

Attachment 3
Addendum to the October 17, 2001 Staff Report

Public Comments on the Revised Plan and Draft Negative Declaration, and Staff Responses ¹

This attachment is a review of comments made between September 17, 2001
(release of Revised Plan and Draft Negative Declaration for public review) and October 17, 2001 (comment deadline).

GENERAL COMMENTS

#	ISSUE	COMMENT	STAFF RESPONSE
1.	Attainment Assessment	Sacramento Metropolitan Air Quality Management District <i>(letter, October 17, 2001)</i> The rollback perspective should be based on Livermore's design value of 139 ppb, not year 2000's 2 nd high ozone reading of 126 ppb.	Rollback is only one of several methods employed in the weight of evidence analysis. It shows a low estimate of the reductions that would have produced an attainment record in 2000. If 139 ppb were used as the starting point, reductions of 11% would be indicated for a full, 3-year attainment record. (The Plan reductions are in the range of 20%.) The isopleth analysis that identifies the level of emissions the Bay Area has committed to achieve <i>is</i> based on the 1998 – 2000 design value of 139 ppb.
2.	Attainment Assessment	Sacramento Metropolitan Air Quality Management District <i>(letter, October 17, 2001)</i> Averaging the results of the 1995 and 2000 ozone isopleths to derive an attainment target seems rather subjective. Since the 2000 design value is higher than the 1995 value, the averaged attainment target may be overly optimistic.	Given a range of projections, use of an average or median value is often prudent. In this Plan, please refer to the text on page 22 under "EPA Modification to Attainment Target." In response to an EPA request, the co-lead agencies have committed to make emission reductions beyond the target that results from the averaging of the two isopleths, unless the Central California Ozone Study shows in 2003 that a different target is appropriate. However, both the 1995 isopleth and the corrected 2000 isopleth (see Appendix F) show attainment without this additional commitment. The additional commitment serves to address the uncertainty that will exist until the CCOS data is available, but the weight of evidence shows that the attainment target derived by the averaging is appropriate.

¹ Comments on the Revised Plan that reiterate comments on earlier versions of the Plan are not included in this summary. New comments, and staff responses, are presented herein.

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3.	Attainment Assessment	Transportation Solutions Defense and Education Fund (<i>letter, October 17, 2001</i>) The 2001 Plan does not contain a convincing demonstration of attainment. The isopleths show 10 tpd higher levels of VOC at attainment than the earlier 2001 Plan. Furthermore, design values in Livermore have not been declining, despite declining precursor levels.	The attainment assessment is based on the best available methods for determining the quantity of emission reductions that will result in attainment in 2006. The isopleth method is the most technically rigorous of the methods presented. The VOC attainment level is 10 tpd higher because the base year and subsequent inventory estimates are 13 tpd higher. The attainment isopleth is at a fixed ratio (73.2%) of total base year VOC emissions – given that total NOx is roughly the same in the previously adopted Plan (July 18, 2001) and the Revised 2001 Ozone Plan. On the other hand, real world design values do not maintain a fixed relationship to precursor emissions, given the varying influences of meteorology on a year-to-year basis. Over long (i.e., 20 year) time frames, the relationship is well correlated.
4.	CEQA	Golden Gate University Environmental Law and Justice Clinic (<i>letter, October 17, 2001</i>) The Plan's inadequacies will cause significant impacts to air quality and the environment, necessitating the preparation of an Environmental Impact Report.	We disagree. The Negative Declaration appropriately examines potential environmental impacts that could result from implementing the proposed control measures in the Revised 2001 Ozone Plan. The project for purposes of CEQA is this incremental change to the Bay Area's ozone attainment strategy. The Negative Declaration concludes that there is no substantial evidence in light of the whole record before the District that the proposed control measures, individually or collectively, will result in significant adverse environmental impacts. The fact that the Plan does not include certain control measures that ELJC and others have advocated does not mean that the Revised 2001 Ozone Plan will have adverse impacts on the environment. It is clear that the Revised 2001 Ozone Plan will reduce ozone precursor emissions substantially. That the Revised 2001 Ozone Plan may reduce emissions less than what ELJC desires or imagines that it could does not constitute an adverse impact under CEQA. In other words, an alleged failure to achieve improved environmental conditions on a faster schedule is not a significant impact under CEQA.

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5.	CEQA – Appropriate document	Communities for a Better Environment (<i>letter October 17, 2001</i>) The District should prepare an environmental impact report for the Revised Plan in order to comply with CEQA. CBE identified potential environmental impacts in previous comments on the July 2001 Plan and in an October 17, 2001 declaration from Schuyler Beth Fishman.	<p>As noted in the Addendum to the July 9, 2001 staff report (Attachment 3 – Final Comments and Responses), the District considered all of CBE’s comments regarding potential adverse environmental impacts when preparing the Draft Negative Declaration for the Proposed Final 2001 Ozone Plan (June 2001). These comments were again considered during the preparation of the draft Negative Declaration for the Revised 2001 Ozone Plan. Potential impacts previously raised by CBE include: water quality impacts from SS-14 (Aqueous Solvents); emissions of toxic air contaminants, stratospheric ozone depleters, or greenhouse gases associated with SS-11 (Architectural Coatings), SS-13 (Surface Preparation and Clean-up Standards for Metal Parts Coating) and SS-14 (Aqueous Solvents); impacts associated with deletion of TCMs 11, 12 and 16; emissions of diesel exhaust and ozone precursors associated with TCMs A and D; and localized impacts associated with bicycle and pedestrian projects under TCMs B and C.</p> <p>The Negative Declaration for the Proposed Final 2001 Ozone Plan (June 2001) and the draft Negative Declaration for the Revised 2001 Ozone Plan (September 2001) thoroughly considered these impacts and concluded that the proposed stationary and transportation control measures would not have any significant adverse environmental impacts. To provide an even greater level of confidence in the non-significant environmental impact of this air quality plan project, the control measure descriptions in the Revised 2001 Ozone Plan were revised as follows: regional buses operating under TCM A would be equipped with particulate traps or filters, and; for TCMs B and C, MTC will only fund projects that are exempt from CEQA, have no significant environmental impacts, or adequately mitigate any adverse environmental impacts.</p> <p>Issues raised in the October 17, 2001 CBE/Fishman declaration are addressed elsewhere in this table under “CEQA – Declaration.”</p>

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6.	CEQA – Appropriate Document	Transportation Solutions Defense and Education Fund (<i>letter, October 17, 2001</i>) The region’s rate of increase for vehicle miles traveled (VMT) exceeds the rate of population increase. Based on criteria in the District’s CEQA Guidelines, this represents a significant impact requiring the preparation of an environmental impact report and implementation of mitigation measures.	<p>MTC projects VMT to increase faster than population during the planning period. But turnover of the vehicle fleet to newer, cleaner engines will reduce mobile source emissions of ozone precursors substantially by 2006 (see Revised Plan, Table 4). The Plan’s proposed TCMs and mobile source control measures will further reduce mobile source emissions. As noted on page 21 of the District’s CEQA Guidelines, the VMT/population growth rate comparison is intended for evaluating <i>local</i> plans and their consistency with regional air quality plans. The reason this criterion was established is because the California Clean Air Act sets performance standards for growth in motor vehicle use; and since local development decisions influence travel demand and local governments have sole jurisdiction over land use decisions, the District wants to encourage cities and counties to adopt local plans that limit growth in VMT. The Revised Plan proposes several further study measures (FS-4, FS-5 and FS-7) that, if they prove reasonably available, could further reduce vehicle use by addressing the land use / transportation / air quality connection. The District’s CEQA Guidelines are recommendations for local project evaluation, and there is no logical or legal carryover to the regional plan projections.</p> <p>In spite of the projected growth in VMT, emissions will decline and there is no substantial evidence that the Revised Plan will cause a significant impact for any of the air quality criteria in the CEQA checklist, including conflicts with the applicable air quality plan, violation of air quality standards, cumulatively considerable net increase in pollutants for which the region is nonattainment, exposure of sensitive receptors to substantial pollution, or cause objectionable odors (Negative Declaration pp. 11-12).</p>
7.	CEQA – Declaration	Communities for a Better Environment (<i>letter, October 17, 2001, declaration of Schuyler Beth Fishman</i>) In paragraphs 17 through 30, Fishman sets forth reasons for differing with the District’s Draft Negative Declaration conclusions that the	These paragraphs of the declaration have been inserted into an earlier version that accompanied CBE comments on the July version of the Plan. The new paragraphs contain several inaccuracies and oversights:

