAVED ROAD DUST	0.000
UNPAVED ROAD DUST	0.000
FUGITIVE WINDBLOWN DUST	0.000
FIRES	0.229
MANAGED BURNING AND DISPOSAL	0.457
COOKING	1.712
OTHER (MISCELLANEOUS PROCESSES)	0.000
* TOTAL MISCELLANEOUS PROCESSES	6.743

**** TOTAL AREAWIDE SOURCES**

OSCA Case #15-1115

Document #1727572

Filed: 04/20/2018

Page 9 of 23

MOBILE SOURCES**SUMMARY CATEGORY NAME****2011****ON-ROAD MOTOR VEHICLES**

LIGHT DUTY PASSENGER (LDA)	76.037
LIGHT DUTY TRUCKS - 1 (LDT1)	20.086
LIGHT DUTY TRUCKS - 2 (LDT2)	27.765
MEDIUM DUTY TRUCKS (MDV)	22.603
LIGHT HEAVY DUTY GAS TRUCKS - 1 (LHDGT1)	5.680
LIGHT HEAVY DUTY GAS TRUCKS - 2 (LHDGT2)	0.772
MEDIUM HEAVY DUTY GAS TRUCKS (MHDGT)	1.715
HEAVY HEAVY DUTY GAS TRUCKS (HHDGT)	0.414
LIGHT HEAVY DUTY DIESEL TRUCKS - 1 (LHDDT1)	0.413
LIGHT HEAVY DUTY DIESEL TRUCKS - 2 (LHDDT2)	0.143
MEDIUM HEAVY DUTY DIESEL TRUCKS (MHDDT)	2.385
HEAVY HEAVY DUTY DIESEL TRUCKS (HHDDT)	7.862
MOTORCYCLES (MCY)	9.905
HEAVY DUTY DIESEL URBAN BUSES (UBD)	1.275
HEAVY DUTY GAS URBAN BUSES (UBG)	0.444
SCHOOL BUSES - GAS (SBG)	0.115
SCHOOL BUSES - DIESEL (SBD)	0.190
OTHER BUSES - GAS (OBG)	0.217
OTHER BUSES - MOTOR COACH - DIESEL (OBC)	0.124
ALL OTHER BUSES - DIESEL (OBD)	0.115
MOTOR HOMES (MH)	0.283

*** TOTAL ON-ROAD MOTOR VEHICLES** 178.542**OTHER MOBILE SOURCES**

AIRCRAFT	3.197
TRAINS	1.326
OCEAN GOING VESSELS	0.768
COMMERCIAL HARBOR CRAFT	0.454
RECREATIONAL BOATS	44.839
OFF-ROAD RECREATIONAL VEHICLES	4.137
OFF-ROAD EQUIPMENT	62.266
FARM EQUIPMENT	0.920
FUEL STORAGE AND HANDLING	12.209
* TOTAL OTHER MOBILE SOURCES	130.116
** TOTAL MOBILE SOURCES	308.658

GRAND TOTAL FOR SOUTH COAST 522.005

* Emissions from natural sources are excluded.

EXHIBIT 3



CEPAM: 2016 SIP - Standard Emission Tool

Emission Projections By Summary Category

Reactive Organic Gases

SOUTH COAST AIR BASIN

REPORT TYPE: GROWN AND CONTROLLED

SEASON: SUMMER

BASE YEAR: 2012

All emissions are represented in Tons per Day and reflect the most current data provided to ARB
 Download this data as a comma delimited file.
 Download more detail data as a comma delimited file.