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		Revised 2001 Ozone Plan will not have adverse impacts on air quality.	<p>In paragraph 9, Fishman claims to have "thoroughly reviewed" the 1999 Plan and the 2001 Plan. In paragraph 19, she states that, as far as she is aware, the BAAQMD does not currently use the Urban Airshed Model ("UAM"). However, a review of the 1999 Plan and the Revised 2001 Ozone Plan clearly shows that UAM model results were used to generate the isopleth diagrams in both Plans (see page 16 of the 1999 Plan and pages 14 and 17 of the Revised 2001 Ozone Plan).</p> <p>Paragraph 21 involves the same oversight and failure to understand the information and technical bases for the District's air quality modeling for the Revised 2001 Ozone Plan.</p> <p>In paragraph 23, Fishman states that "while the results from the adjustment to the 2000 base year run appear reasonable, there is a total lack of documentation as to how this was done." To the contrary, the 2000 base year adjustment rationale and techniques are described on page 144 of the Revised 2001 Ozone Plan, and the simple correction algorithm is described in the penultimate paragraph.</p> <p>In paragraph 28, Fishman states that "[a]ssuming the models used in this plan are updated versions of the same model used in previously unsuccessful Ozone Attainment Plans...there is no technical assurance that any of the results from the attainment inventory assessment will bring the Bay Area into attainment...." The models used in the Revised 2001 Ozone Plan are updated versions of those used in the 1999 Plan. The 1999 Plan was very nearly correct in its prediction of attainment conditions starting in 2000. The air monitoring data indicate that the second exceedance at Livermore was only 2 parts per billion (ppb) over the attainment level of 124 ppb -- a difference of less than 2 percent. Recognizing the inherent uncertainties in air quality planning, and the short-term effects of meteorology, the year 2000 record does not discredit the use of the UAM photochemical model or the isopleth-based analysis of the</p>

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8.	CEQA – Negative Declaration	California Department of Transportation (<i>letter, October 15, 2001</i>) The Plan and its associated policies will not significantly impact the State transportation system.	<p>modeling results.</p> <p>In paragraph 30, Fishman states that EPA challenged the transportation emissions inventory for the 2001 Plan and disapproved the Plan in part because of the inventory. She also speculates that assumptions in the EMFAC 2000 about implementation dates for CARB rules and vehicle fleet turnover may be inaccurate. In fact, EPA did not challenge the inventory in the 2001 Plan, did not disapprove the 2001 Plan, and did not challenge the inventory for the 1999 Plan. The EMFAC 2000 mobile inventory does include CARB's projections for implementation of their rules, and projections of fleet composition. CARB uses the best information available to estimate the future mobile source emissions.</p> <p>Comment noted.</p>
9.	Control Strategy	Golden Gate University Environmental Law and Justice Clinic (<i>letter, October 17, 2001</i>) The co-lead agencies commitment to adopt control measures in the future is not a permissible substitute for a complete attainment demonstration or adopted, enforceable control measures. EPA does not have the statutory authority to allow the agencies to defer submittal of control measures required for attainment, nor does EPA have authority to accept commitments to adopt control measures in the future in lieu of submission of actual, currently adopted, enforceable measures.	<p>EPA has stated that the attainment assessment approach used in the 1999 Plan and this 2001 Plan is consistent with the Clean Air Act and EPA regulations (see 66 Fed. Reg. 48341, September 20, 2001)). As noted above in the staff response to comment 2, the Regional Planning Agencies and CARB commitment to a mid-course review which may include further emission reductions is intended to address long-term attainment target uncertainty that will exist in the San Francisco Bay Area until such time as the results of the Central California Ozone Study are available for use by the Regional Planning Agencies and CARB in approximately 2003. Because of the uncertainty in long-term projections, EPA has promulgated its position that the Weight of Evidence analysis can be the basis of a viable attainment demonstration. See "Approval and Promulgation of Implementation Plans; Texas; the Houston/Galveston Nonattainment Area; Ozone" (66 FR 36655, July 12, 2001). Not only does the Revised 2001 Ozone Plan show that</p>

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10.	Control Strategy	<p>Golden Gate University Environmental Law and Justice Clinic (<i>letter, October 17, 2001</i>) The adequacy of the control strategy cannot be demonstrated without a better understanding of the assumptions and judgments that were used to develop the ozone isopleth diagrams. The Plan should not be approved until supporting documentation can be reviewed by the public.</p>	<p>enforceable measures included in the it are sufficient to reach attainment, but the Revised 2001 Ozone Plan contains a provision for a mid-course review of monitoring data, emissions and modeling data to assess the extent to which refinements to the ozone control strategy are needed. The additional emission reductions committed to by the Regional Planning Agencies and CARB may not be necessary to reach attainment of the 1-hour ozone NAAQS depending upon the results of the f CCOS. The Regional Planning Agencies and CARB reliance on an enforceable commitment to additional emission reductions based upon a mid-course review/CCOS is based upon sound air quality planning principles and relevant portions of the federal Clean Air Act and the Code of Federal Regulations. See generally, 42 U.S.C. Sections 7410(a)(2)(A), (a)(2)(H)(i), (p) and 7502(c)(3), (6) and (8); 40 CFR Sections 51.101(c) and (e), 51.112(a) and 51.100(n).</p> <p>This information has been provided to the commentor.</p>
11.	Control Strategy	<p>California Council for Environmental and Economic Balance (<i>letter, September 25, 2001</i>) The Plan should (1) avoid or minimize a conformity lapse, (2) focus on attainment of the federal 1-hour ozone standard and not attempt to address other air quality issues, (3) focus on those measures that are reasonably available and provide for attainment, (4) use sound science in the attainment assessment and control strategy.</p>	<p>The schedule for the Revised 2001 Ozone Plan preparation was set to avoid or minimize the potential negative social, economic, and environmental effects to the Bay Area caused by a transportation conformity lapse. The Revised 2001 Ozone Plan is based on the mandates of the Clean Air Act as articulated by EPA in its final action to partially approve and disapprove the 1999 Plan and on the best air quality planning data currently available to the Regional Planning Agencies. The Revised 2001 Ozone Plan's focus is in attaining the national 1-hour ozone standard. The Revised 2001 Ozone Plan includes all control measures found to be reasonably available pursuant to 42 U.S.C. §7502(c)(1).</p>

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12.	Control Strategy	Sacramento Metropolitan Air Quality Management District (<i>letter, October 17, 2001</i>) The Plan does not specify enforceable emission controls or target source categories to achieve the additional emission reduction of 26 tons/day VOC. Waiting until the 2004 SIP revision is prepared could jeopardize attaining the standard by 2006.	See response to comment 2 above. In addition, the District, MTC and ABAG will work closely with ARB and EPA to identify any additional controls before adopting a new SIP in 2004. In 2002, the BAAQMD will begin the process of preparing a new plan for the State ozone standard. New measures that would be suitable for pursuing in a future federal ozone attainment plan may be identified in that process to achieve part of the 26 tons/day of ozone precursor emission reduction commitment, should these further emission reductions be required. ARB, MTC, and ABAG may also be seeking new measures to achieve additional emission reductions. When the next SIP is prepared, reviewed and considered for adoption in 2004, new stationary source or transportation control measures may already be adopted, or well advanced in the rule development process.
13.	Enforceability of Control Measures	Golden Gate University Environmental Law and Justice Clinic (<i>letter, October 17, 2001</i>) The emissions limitations and control measures contained in the Plan must be enforceable. Several Clean Air Act and General Preamble citations are provided.	The District agrees with the requirements of 42 U.S.C. § 7410 and 7502 as they relate to enforceable emission limitations and control measures. As discussed in the response to comment 2 above, the commitment for additional emission reductions is to address uncertainty in the attainment target. However, the commitment is subject to revision when that uncertainty can be removed through CCOS results or other modeling with a lower range of uncertainty. EPA has stated that the commitment to an additional 26 tons need not include a commitment to specific, enforceable measures at this time. See, "Approval and Promulgation of Implementation Plans; Texas; the Houston/Galveston Nonattainment Area; Ozone" (66 FR 36655, July 12, 2001).

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14.	Enforceability of Control Measures	Transportation Solutions Defense and Education Fund <i>(letter, October 17, 2001)</i> TCMs are not enforceable because they rely on other agencies, but no contractual obligations are identified.	Such contracts are not necessary given the funding provided by MTC is to specific project sponsors for specific purposes, which if not fulfilled can result in cessation of funding or repayment after an audit. The TCMs are also enforceable if MTC does not take the actions specified. A summary of the five Transportation Control Measures included in the Plan is set forth in Table A of this Addendum to address comments on TCMs generally.
15.	Environmental Justice	Transportation Solutions Defense and Education Fund <i>(letter, October 17, 2001)</i> The 2001 Plan should consider the differential benefits on low income communities and communities of color when determining which control measures to implement.	The Revised 2001 Ozone Plan contains <i>all</i> control measures that were deemed feasible for implementation and for attainment of the 1-hour ozone NAAQS. Although the District is committed to the goal of “environmental justice,” neither the state nor the federal government have articulated or promulgated enforceable guidance on air quality planning vis-à-vis environmental justice. Therefore, the Revised 2001 Ozone Plan does not include specific environmental justice elements. Please know that the Revised 2001 Ozone Plan is designed to improve the air quality for all the people who live, work and play in the San Francisco Bay Area.
16.	Further Study Measures	Transportation Solutions Defense and Education Fund <i>(letter, October 17, 2001)</i> Further study measures must show a schedule for development.	The Regional Planning Agencies have committed to a schedule for each further study measure. See the measures’ detailed descriptions on pages 138-143 of the Revised 2001 Ozone Plan.
17.	Potential to Delay Attainment for Sacramento	Sacramento Metropolitan Air Quality Management District <i>(letter, October 17, 2001)</i> Sacramento’s year 2005 attainment demonstration was developed when the Bay Area was considered to be in attainment. Delaying attainment in the Bay Area until 2006 could jeopardize attainment for Sacramento. Reevaluating the Bay Area Plan in 2003-04 does not provide sufficient time for corrective action.	Although the Bay Area no longer attains the 1-hour national ozone standard, emissions of both VOC and NOx have been declining steadily and significantly since the mid-1990s, and – due to the success of the state’s motor vehicle emission control program – are expected to decline in the future at a rate faster than was previously projected. Thus, holding the effect of weather constant, Sacramento should attain more quickly than it had previously projected.

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18.	RACM Analysis	Golden Gate University Environmental Law and Justice Clinic (<i>letter, October 17, 2001</i>) The <i>de minimis</i> doctrine cannot be used to avoid inclusion of measures in the Plan.	When applying a statute or regulation, an agency may, under some circumstances, employ a <i>de minimis</i> doctrine to avoid the imposition of burdens that produce trivial benefits. The cases cited by ELJC make it clear that the doctrine is well established in administrative law, but that its use depends upon whether a fair reading of the statute at issue and its legislative history would permit it. The Clean Air Act and EPA regulation interpreting the act provide for the use of the <i>de minimis</i> doctrine. In particular, EPA regulations specifically provide for use of the doctrine in determining whether proposed control measures are reasonably available and should be included in an ozone attainment plan. See generally, 66 FR 26929 (5/15/01), 42 U.S.C. § 7410(a)(2)(E)(ii), and page 48 of Revised 2001 Ozone Plan; Appendix C: Reasonably Available Control Measure Analysis.
19.	Reasonable Further Progress Demonstration	Golden Gate University Environmental Law and Justice Clinic (<i>letter, October 17, 2001</i>) The Plan does not include an acceptable demonstration of reasonable further progress since it does not include in its inventory projections the additional 26 tons/day of VOC reductions that will be necessary to achieve attainment by 2006.	EPA "relies on the implementation of control measures, which are designed to reduce precursor emissions, to determine whether or not progress in reduction of emissions is being made." (66 Fed. Reg. 48343, (Sept. 20, 2001).) EPA has found that the Bay Area made reasonable further progress through the implementation of measures included in the 1999 Plan. (Ibid.) We expect to implement measures included in the Revised 2001 Ozone Plan and believe EPA will be in a position to make a finding of reasonable further progress for this Plan. As noted in the Revised 2001 Ozone Plan, measurements of ozone precursor concentrations demonstrate that Bay Area control measures have produced significant emissions reductions over time (see pages 15 to 17 of the Revised 2001 Ozone Plan).
20.	Rule Coordination	San Joaquin Valley Air Pollution Control District (<i>letter, October 16 2001</i>) Establishing a program for coordination of planning and rule comparisons between the San Joaquin Valley and the BAAQMD would be beneficial.	Comment noted.

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21.	Schedule	California Council for Environmental and Economic Balance (<i>letter, September 25, 2001</i>) We question whether it makes sense to lock a specific date into the State Implementation Plan for completion of the mid-course review because it could force a decision without adequate time for evaluation or public participation.	ARB and EPA requested that the District include a specific date in the Plan.
22.	Technical Corrections	Transportation Solutions Defense and Education Fund (<i>letter, October 17, 2001</i>) On page 20, the VOC shortfall should be rounded to 27 tpd, not 26. On page 24, the 32.2 tpd stationary source VOC reduction should be 21.4 tpd, corresponding to the reduction shown in Table 10.	Figure 6 show 406 tons per day VOC as the attainment target. Figure 8 shows 432 tons per day as the projected 2006 VOC inventory with proposed measures. The difference is 26 tons per day. We agree with the page 24 correction.
23.	Transport	Assemblymember Dennis Cardoza (<i>letter, October 15, 2001</i>) ARB studies show that the Bay Area ozone impacts the San Joaquin Valley, and that a commensurately higher burden for reducing emissions is imposed on the area as a result.	We agree that the BAAQMD transports ozone downwind to the San Joaquin Valley and other neighboring air basins. Requirements for mitigating transport are addressed by the California Clean Air Act – not federal law. ARB's transport mitigation policy calls for Districts responsible for transport to adopt Best Available Retrofit Control Technology (BARCT) rules on sources that comprise 75% of the VOC and NOx inventory for permitted stationary sources. The BAAQMD complied with this requirement in 1994. At such time as ARB or EPA identifies new transport mitigation requirements, the BAAQMD will proceed expeditiously to implement them.

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24.	Transport	Sacramento Metropolitan Air Quality Management District (<i>letter, October 17, 2001</i>) Recent modeling shows that peak ozone in the Sacramento air basin should be responsive to NOx reductions in the Bay Area. The Bay Area plan should include NOx control strategies until photochemical modeling demonstrates that NOx emissions reductions are not necessary for attainment both in the Bay Area and the downwind districts.	The recent analysis (Blanchard, C.L. and S. Tanenbaum. 2001. "Characterization of CCOS Intensive Operating Periods, Task 4c Supplemental Analyses: Corroborative Analysis." Paper prepared for the Central Coast Ozone Study, 11 May) in fact suggests that peak ozone at Sacramento air basin sites may not be NOx limited and may be responsive to Bay Area VOC reductions. Given that Bay Area NOx reductions would be counterproductive to Bay Area attainment, it simply does not make sense for the Bay Area to adopt NOx controls when VOC controls are likely to benefit both regions. While no new NOx measures are proposed in the 2001 Plan, the Bay Area's total NOx emissions are projected to be reduced from 655 tons/day in 2001 to 524 tons/day in 2006, a 20% reduction in only 5 years.
25.	Transport	San Joaquin Valley Air Pollution Control District (<i>letter, October 16 2001</i>) The 2001 Plan still does not address the impact of emission sources in the Bay Area on exceedances of the 1-hour ozone standard in the San Joaquin Valley and other downwind air basins. Additional pollution measures are readily available to reduce the transport of ozone.	See above response to Assemblymember Dennis Cardoza (comment 23). We are not aware of feasible measures that have not been included in the Plan.

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#	ISSUE	COMMENT	STAFF RESPONSE
26.	BART Service during late night hours	Rebecca Kaplan (<i>e-mail, October 17, 2001</i>) Provide service on BART routes during late night hours.	While this measure may contribute to better 24-hour mobility, it would be expensive and would not affect a large segment of regional travelers, which new TCMs need to target to be effective. Also early morning emission reductions are more important than those at night in terms of their contribution to daytime ozone formation.
27.	Bikes	Rebecca Kaplan (<i>e-mail, October 17, 2001</i>) Require that all places of public accommodation provide bicycle parking that is equal in number to the vehicle parking provided.	Bicycle parking alone would not necessarily create a significant incentive unless the surrounding areas had bike routes and safety features conducive to bicycling. The number of spaces provided should be commensurate with the actual potential for bike use.
28.	Bridge Pricing	Arthur Keller (<i>e-mail, September 22, 2001</i>) Consider congestion management in the form of bridge toll pricing and allowing carpools to travel free outside the commute period. Rebecca Kaplan (<i>e-mail, October 17, 2001</i>) Use congestion pricing on bridge tolls. Charge higher tolls during the peak.	The general viability of bridge tolls as a TCM is discussed in the RACM analysis. Because of rising costs of bridge seismic retrofit projects, the State Legislature recently revisited the level of tolls currently charged on the bridges and extended the current \$2 toll until 2038 in order to finance the higher retrofit costs and to provide funds for congestion relief projects in the toll bridge corridors. While there has been limited discussion in Sacramento of raising the toll to \$3 on the seven state owned bridges, it is unlikely that there is sufficient legislative interest to seek higher tolls in the peak period or overall at present (or by 2006). Allowing more cars to travel free in the off peak is in conflict with bond provisions and is not economically feasible.
29.	Caltrain Service Improvements	Arthur Keller (<i>e-mail, September 22, 2001</i>) Additional improvements warranted: 1) electrification, 2) grade separation of tracks and local streets, 3) addition of passing tracks to facilitate express service. Rebecca Kaplan (<i>e-mail, October 17, 2001</i>) Complete the Downtown Extension/Transbay Terminal Project.	The emission benefits of programmed improvements to Caltrain, e.g. passing tracks for more express service, are assumed in the baseline emission calculations and are therefore not listed as a separate TCM. Other improvements noted are longer term and would likely not be operational by the attainment deadline. Both electrification and additional grade separations are in the financially constrained Regional Transportation Plan as longer term Caltrain service improvements.