STATIONARY SOURCES	
SUMMARY CATEGORY NAME	2012
FUEL COMBUSTION	
ELECTRIC UTILITIES	1.095
COGENERATION	0.107
OIL AND GAS PRODUCTION (COMBUSTION)	0.112
PETROLEUM REFINING (COMBUSTION)	1.016
MANUFACTURING AND INDUSTRIAL	3.916
FOOD AND AGRICULTURAL PROCESSING	0.034
SERVICE AND COMMERCIAL	4.818
OTHER (FUEL COMBUSTION)	0.303
* TOTAL FUEL COMBUSTION	11.401
WASTE DISPOSAL	
SEWAGE TREATMENT	0.344
LANDFILLS	8.273
INCINERATORS	0.072
SOIL REMEDIATION	0.002
OTHER (WASTE DISPOSAL)	5.270
* TOTAL WASTE DISPOSAL	13.961
CLEANING AND SURFACE COATINGS	
LAUNDERING	0.155
DEGREASING	10.325
COATINGS AND RELATED PROCESS SOLVENTS	19.312

PRINTING	1.644
ADHESIVES AND SEALANTS	3.456
OTHER (CLEANING AND SURFACE COATINGS)	0.704
* TOTAL CLEANING AND SURFACE COATINGS	35.596
PETROLEUM PRODUCTION AND MARKETING	
OIL AND GAS PRODUCTION	2.317
PETROLEUM REFINING	4.559
PETROLEUM MARKETING	22.205
OTHER (PETROLEUM PRODUCTION AND MARKETING)	0.087
* TOTAL PETROLEUM PRODUCTION AND MARKETING	29.168
INDUSTRIAL PROCESSES	
CHEMICAL	5.413
FOOD AND AGRICULTURE	1.190
MINERAL PROCESSES	0.752
METAL PROCESSES	0.143
WOOD AND PAPER	0.244
GLASS AND RELATED PRODUCTS	0.001
ELECTRONICS	0.016
OTHER (INDUSTRIAL PROCESSES)	3.086
* TOTAL INDUSTRIAL PROCESSES	10.845
** TOTAL STATIONARY SOURCES	100.972
AREAWIDE SOURCES	
SUMMARY CATEGORY NAME	2012
SOLVENT EVAPORATION	
CONSUMER PRODUCTS	86.475
ARCHITECTURAL COATINGS AND RELATED PROCESS SOLVENTS	13.319
PESTICIDES/FERTILIZERS	1.467
ASPHALT PAVING / ROOFING	0.881
* TOTAL SOLVENT EVAPORATION	102.142
MISCELLANEOUS PROCESSES	
RESIDENTIAL FUEL COMBUSTION	2.314
FARMING OPERATIONS	2.968
CONSTRUCTION AND DEMOLITION	0.000
PAVED ROAD DUST	0.000
UNPAVED ROAD DUST	0.000
FUGITIVE WINDBLOWN DUST	0.000
FIRES	0.229
MANAGED BURNING AND DISPOSAL	0.163
COOKING	1.733
OTHER (MISCELLANEOUS PROCESSES)	0.000
* TOTAL MISCELLANEOUS PROCESSES	7.405