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30.	CEQA – Declaration, TCM 2	Communities for a Better Environment (<i>letter, October 17, 2001, declaration of Schuyler Beth Fishman</i>) The declaration suggests that by “omitting TCM 2”, the Revised Plan will lead to reduced transit ridership, increased VMT and increased vehicle emissions, thereby triggering the need for an environmental impact report.	MTC has performed all implementation steps specified in the SIP for TCM 2 and provided for the emission reduction shortfalls of this and other TCMs through the adoption of contingency TCMs in 1991. TCM 2’s description in the 1982 Plan clearly indicates the 15% ridership level was an assumption in the emission reduction calculation, not a requirement to achieve a specified transit level. Further, MTC has obtained a conformity sign-off from the US Federal Highway Administration and Federal Transit Administration for all previous regional plans and TIPs, confirming this interpretation. Also note that the region was in attainment of the 1-hour ozone standard for five years even without the projected ridership growth.
31.	CEQA – Declaration, TCM A	Communities for a Better Environment (<i>letter, October 17, 2001, declaration of Schuyler Beth Fishman</i>) In paragraphs 45 through 51, Fishman speculates that TCM A could have a significant environmental impact because it would put 90 new regional express buses on Bay Area roads, thereby increasing diesel exhaust emissions and other pollutant emissions.	These paragraphs of the declaration remain unchanged from an earlier version that accompanied CBE comments on the July version of the Plan. TCM A, however, has been modified since July to specify that all buses purchased for this express bus program will comply with all CARB emission standards and will, in addition, be required to have particulate traps or filters for diesel particulates. The CARB particulate matter standards are 0.05 grams per brake-horsepower-hour currently and 0.01 grams per brake-horsepower-hour as of 1/1/03. Even if we assume, very conservatively, that (1) all buses would only meet the less stringent standard and would not have particulate traps, (2) all would be rated at 400 horsepower, and (3) all would be continuously operated for 12 hours per day, total particulate emissions would be less than 50 pounds per day. (These are bus emissions only, and don’t account for reduced particulate emissions from reduced auto travel associated with TCM A.) The BAAQMD has not established thresholds of significance for diesel bus emissions. However, 50 pounds per day is well below the BAAQMD CEQA threshold of significance for project operations, which is 80 pounds per day for particulate emissions. Furthermore, those thresholds are generally oriented toward emissions that come from a localized project

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32.	CEQA – Declaration, TCM D	Communities for a Better Environment (<i>letter, October 17, 2001, declaration of Schuyler Beth Fishman</i>) Paragraphs 52 speculates that TCM D might have a significant environmental impact because it would put more freeway service trucks into service, which might increase emissions.	<p>or area, while express bus emissions would be dispersed throughout the Bay Area. With respect to emissions of ozone precursors, the emission reduction calculations for TCM A include increased emissions from buses and conclude that the measure will produce a <i>net reduction</i> of both ROG and NOx.</p> <p>This paragraph of the declaration remains unchanged from an earlier version that accompanied CBE comments on the July version of the Plan. TCM D, however, has been modified since July to specify that all trucks used to expand the freeway service patrol will be new vehicles that meet all CARB emission standards. Studies have shown that the existing freeway service patrol (which obviously uses trucks older than the new trucks that will be used to expand the program) reduces emissions (see Page 128 of the Plan). The emission reduction calculations for TCM D include increased emissions from the freeway service patrol vehicles and conclude a <i>net reduction</i> of both ROG and NOx.</p>
33.	Clean Fuel Vehicles	Rebecca Kaplan (<i>e-mail, October 17, 2001</i>) Require that all government-purchased new vehicles use non-polluting or least-polluting technologies.	<p>The BAAQMD already provides incentives to government agencies for the purchase of clean air vehicles through its Transportation Fund for Clean Air. It also administers grant funds for this purpose through the Carl Moyer Program and California Energy Commission funds. Many agencies have opted to take advantage of these incentives. Thus, we do not believe that an outright ban on the purchase of new vehicles that meet California’s very stringent tailpipe standards would be appropriate. The Air Resources Board has already adopted a statewide transit bus rule, and will continue to implement tailpipe and fuel regulations that yield significant reductions in motor vehicle emissions.</p>
34.	CMAQ allocation	Transportation Solutions Defense and Education Fund (<i>letter, October 17, 2001</i>) Allocate CMAQ funds only to cost effective air quality projects first.	<p>This suggestion presumes that there are existing and new TCMs which lack funding, which is not the case.</p>

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35.	Conformity Lapse	Alameda County Congestion Management Agency (<i>letter, October 8, 2001</i>) The CMA urges the approval of the Revised Plan. If the Plan is not approved, the Bay Area would encounter a conformity lapse that would impact the delivery of \$1.2 billion of transportation projects.	Comment noted.
36.	Conformity Lapse	City / County Association of Governments of San Mateo County (<i>letter, October 12, 2001</i>) The C/CAG urges the approval of the Revised Plan. If the Plan is not approved, the Bay Area would encounter a conformity lapse that would impact the delivery of \$1.2 billion of transportation projects.	Comment noted.
37.	Conformity Lapse	City of Millbrae (<i>letter, October 12, 2001</i>) The City urges the approval of the Revised Plan. If the Plan is not approved, the Bay Area would encounter a conformity lapse that would impact the delivery of \$1.2 billion of transportation projects.	Comment noted.
38.	Conformity Lapse	Port of Oakland (<i>letter, October 8, 2001</i>) The Port urges the approval of the Revised Plan. If the Plan is not approved, the Bay Area would encounter a conformity lapse that would impact the delivery of \$1.2 billion of transportation projects.	Comment noted.
39.	Conformity Lapse	Sonoma County Transportation Authority (<i>letter, October 8, 2001</i>) The SCTA urges the approval of the Revised Plan. If the Plan is not approved, the Bay Area would encounter a conformity lapse that would impact the delivery of \$1.2 billion of transportation projects.	Comment noted.
40.	Conformity Lapse	Transportation Solutions Defense and Education Fund (<i>letter, October 17, 2001</i>) The 2001 Plan is a very involved and expensive attempt to avoid the embarrassment and criticism that will result from a lengthy conformity lapse – without doing anything substantive to improve air quality. The Plan does not contain meaningful emissions reductions.	The purpose of the 2001 Plan is to protect public health by re-attaining the national one hour ozone standard, not to avoid a conformity lapse. The Plan includes new control measures that will reduce VOC emissions by 12.7 tons/day and NOx emissions by 0.7 tons/day by 2006.

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#	ISSUE	COMMENT	STAFF RESPONSE
41.	Electric Vehicle Charging	Arthur Keller (<i>e-mail, September 22, 2001</i>) The BAAQMD should fund the full costs of electric vehicle charging equipment in all public lots / garages with parking for 100 or more vehicles.	The Transportation Fund for Clean Air (TFCA) funds many different types of projects, all of which benefit air quality. Fully funding EV charging equipment would result in many other, equally effective projects not receiving funds. Requiring project sponsors to provide matching funds allows more charging outlets to be installed with the same level of TFCA grant money.
42.	Parking	Rebecca Kaplan (<i>e-mail, October 17, 2001</i>) Prohibit Bay Area cities and counties from providing free parking for employees. This would be required as condition for receiving regional funds. Robert T. Piper (<i>October 17, 2001 e-mail</i>) Parking fees and restricted provision of parking space are equally effective means of reducing VMT per capita by making driving more expensive.	Discussed in RACM section of the Plan. Please refer to RACM Section I, #19 which addresses issue of MTC conditioning transportation funds. A Further Study Measure has been defined to address development of parking incentive programs.
43.	RACM Analysis TCMs	Transportation Solutions Defense and Education Fund (<i>letter, October 17, 2001</i>) The RACM analysis is neither convincing nor authoritative. It certainly does not meet the burden imposed on the agency Robert T. Piper (<i>e-mail, October 17, 2001</i>) The discussion of TCMs is a plaidoyer for doing nothing that might bring about change. Actions that might be effective are rejected as unpersuasive excuses or bad analysis or both.	The Plan attempts to address the effectiveness of a wide range of TCMs that were suggested. In fact there are 47 pages of RACM discussion for TCMs alone. The analysis is based on experience since 1982 in evaluating TCMs coupled with general EPA criteria for defining measures that are in fact reasonably available.