**** TOTAL AREAWIDE SOURCES**

USCA Case #15-1119

Document #1727572

Filed: 04/20/2018

109.548

Page 14 of 23

MOBILE SOURCES	
SUMMARY CATEGORY NAME	2012
ON-ROAD MOTOR VEHICLES	
LIGHT DUTY PASSENGER (LDA)	68.094
LIGHT DUTY TRUCKS - 1 (LDT1)	18.266
LIGHT DUTY TRUCKS - 2 (LDT2)	26.057
MEDIUM DUTY TRUCKS (MDV)	21.511
LIGHT HEAVY DUTY GAS TRUCKS - 1 (LHDGT1)	5.347
LIGHT HEAVY DUTY GAS TRUCKS - 2 (LHDGT2)	0.757
MEDIUM HEAVY DUTY GAS TRUCKS (MHDGT)	1.538
HEAVY HEAVY DUTY GAS TRUCKS (HHDGT)	0.319
LIGHT HEAVY DUTY DIESEL TRUCKS - 1 (LHDDT1)	0.400
LIGHT HEAVY DUTY DIESEL TRUCKS - 2 (LHDDT2)	0.139
MEDIUM HEAVY DUTY DIESEL TRUCKS (MHDDT)	2.016
HEAVY HEAVY DUTY DIESEL TRUCKS (HHDDT)	5.565
MOTORCYCLES (MCY)	9.665
HEAVY DUTY DIESEL URBAN BUSES (UBD)	1.206
HEAVY DUTY GAS URBAN BUSES (UBG)	0.447
SCHOOL BUSES - GAS (SBG)	0.105
SCHOOL BUSES - DIESEL (SBD)	0.155
OTHER BUSES - GAS (OBG)	0.199
OTHER BUSES - MOTOR COACH - DIESEL (OBC)	0.088
ALL OTHER BUSES - DIESEL (OBD)	0.096
MOTOR HOMES (MH)	0.246
* TOTAL ON-ROAD MOTOR VEHICLES	162.217
OTHER MOBILE SOURCES	
AIRCRAFT	3.244
TRAINS	1.235
OCEAN GOING VESSELS	0.766
COMMERCIAL HARBOR CRAFT	0.452
RECREATIONAL BOATS	42.612
OFF-ROAD RECREATIONAL VEHICLES	3.966
OFF-ROAD EQUIPMENT	59.919
FARM EQUIPMENT	0.873
FUEL STORAGE AND HANDLING	11.424
* TOTAL OTHER MOBILE SOURCES	124.492
** TOTAL MOBILE SOURCES	286.709
GRAND TOTAL FOR SOUTH COAST	497.228

* Emissions from natural sources are excluded.

EXHIBIT 4

Reasonable Further Progress Goals - South Coast Air Basin

	Inventory (TPD)		2011 Base Year Scenario		2012 Base Year Scenario	Conclusion
	2011	2012	2017 requirement	2018 requirement	2018 requirement	
South Coast Air Basin VOC	522*	497*	428 [#]	415 [^]	408 [#]	<u>2012</u> base year requires more reductions in 2018 (408<415)

* Summer planning inventory retrieved from ARB's online

tool: <https://www.arb.ca.gov/app/emsinv/fcemssumcat/fcemssumcat2016.php>

The 2017 and 2018 requirements were calculated by applying a 18% reduction from the respective 2011 and 2012 base year inventory.

[^]The 2018 requirement for the 2011 base year was calculated by applying an additional 3% reduction beyond the 2017 requirement.

Kalam Cheung, Ph.D.
 Program Supervisor - Policy/Climate/Energy/Incentives
 South Coast Air Quality Management District
 Phone: 909-396-3281
 Fax: 909-396-3252
kcheung@aqmd.gov

EXHIBIT 5

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT



Appendix VI

Compliance with Other Clean Air Act Requirements

2016 AIR QUALITY MANAGEMENT PLAN



requirements. For the milestone years 2021, 2024, 2027, 2030 and 2031, the baseline VOC emission levels are below the target levels. Beginning in 2021, projected NOx baseline emission reductions are needed to show compliance with the targeted VOC thresholds. For the attainment years 2022 (1979 1-hour NAAQS; 0.12 ppm) and 2023 (1997 8-hour NAAQS; 0.08 ppm), compliance is shown using projected NOx baseline emission reductions. The CAA, Section 182(c)(2)(C) provides for NOx reductions to substitute for RFP reductions not achieved by VOC emissions. The following demonstration will take advantage of that allowance and show compliance with RFP requirements as well as contingency requirements.