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#	ISSUE	COMMENT	STAFF RESPONSE
44.	RACM-Air District CEQA Guidelines	Transportation Solutions Defense and Education Fund (<i>letter, October 17, 2001</i>) The District's CEQA Guidelines describe a number of mitigation measures which are reasonably available, and thus should be included in the Plan.	The Guidelines strongly <i>encourage (emphasis added)</i> local governments to incorporate a long list of potential mitigation measures in different development projects that ultimately get approved by these jurisdictions. The applicability of the suggested menu would depend on the location and nature of a particular project. The District does not have the authority to implement these suggestions. In terms of having MTC implement the suggestions by conditioning funding, this type of measure has been previously considered in the existing RACM analysis (Section 1, #19). The Revised Plan proposes several further study measures (FS-4, FS-5, FS-7) which, if they prove to be reasonably available, could provide incentives to local governments to implement some of the land use measures discussed in the Guidelines.
45.	Regional Gas Tax	Rebecca Kaplan (<i>e-mail, October 17, 2001</i>) Implement a regional gas tax for the Bay Area. Use funds to improve public transit, bicycle, and pedestrian access.	MTC has conducted various polls to determine the potential to put such a measure on the ballot. The poll results, coupled with current economic conditions, indicate that such a measure would likely not be able to achieve the 2/3 majority vote required for passage.
46.	Regional Transportation Mitigation Fee	Transportation Solutions Defense and Education Fund (<i>letter, October 17, 2001</i>) A mitigation fee should be enacted by each local jurisdiction, proportional to a project's contribution to regional auto congestion, with projects paying more with distance from the urban core. MTC should require that such a fee be in place before jurisdictions are eligible to receive MTC funding.	This proposal is functionally similar to others of the same kind that have been previously addressed in RACM, namely the conditioning of funding to local jurisdictions by MTC (See Section I, #19 of the RACM analysis). The current SMART Growth initiative is the regional strategy for seeking consensus on future land use. The fact that a particular city (the letter cites the City of Lancaster, CA) has a program with certain parallels to the author's suggestion does not make such a measure readily available to other levels of government.

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47.	Shuttles	Arthur Keller (<i>e-mail, September 22, 2001</i>) Shuttles should consider not only shuttles to work sites, but shuttles in residential and shopping areas. Consider additional funding for municipalities to develop such services.	Local shuttles can provide useful alternatives to using a car in selected markets. Long term operating subsidies would be needed, since such services would not likely meet their operating costs from the farebox. When funding for shuttles is available, these new services are usually given a window of time to develop their ridership, after which they need to become largely self supporting. Because of their local orientation, new local sources of revenue are the most appropriate for such shuttles.
48.	Smog Check Program	California Council for Environmental and Economic Balance (<i>letter, September 25, 2001</i>) Enhanced inspection and maintenance issues are transport issues that have been controversial between elected officials in the Bay Area and the San Joaquin Valley for years and would be more appropriately dealt with in ARB's review of transport mitigation or in the Legislature.	Comment noted. We would certainly prefer not to address the issue through this Plan.
49.	Smog Check Program	Arthur Keller (<i>e-mail, September 22, 2001</i>) Require annual smog inspections, at least for cars that have failed Smog Check or are over a certain age. Expand smog inspections to full mechanical inspections. Raise the repair limit that the owner must spend to repair a failed vehicle.	Changes that are recommended would have to be applied on a statewide basis – not just in the Bay Area. The issues identified are periodically reviewed by the California Bureau of Automotive Repair, the agency that administers Smog Check. The Revised Plan does include proposals for other improvements to the Smog Check program in the Bay Area (see page 40 of the Plan).

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50.	Smog Check Program	<p>Joel Schwartz (<i>letter, September 26, 2001</i>) ARB should not require the Enhanced Smog Check program for the Bay Area because (1) the areas in the Sacramento and San Joaquin Valleys most affected by Bay Area transport have the cleanest air in their respective air basins, and the areas with high ozone are minimally affected by Bay Area transport, (2) based on ARB data and projections, mobile source emissions will decrease by at least 85% during the next 20 to 30 years so that mobile sources, with or without Smog Check, will contribute little to pollution, (3) the Enhanced Smog Check program will cost Bay Area consumers an additional \$60 million per year with little justification, and (4) if ARB still wishes to require the program in the Bay Area it should limit application to cars that are 10 years old or more or the fit a high emitter profile, allow only Gross Polluter Certification stations to participate, and implement on-road remote sensing to identify gross polluters.</p>	Comment noted.
51.	Smog Check Program	<p>Assemblymember Dennis Cardoza (<i>letter, October 15, 2001</i>) Smog Check II should be included as an element of the 2001 Plan. It is required in all urban areas in California.</p>	<p>Smog Check II was designed by California to meet the federal Clean Air Act requirement for an Enhanced Inspection and Maintenance Program in those air basins classified as <i>serious</i> or worse for the national 1-hour ozone standard. At the time the 1990 CAA Amendments was enacted, as well as at present, the Bay Area's ozone values indicate a <i>moderate</i> classification. So Smog Check II is not required of the Bay Area. Furthermore, Smog Check II is not required in all urbanized areas in California except the Bay Area. It only applies to the urbanized portion of areas classified as serious or worse. Many other urban areas of the State are not subject to Smog Check II (Chico, Monterey, San Luis Obispo, Santa Barbara). Furthermore, most of the land area of the San Joaquin Valley is not subject to Smog Check II.</p> <p>The 2001 Plan does include some improvements to the Bay Area's I & M Program – a liquid leak inspection and an improved evaporative system test. It also includes a further study measure to identify new elements of Smog Check that would be effective in reducing VOC emissions.</p>

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52.	Smog Check Program	Sacramento Metropolitan Air Quality Management District <i>(letter, October 17, 2001)</i> The Bay Area should implement Smog Check II. It is required under Clean Air Act Sections 110 and 172.	See above response to Assemblymember Cardoza. No basis is provided for the claim that the Bay Area must implement Smog Check II under the sections of the Clean Air Act that have been cited. The Clean Air Act requires Enhanced I & M only in ozone nonattainment areas designated as "serious" or worse.
53.	Smog Check Program	Sacramento Metropolitan Air Quality Management District <i>(letter, October 17, 2001)</i> Smog Check II has not been analyzed as a Reasonably Available Control Measure, for both VOC and NOx combined. It was rejected only based only on its NOx emissions reductions.	The Plan isopleths and the modeling that supports them show that the Bay Area is VOC limited. If NOx reductions are added to the VOC reductions we are proposing to get from the improvements to the Smog Check program included in the plan as control measure MS-1, it would diminish the effectiveness of these VOC reductions. The program was not rejected only on its NOx emission reductions.
54.	TCM E-Access to Airport	Transportation Solutions Defense and Education Fund <i>(letter, October 17, 2001)</i> TCM E does not qualify as a control measure as it is merely an accounting of trips not counted by the travel model.	The end result in terms of vehicle emissions is still the same. If counted by the travel model, the results would be contained in the baseline and would affect the transportation emission budget in the same manner. Since the BART SFO extension is not operational, there is clearly going to be a real reduction in air passenger vehicle travel which must be accounted for in some manner.
55.	Transfer of Development Rights, SIP Credit	Transportation Solutions Defense and Education Fund <i>(letter, October 17, 2001)</i> The Air District should purchase development rights on the fringes of the Bay Area and transfer these development rights to urbanized areas near transit stops in order to claim SIP credit by slowing the rate of growth of VMT.	In order to claim SIP credit for land use measures (or any other control measures), the federal Clean Air Act and EPA regulations require that such emission reductions be real, surplus, quantifiable, permanent, and enforceable. The Air District does not believe that such a transfer of development rights system that meets these rigorous requirements could be implemented in the planning horizon of this Plan. However, the Air District, MTC and ABAG recognize the potential benefits of more infill and transit-oriented development, and have therefore embarked on the Regional Agencies Smart Growth process. This process will identify more sustainable land use patterns and necessary incentives, which could then inform future regional projections and plans.

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56.	Transportation Control Measures	Sacramento Metropolitan Air Quality Management District (<i>letter, October 17, 2001</i>) It would be helpful to see the methodology for quantifying the estimated reductions in VMT and emissions for the TCMs.	The emission reduction calculations for the Revised Plan's TCMs have been sent to Sacramento Metropolitan AQMD.
57.	Transportation Control Measures	Santa Clara Valley Transportation Authority (<i>letter, October 15, 2001</i>) VTA supports transportation control measures that encourage, promote and increase the use of alternative travel modes.	Comment noted.
58.	Trucks and Congestion	Arthur Keller (<i>e-mail, September 22, 2001</i>) Reducing congestion reduces pollution, so limiting truck traffic during commute hours may well have more than a de minimis effect.	Given that traffic demand exceeds capacity in most of the major truck corridors, eliminating truck traffic during peak hours would likely cause other auto trips that currently take place outside these hours to shift their trips to the peak period and thus fill in the freed up capacity. Thus, when this effect is considered together with the fact that the truck emissions are not lowered, only shifted in time, the overall impact on motor vehicle emissions is considered de minimis.
59.	Vehicle Buy Back Program	Arthur Keller (<i>e-mail, September 22, 2001</i>) Increase the purchase and retirement of gross polluters. Apply a vehicle registration surcharge on vehicles based on amount of pollution produced, but do not adjust for vehicle size or capacity. Require new and used car dealers to affix a sticker to the vehicle identifying the level of pollution.	The Transportation Fund for Clean Air has significantly increased the number of older vehicles that have been retired over the last several years. New vehicles have a pollution sticker. Used vehicles must pass Smog Check requirements before being sold.
60.	VMT Growth	Rebecca Kaplan (<i>e-mail, October 17, 2001</i>) Plans should need to demonstrate that they will not lead to greater growth in vehicle miles of travel than population.	No agency has the broad powers necessary to achieve such a stringent requirement. Current estimates of longer range mobile source emissions show a continued absolute decline in VOC and NOx; therefore, the ozone plan does not require such a strategy for attainment of the 1-hour standard.

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61.	CEQA – Environmental Setting / Inventory	Communities for a Better Environment (<i>letter, October 17, 2001</i>) The environmental setting description for the plan is inaccurate because the Plan’s inventory estimate of 13 tons per day for refinery flare emissions may understate flare emissions since it is based on an assumption that flare combustion efficiency is 99%.	<p>The inventory estimate for refinery flare emissions is not based on an assumption that flare combustion efficiency is 99% as discussed below.</p> <p>Earlier versions of the Plan listed refinery flare emissions as 0.1 tons per day and noted that emissions from accidents and process upsets were not included in this total. The inventory has historically not included episodic emissions because it is required to reflect typical summer day emissions. However, because of suggestions that flare emissions are regular enough to be considered “typical,” the District decided to average annual flare emissions to a per/day basis and include them in the inventory in order to ensure that its inventory did not understate emissions. In doing so, the District used data from its 1990 flare study.</p> <p>Based on the 1990 study’s estimates of quantities of gas flared, preliminary flare emission estimates presented to CBE ranged from 13 tons per day (assuming 99% flare efficiency) to 134 tons per day (assuming 90% flare efficiency). However, after these estimates were presented to CBE, District engineers noted that a primary assumption of these estimates was that the hydrocarbon content of flared gases is 95%. This is not a valid assumption. A more sophisticated analysis was therefore developed which took into account the actual hydrocarbon contents and molecular weights from the 1990 study. An efficiency ranging between 80% and 98% was then assigned to each flare based on a recent technical paper (McCready, D. 2001. <i>Industrial Flares: Linking Plume Dispersion with Combustion</i>, paper AT-4a#6, 93rd Annual Meeting of the Air and Waste Management Association). The more sophisticated analysis produced an emissions estimate of 13 tons per day.</p> <p>The 13 ton-per-day estimate may overstate emissions because 70% of the emissions come from a single flare that burns large quantities of low-BTU gas. The analysis assumed</p>

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62.	Control Strategy	Western States Petroleum Association (<i>e-mailed document dated October 11, 2001</i>) Control measures for refineries will not help achieve the federal 1-hour ozone standard in the Bay Area because trajectory analysis shows that reduction of refinery emissions would not reduce ozone precursors in Livermore.	<p>that the hydrocarbon content of that gas was 16%. Recent data shows, however, that the hydrocarbon content is about 1% methane.</p> <p>Though we agree that there is uncertainty about current flaring emissions, the available data indicates that the estimate included in the Plan is appropriate. The uncertainty about flaring emissions is the reason that control measure SS-15, requiring flare monitoring, and further study measure FS-8, which would study the feasibility of measures to reduce emissions associated with refinery blowdown systems, have been included in the Plan.</p>
63.	Control Strategy	Western States Petroleum Association (<i>e-mailed document dated October 11, 2001</i>) Bay Area refineries have already reduced emissions by 51% since 1979, and the Plan's control measures for refineries will result in small incremental emission reductions at high cost, thereby diverting District resources from emission sources responsible for non-attainment in Livermore.	<p>While it is true that the District's analysis of the 1995 and 1996 ozone seasons indicates that the primary source region for the precursors that form ozone in the Livermore area is the San Francisco-Oakland area, the Vallejo-Martinez-Concord area has been a source region for some Livermore ozone episodes.</p> <p>Control Measure SS-12, which would require better seals and more frequent inspections for refinery storage tanks is expected to reduce emissions by approximately 1.9 tons per day at reasonable costs. This is a significant emission reduction. The other refinery control measures for flares, valves, and process vessel depressurization are expected to produce much more modest emission reductions, but at modest costs.</p>
64.	Control Strategy	Western States Petroleum Association (<i>e-mailed document dated October 11, 2001</i>) Because both the Plan's isopleth analyses and prevailing scientific opinion indicate that NOx reductions will increase Bay Area ozone, consideration of further NOx controls is counterproductive.	<p>We agree that, for the short term, further NOx reductions will not accelerate progress toward Bay Area attainment of the national 1-hour ozone standard by 2006. We believe, however, that in the longer term, attainment of the state ozone standard may require further NOx reductions.</p>

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65.	Control Strategy	Communities for a Better Environment (<i>letter, October 17, 2001</i>) The plan fails to describe the control strategy that will reduce emissions by an additional 26 tons per day. This is inconsistent with federal Clean Air Act requirements and is an inadequate project description under CEQA	<p>EPA guidance specifically provides for a Weight of Evidence (WOE) approach to demonstrating attainment (see <i>Guidance On Use Of Modeled Results To Demonstrate Attainment Of The Ozone NAAQS</i>, EPA-454/B-95-007.) That approach shows that the 2001 Plan will lead to attainment in 2006. However, because the Plan uses older UAM runs and, in general, relies on a WOE approach that involves greater uncertainty than UAM runs using current data (which will not be available until 2003), EPA has required the District to commit to additional emission reductions. The District has made that commitment in the Plan. EPA has not required the identification of specific measures in the 2001 Plan to implement this commitment, particularly since it is subject to revision in light of the 2003 modeling.</p> <p>With respect to the CEQA project description, as noted in the Revised Plan the District, MTC and ABAG will conduct a midcourse review in 2003 and will revise the Plan in 2004 to incorporate the results of the midcourse review and any additional control measures needed to demonstrate attainment. Because EPA has not required identification of specific control measures at this time, no additional reasonably available control measures have been proposed. Thus, any assessment at this time of potential environmental impacts of unspecified control measures would be highly speculative. When the Plan is revised in 2004, it will undergo environmental analysis as required by CEQA.</p>

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66.	Distributed Power Generation / Solar Photovoltaics	Arthur Keller (<i>e-mail, September 22, 2001</i>) The need for power production should be reduced through use of distributed electricity generation. Public buildings should install solar photovoltaic systems.	<p>Diesel generators are the most common and cheapest form of distributed generation. Distributed generation is typically more polluting per unit of energy production than a modern, natural gas-fired power plant. Thus, from an air quality perspective, we do not recommend distributed power production.</p> <p>On the other hand, solar power does have enormous potential, and new photovoltaic technology has significantly lowered the cost of solar power. However, reducing energy production at power plants by subsidizing solar power would have the effect of reducing nitrogen oxides. The Bay Area must reduce volatile organic compounds in order to attain the national ozone standard.</p>
67.	Emission Reduction Credits	Arthur Keller (<i>e-mail, September 22, 2001</i>) Establish a program for pollution reduction credits, and create a market for selling these credits.	Pursuant to Health & Safety Code § 40709 et seq., such an emission reduction credit market already exists in the Bay Area, and trades are handled through a District-operated emissions bank.
68.	Further Study Measures	Western States Petroleum Association (<i>e-mailed document dated October 11, 2001</i>) WSPA opposes the inclusion of the four refinery study measures (FS-8, FS-9, FS-10, FS-11) because it singles out refineries for expensive and infeasible emission reductions.	The refinery-related further study measures do not themselves require controls. While it is true that the results of a study could point to further controls, those controls would only be adopted if they met the requirements of state law and were both technically feasible and cost effective.
69.	Leaf Blowers	Rebecca Kaplan (<i>e-mail, October 17, 2001</i>) Ban fuel-powered leaf blowers by government agencies, and provide incentives to encourage municipalities to ban them.	Leaf blowers have been banned in some jurisdictions, but a regionwide ban is not justified based on pollution impacts to the public. Exhaust standards already in place have significantly reduced exhaust emissions from the engines used on leaf blowers, and manufacturers have reduced CO emissions further than required by the standards. Ultra low or zero exhaust emitting leaf blowers could further reduce public and worker exposures. ARB staff is exploring the potential for further technology advancement in this area. The BAAQMD routinely asks that people refrain from the use of gasoline-powered leaf blowers on Spare the Air days.