TABLE VI-C-1A
Summary of Reasonable Further Progress Calculations - VOCs

ROW	CALCULATION STEP ^a	2012 ^b	2018	2021	2022 ^c	2023 ^c	2024 ^d	2027 ^e	2030 ^e	2031 ^c
1	Baseline VOC Emissions (tpd)	499.6	405.2	386.2	382.7	378.7	375.5	368.6	364.4	361.5
2	Required Percent Change Since Previous Milestone Year (%)	--	18	9	3	3	3	9	9	3
3	Target VOC Level (tpd)	--	409.7	372.8	361.6	350.8	340.3	309.6	281.8	273.3
4	Cumulative Milestone Year Shortfall (tpd)	--	-4.5	13.4	21.0	27.9	35.3	58.9	82.6	88.2
5	Cumulative Shortfall in VOC (%)	--	-0.90	2.7	4.2	5.6	7.1	11.8	16.5	17.7
6	Incremental Milestone Year Shortfall (%)	--	0	2.7	1.5	1.4	1.5	4.7	4.7	1.1

^a Units are in tons per day (summer planning) unless otherwise noted

^b Base Year (2012)

^c Attainment Year

^d Emissions derived from linear interpolation between the modeled emissions of 2023 and 2025

^e Emissions derived from linear interpolation between the modeled emissions of 2026 and 2031

ROW 1: Projected baseline emissions shown in Appendix III taking into account existing rules and projected growth

ROW 2: Required 18% reduction 6 years after Base Year; future milestone years are every 3 years until attainment year; and required reductions are 3% per year for each milestone year (e.g., for every 3 years, required 9% reduction)

ROW 3: [(1-Row 2/100) x Row 1 or Row 3] – Base Year Row 1 for first milestone year, and previous milestone year’s target level (Row 3) for remaining milestone years

ROW 4: [(Row 1) – (Row 3)] or (Baseline – Target) – negative number meets target level and positive number is shortfall of target level

ROW 5: [(Row 4) / (Base Year Row 1) x 100]

ROW 6: Negative (Row 5) is zero shortfall; positive number is a shortfall. Incremental milestone year shortfall is determined by subtracting the previous year’s shortfall from the cumulative (e.g., for 2023, cumulative 5.6 - previous shortfall 4.2 = 1.4)