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70.	Public Process	Communities for a Better Environment (<i>letter, October 17, 2001</i>) The air district's failure to adequately include the public through in its decision-making process - by barring the public from a meeting and by giving two week notice for community meetings - constitutes environmental injustice.	<p>As CBE is well aware neither the District nor MTC nor ABAG barred CBE or anyone else from attending the July 18, 2001 public meeting on the Proposed Final 2001 Ozone Plan (July 2001) at the Cathedral Hill Hotel, San Francisco. In response to CBE's demonstration at the Cathedral Hill Hotel, a private hotel detective/security agent, acting on complaints from hotel guests and without the knowledge of the District or the other Regional Planning Agencies, attempted to bar CBE from the hearing room. When the District learned of this action, District staff directed hotel staff to allow CBE to enter the room.</p> <p>Ironically, a large contingent that included CBE representatives had earlier disrupted and attempted to obstruct public participation in a well-noticed Plan workshop in Oakland on May 30, 2001.</p>
71.	RACM - RACT Adjustment of Emission Reduction Credits	Golden Gate University Environmental Law and Justice Clinic (<i>letter, October 17, 2001</i>) The Plan should require that emission reduction credits used for offsets be surplus through RACT adjustment of credits at the time of use, which would produce additional inventory reductions of both VOCs and NOx.	<p>As CBE is also well aware, the District held six community meetings in late August, largely in response to CBE requests. The District provided ample notice and opportunity for CBE and for community members to participate prior to July 2001, after July 2001 and prior to the October 24, 2001 meeting on the Revised 2001 Ozone Plan and Draft Negative Declaration.</p> <p>The District 's air pollution control permitting program complies with the new source review requirements set forth in the federal Clean Air Act (42 U.S.C. § 7503), federal regulations (40 CFR § 51.165 and Appendix S to Part 51, and state Clean Air Act (Health & Safety Code § 40709 et seq. and 40918. In the District, new source review offsets may come from contemporaneous emission reductions or through the use of credits from prior reductions. The federal Clean Air Act also requires that emission reductions used as offsets must not be otherwise required by the Act. In other words, emission reductions for new source review offsets must be surplus of required emission reductions. The District complies with this requirement of the federal Clean Air Act and a similar provision in state law. Therefore, this proposal</p>

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72.	RACM – Refinery Control Measures	Communities for a Better Environment (<i>letter, October 17, 2001</i>) District staff members Jim Guthrie and Jim Karas have stated that they do not disagree that the refinery measures proposed in CBE's August 9, 2001 letter are technically feasible.	<p>to RACT adjust emission reduction credits upon use is neither legally required or necessary for purpose of this federal ozone attainment plan.</p> <p>If all credits were required to be RACT adjusted, as ELJC suggests, it would require the District to establish a complex tracking mechanism to track all requirements that would apply to each source after it generated a credit, even if the credit was generated through shutdown of the source. Additionally, one of the key factors in the success of the offset program has been its predictability. The suggested control measure would greatly increase the uncertainty of value of credits in the bank, as they could be effectively confiscated at any time. This, in turn, would greatly increase the incentive for facilities to use, rather than conserve, emission credits, putting the emissions into the air instead of keeping them on paper. For all of these reasons, and because this suggestion goes beyond RACT requirements, this is not a reasonably available control measure.</p> <p>District staff stated that it is possible that all of the measures are feasible but that it would take more work to determine whether they could be adopted and implemented. The essential questions are whether the measures would be safe, would result in emission reductions, and would be cost effective. To explore these questions, the District has already embarked on rule development activities for a number of the measures. At present, however, the measures do not appear to be reasonably available, as we have discussed in the Plan and in previous responses to CBE comments. The rule development activities will help the District determine, through further study, whether the measures can be implemented in the future.</p>

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73.	RACM – Refinery Flare Controls	<p>Western States Petroleum Association (<i>e-mailed document dated October 11, 2001</i>) CBE suggestion that flare emissions may be reduced through increased gas recovery capacity is unrealistic because, of the three types of flaring – general process venting, safety venting, and vessel depressurization venting – only general process venting, which refineries already minimize, can be controlled through increased gas recovery. Gas recovery compressors cannot capture safety venting because of the rapid and significant changes in flow rates involved and they cannot recover depressurization venting because depressurization generates “off-spec” gas that cannot be used in the fuel gas system.</p>	<p>Though gases from safety venting and depressurization venting may not be available for recovery through increased gas recovery capacity, there may be some potential for reducing the flaring of general process gas. Though it is true that refiners have incentives to reduce general process flaring, there is considerable uncertainty about the volumes of process gas flared in the refineries. Control measure SS-15, which requires flare monitoring, is intended to provide information that might help reduce this type of flaring. In addition, further study measure FS-9 will examine whether flaring reductions are feasible and cost-effective.</p>
74.	RACM – Refinery Pressure Relief Devices	<p>Western States Petroleum Association (<i>e-mailed document dated October 11, 2001</i>) CBE suggestion that atmospheric venting of pressure relief valves be banned raises serious safety concerns and has already been addressed by BAAQMD Regulation 8, Rule 28.</p>	<p>The District reviewed the CBE suggestion during the rule development process that led to the current Regulation 8, Rule 28. This regulation is the only air district regulation in California to require controls on pressure relief valves that have vented. But, for safety reasons, the rule stops short of banning all atmospheric venting. Both District engineers and representatives from Contra Costa County Health Services agreed that a ban on atmospheric venting was unwise. The existing relief system at a refinery is sized to accommodate reasonably foreseeable venting from those processes and vessels that are vented to it. To require any significant additional venting to be directed to the relief system has potential to overwhelm the system, thereby leading to an increase in risk rather than a reduction. Nevertheless, the District has added further study measure FS-9 to the 2001 Plan to study whether there may be some additional PRVs that can be vented to refinery relief systems without increasing risks.</p>

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75.	RACM – Refinery Storage Tanks	Western States Petroleum Association (<i>e-mailed document dated October 11, 2001</i>) CBE suggestions that external floating roof tanks be converted to internal floating roof tanks and that regulatory exemptions for low-vapor-pressure liquids be removed are not reasonable or cost-effective means of reducing emissions.	Though we agree that conversion of external floating roof tanks to internal floating roof tanks appears unlikely to produce overall emission reductions because of what appear to be similar control efficiencies for the two tank types, we have chosen to examine the assumption that the control efficiencies are similar through further study measure FS-10. As noted above, if such controls are not reasonable and cost effective, they will not be adopted. Similarly, though extending control to lower vapor pressure liquids does not appear to be a reasonably available control measure, we will also examine this issue through FS-10.
76.	RACM - Refinery Wastewater Ponds	U.S. Environmental Protection Agency (<i>letter, October 3, 2001</i>) Wastewater ponds emit 2 tons per day of volatile organic compound emissions, according to a BAAQMD estimate, and odors and VOC emissions could be reduced through the use of floating covers.	The Plan does not include an estimate of emissions from refinery wastewater ponds, which are one component in a refinery wastewater system. In the 2001 Plan inventory, emissions from all components of Bay Area refinery wastewater systems are estimated to be 3.5 tons per day. BAAQMD staff have stated that roughly half of these emissions come from the “front end” of these systems and half come from the “back end.” Wastewater ponds are one of a number of different emission sources found in the “back end.” The ponds are the final treatment stage before water can be released into San Francisco Bay. Water entering the treatment ponds has very low organic content (approximately 20 ppm), but most of these organic compounds must be removed by biological degradation to meet Clean Water Act requirements. Some of these compounds are volatilized and emitted to the atmosphere. Emissions for one refinery’s large treatment pond with a flow rate of 10 million gallons per day have been estimated, using EPA’s WATER8 model, to be approximately 150 pounds per day. This means that total wastewater pond emissions for the Bay Area refineries are likely to be no more than 0.4 tons per day. The biological degradation process that occurs in the ponds through planktonic and microbial action requires very high aeration rates and sunlight. No cover has been found to be capable of admitting the sunlight necessary for the biological process