FIGURE VI-C1A
Reasonable Further Progress - VOC

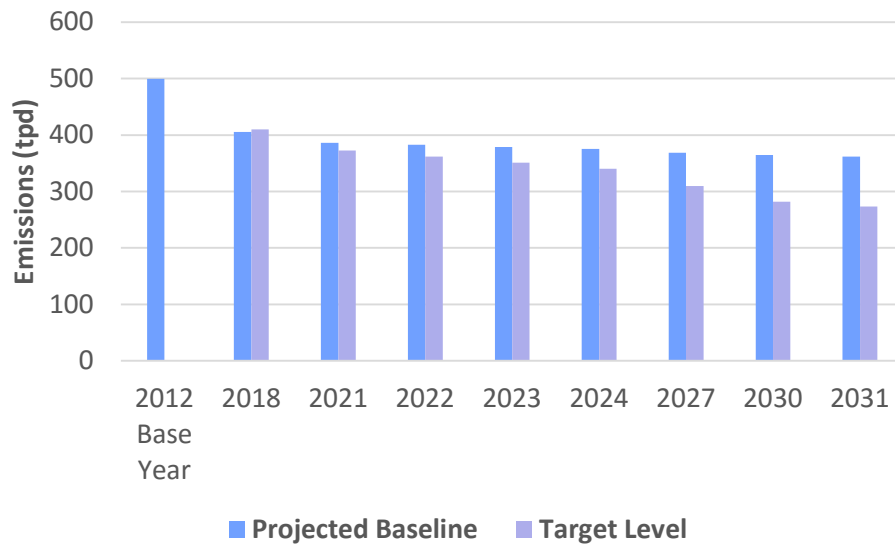


TABLE VI-C-1B
Summary of Reasonable Further Progress Calculations - NOx

ROW	CALCULATION STEP ^a	2012 ^b	2018	2021	2022 ^c	2023 ^c	2024 ^d	2027 ^e	2030 ^e	2031 ^c
1	Baseline NOx Emissions (tpd)	522.4	366.2	305.2	286.8	254.6	247.2	228.5	217.3	213.7
2	Reductions in NOx Emissions since Base Year (tpd)	--	156.2	217.2	235.6	267.8	275.2	293.9	305.1	308.7
3	Percent Reductions in NOx Emissions since Base Year (%)	--	29.9	41.6	45.1	51.3	52.7	56.3	58.4	59.1
4	Contingency plus previous NOx substitution (%)	--	3	3	5.7	7.2	8.6	10.1	14.8	19.5
5	Percent Available for NOx Substitution (%)	--	26.9	38.6	39.4	44.1	44.1	46.2	43.6	39.5
6	Incremental Milestone Year VOC Shortfall (%)	--	0	2.7	1.5	1.4	1.5	4.7	4.7	1.1
7	Percent Surplus Reduction (%)	--	26.9	35.9	37.9	42.7	42.6	41.5	38.9	38.4
8	RFP Compliance	--	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
9	Contingency Compliance	--	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

^a Units are in tons per day (summer) unless otherwise noted

^b Base Year (2012)

^c Attainment Year

^d Emissions derived from linear interpolation between the modeled emissions of 2023 and 2025

^e Emissions derived from linear interpolation between the modeled emissions of 2026 and 2031

ROW 1: Projected baseline emissions shown in Appendix III taking into account existing rules and projected growth

ROW 2: Reductions achieved in Baseline: [(Row 1 Base Year) – (Row 1 – milestone year)] – e.g., for 2018: 528.8 – 376.5 = 152.3

ROW 3: % Reductions achieved since Base Year: [(Row 2) / (Row 1- Base Year)] x 100 – e.g., for 2018: (152.3/528.8) x 100 = 28.8

ROW 4: Reserves 3% (1 year worth of CAA RFP reductions) for contingency measure implementation plus the previous year(s)'s incremental milestone year VOC shortfall from Table VI-C-1A

ROW 5: [(Row 3) - (Row 4)]

ROW 6: Incremental milestone year VOC shortfall from Table VI-C-1A

ROW 7: Surplus reductions achieved [(Row 5) - (Row 6)]

ROW 8: Positive number in Row 7 is percent surplus for each milestone year, thus meeting RFP target levels

ROW 9: Surplus includes 3% contingency carryover and VOC shortfall, and still meets RFP target levels

Baseline emissions, as shown in Tables VI-C-1A and VI-C-1B, incorporate emission reductions generated from control measures that are already adopted. For example, baseline emissions in 2018 is derived from the projected emissions from 2012 which includes all adopted control measures that will be implemented (partially or fully) by December 31, 2018. Therefore, the difference between baseline emissions of 2012 and 2018 is driven by control measures that are either partially implemented in 2012 or control measures with implementation date after 2012. Table VI-C-2 provides a list of the SCAQMD adopted rules and regulations for stationary sources that is scheduled to be implemented from 2012, accounting for the emission reductions in the baseline emissions of the future milestone/attainment years. The corresponding information for CARB's mobile source control measures can be found in the Attachment of this Appendix (Attachment VI-C-1).

TABLE VI-C-2**Implementation Schedule of SCAQMD Adopted Rules and Regulations for Reasonable Further Progress Per Milestone/Attainment Year**

	2018	2021	2022	2023	2024	2027	2030	2031
NOx	R1110.2*							
	R1110	R1110	R1110	R1110	R1110	R1110	R1110	R1110 [#]
	R1121*							
	R1146*							
	R1146.1*							
	R1146.2*	R1146.2 [^]						
	R1147	R1147	R1147	R1147				
VOC	R1113*							
	R1114							
	R1177*							

* Partial implementation from 2006-2016 with full implementation achieved in 2014, 2015 or 2016

[^] Partial implementation from 2018 with full implementation achieved in 2020

[#] Reductions achieved annually with full implementation in 2035

PM2.5

For PM2.5 nonattainment areas, in addition to the CAA Title I, Part D, Subpart 1 (*General Requirements*) RFP requirements, Subpart 4 (*Provisions for PM*) §189(c)(1) introduces the requirement for states to submit quantitative milestones for both “moderate” and “serious” areas. Milestones are to be achieved every three years until the area is re-designated attainment and demonstrate reasonable further progress. As stated in the U.S. EPA’s final rule for “*Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements*” (81 FR 58010), the statutory “serious” area attainment plan would have to contain quantitative milestones to be achieved by 7.5 years from the area’s date of designation of nonattainment. This date would be three years after the first quantitative milestones for the area to be met 4.5 years from the designation date. In the case of the 2006 24-hour PM2.5, the milestone year is 2017. For the 2012 annual PM2.5 NAAQS, the first quantitative milestones is 4.5 years after the designation date of April 2015, or the year 2019. The next quantitative milestone is 7.5 years after the designation date or three years after the first quantitative milestone, or the year 2022. The next quantitative milestone is three years later or year 2025, which is also the same year as attainment for a “serious” nonattainment area for the annual PM2.5.

The final rule (81 FR 58010) also requires that all “serious” area attainment plans to contain one additional quantitative milestone to be met in the 3-year period beyond the attainment date. As a result, the year 2022 is added as a milestone year for the 24-hour PM2.5 standard and the year 2028 is added as a milestone year for the annual PM2.5 standard.

Emission reductions required under an RFP plan for PM2.5 may be either directly emitted PM2.5 or an applicable precursor air pollutant such as NOx or SOx. The base year for purposes of tracking RFP is 2012,

**IN THE UNITED STATES COURT OF APPEALS
FOR THE D.C. CIRCUIT**

SOUTH COAST AIR QUALITY)	
MANAGEMENT DISTRICT,)	No. 15-1115
)	(Consolidated with 15-1123)
Petitioner,)	
)	
v.)	
)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY, ET AL.,)	
)	
Respondents.)	
_____)	

**DECLARATION OF BARBARA BAIRD
IN SUPPORT OF ITS MOTION FOR JUDICIAL NOTICE**

I, Barbara Baird, declare:

1. I am an attorney at law admitted to practice in this Court and am one of the attorneys assigned to represent Petitioner, South Coast Air Quality Management District in this matter. I have personal knowledge of the following and could and would testify competently thereto, if called as a witness.

2. On Wednesday, April 18, 2018, I sent an email to Heather Gange, Counsel for EPA and Seth Johnson, Counsel for the Environmental Parties in this matter informing them of the South Coast District’s intent to file a motion for judicial notice in support of its petition for panel rehearing on or before April 20, 2018 and requesting that they advise whether they would oppose the District’s motion.

3. On Friday, April 20, I received an email from Heather Gange, counsel for EPA noting that once the government has had an opportunity to review the materials submitted, it will convey its position.

4. To date, I have not received a response to my email from Environmental Parties.

5. On April 20, I sent the email described in Paragraph 2 to Counsel for National Environmental Development Association's Clean Air Project, who responded that she had no objection.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed at Diamond Bar, California, on April 20, 2018.

Respectfully submitted,

BARBARA BAIRD, Chief Deputy Counsel
MEGAN E. LORENZ ANGARITA,
Pr. Deputy District Counsel

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT

/s/ *Barbara Baird*

Barbara Baird, Chief Deputy Counsel
South Coast Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765
Phone: (909) 396-2302; Fax: (909) 396-2961
E-mail: bbaird@aqmd.gov

*Counsel for Petitioner
South Coast Air Quality Management District*

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2018, I electronically filed the foregoing **DECLARATION OF BARBARA BAIRD IN SUPPORT OF ITS MOTION FOR JUDICIAL NOTICE** with the Clerk of the United States Court of Appeals for the D.C. Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

John Charles Cruden
Beveridge & Diamond PC
1350 I Street N.W., Suite 700
Washington D.C. 20005-3311

Dated: April 20, 2018

/s/ Barbara Baird

Barbara Baird