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#	ISSUE	COMMENT	STAFF RESPONSE
77.	RACM – Refinery Wastewater Treatment Systems	Western States Petroleum Association (<i>e-mailed document dated October 11, 2001</i>) CBE suggestion that refinery wastewater ponds be replaced with tanks or otherwise covered is not technically feasible or cost effective and would jeopardize a refinery’s ability to meet Clean Water Act requirements.	<p>and, at the same time, containing or controlling the high pressures that would result from covering ponds through which large quantities of air are pumped. This is not a reasonably available control measure.</p> <p>Though covering ponds is not a solution for the odors that may be produced by the ponds, considerable research is currently being conducted by universities and other institutions so that the action of treatment pond biological communities can be better understood and controlled. This research, some of which is being conducted by Lawrence Berkeley Laboratory, holds potential for reducing odors from wastewater ponds.</p>
78.	RACM - Control Measure SS-14	Golden Gate University Environmental Law and Justice Clinic (<i>letter, October 17, 2001</i>) The Plan should define the rule changes for the aqueous solvent cleaning measure to include: (1) removal of the exemption for single and permitted cold cleaners, and (2) a requirement that batch loaded and	<p>Refinery wastewater systems have been regulated for years under District Regulation 8, Rule 8 and under EPA’s National Emission Standard for Benzene Waste Operations (40 CFR Part 61, Subpart FF). Enclosure or other controls are now required on most wastewater system components. However, most refineries still have open wastewater ponds (sometimes called bioreactors or biox cells) that are used as the final step in wastewater treatment systems prior to discharge. These ponds require both sunlight and high aeration rates (achieved by pumping air through the ponds) for proper operation (see response to comment 76). The ponds simply cannot be contained or covered if they are to perform the important final step in the waste treatment process. However, the remainder of each refinery’s wastewater system may hold some potential for emission reductions, but, because each system is unique, identifying potential controls will require detailed study of the systems at each refinery. For this reason, the District has added further study measure FS-9 to the 2001 Plan.</p> <p>The purpose of control measure SS-14 is to replace the current exemptions in District Rule 8-16 noted by ELJC with a 50 gram-per-liter standard that would apply to general cleaning, such as that regulated by SCAQMD Rule 1171, and degreasing machines, such as those regulated by SCAQMD</p>

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		conveyorized cold cleaners meet a 25 gram per liter limit.	Rule 1122. Most air districts, including the BAAQMD, regulate these two types of solvent cleaning in a single regulation. The projected emission reductions noted for control measure SS-14 come from application of the low-VOC requirement to both types of cleaning. Although the SCAQMD VOC standard for batch-loaded and conveyorized cold cleaners has been recently lowered from 50 g/l to 25 g/l, no additional emission reductions would be expected from implementing this limit rather than the 50 g/l limit proposed by SS-14 because, according to SCAQMD data, most cleaning solutions meeting a 50 g/l standard actually have a VOC content of less than 25 g/l. For example, the aqueous solutions used by Safety-Kleen in Los Angeles contain no VOC. Note that Safety-Kleen services most of the cold cleaners in the Bay Area.
79.	RACM - Control Measure SS-14	NORA (<i>letter, October 12, 2001</i>) Control measure SS-14, Aqueous (Water-Based) Solvents, is a product of political pressure and (1) overstates emission reductions through inaccurate counts of cleaning units and inaccurate emission factors, (2) produces minimal ozone benefits because the mineral spirits used in most units is not very reactive in forming ozone, (3) leads to greater use of aerosol cans that undercut emission reductions, and (4) leads to increased water pollution.	We have used what we feel are reasonable estimates for unit counts and emission factors. We have based these estimates in part on data supplied by Safety-Kleen, a NORA member company that services about 75% of the parts cleaners in the Bay Area and accounts for almost all of NORA's claimed market share of 85% to 90%. We agree that certain mineral spirits formulations are not very reactive, but EPA has been extremely reluctant to approve reactivity-based regulations. The available evidence indicates that measures like SS-14 have not resulted in any significant increased use of spray cans or in water quality problems in the Los Angeles area. We also note that Safety-Kleen successfully converted approximately 30,000 mineral spirits parts cleaners in the Los Angeles area to aqueous systems in 2000.
80.	RACM - Control Measure SS-11	Golden Gate University Environmental Law and Justice Clinic (<i>letter, October 17, 2001</i>) Architectural coating control measure SS-11 should include VOC limits and implementation dates from SCAQMD Rule 1113 where they are more stringent than the CARB SCM.	The more stringent South Coast AQMD limits that ELJC suggests should be included in the Revised 2001 Ozone Plan are called the "Tier II limits." The Tier II limits are technology-forcing limits that cannot be achieved today with current technology and are subject to a technology review by SCAQMD before implementation. In addition, CARB prepared a program EIR for the SCM to help local air districts that are expected to face CEQA litigation from the paint

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81.	Research and Development Grants	Arthur Keller (<i>e-mail, September 22, 2001</i>) Fund research and development in alternative energy production and low / nonpolluting transportation systems.	<p>industry in adopting the SCM limits. The local districts will only be able to use this EIR if the VOC limits and compliance dates are identical to those in the SCM. Development of the SCM and EIR has taken several years. In addition, the success of the CARB statewide regulatory program for architectural coatings depends upon all local air districts adopting the SCM limits and compliance dates. For these reasons, the ELJC suggestion is not a reasonably available control measure.</p> <p>The BAAQMD does not currently fund Research & Development projects or programs. Both the California Energy Commission and the California Air Resources Board have active research programs in these areas.</p>
82.	Trees, Planting of	Arthur Keller (<i>e-mail, September 22, 2001</i>) Plant more trees to absorb or reduce pollution.	<p>Although increasing vegetation that can shade buildings and pavement may lead to cooler surfaces on hot days, adding large amounts of vegetation can have negative consequences for ozone attainment, as many species produce high amounts of volatile organic compounds (VOCs). The Bay Area must reduce VOCs to attain the national ozone standard.</p>

Table A

Summary of Transportation Control Measures in the Revised Ozone Attainment Plan

The following is a short summary of the Transportation Control Measures (TCMs) included in the Revised Ozone Attainment Plan. MTC is committed to funding transit programs and projects that encourage alternatives to automobile use. The five TCMs being added to the Plan will either encourage transportation alternatives or decrease freeway congestion. In addition to remedying some of the region's traffic problems, the TCMs will also provide air quality benefits.

1. TCM A:

TCM A is MTC's Regional Express Bus Program, which is funded with \$40 million from the state. We worked very hard with many of the advocates for bus services in the region, and with the Governor's staff and the Legislature, to help secure the funds for this program, as identified in Government Code Section 14556.40(a)(10), enacted as part of the state's newly established Traffic Congestion Relief Fund. Many of the region's public bus transit operators have been working with us since the passage of the legislation in preparing specific express bus programs. Each of the operators, as the actual service providers, has completed the necessary environmental review of its express bus proposal, and determined in all cases that the impacts are less than significant. We have reviewed each of the proposals, and have forwarded them on to the California Transportation Commission (CTC). The CTC is responsible for approving the funds from the \$40 million to purchase buses for the express bus programs. We expect that all \$40 million will be allocated and that the service providers will implement express bus services in accordance with their proposals.

2. TCM B:

TCM B is a commitment of \$15 million in FY2004-2006 for MTC's bicycle and pedestrian program funded with Transportation Development Act Article 3 funds (Public Utilities Code Section 99233.3). The program has been ongoing since the 1970s. We have reviewed the projects funded over the past three years by this program, and most of them, as would be expected, have no adverse impact on the environment. These projects have complied with CEQA by preparing either a negative declaration or a notice of categorical exemption. In any event, we have modified this TCM since July to provide that in the future, "MTC will only fund projects that are exempt from CEQA, have no significant adverse environmental impacts or adequately mitigate any significant adverse environmental impacts (projects with adverse environmental impacts that cannot be mitigated would need to secure funding from other sources)." We anticipate that all \$15 million will be allocated.

3: TCM C:

TCM C is our Transportation for Livable Communities Program, a highly regarded Commission initiative to help local agencies and community groups "...define and implement transportation projects that support community plans." MTC has completed three funding cycles of this program, with each of the projects that have been approved to date enjoying tremendous local support. This TCM commits \$27 million in FY2004-2006 for the continuation of this program to fund projects similar to those approved over the past three cycles. We anticipate that all \$27 million will be allocated. To assure that future projects funded under this TCM will be environmentally sound and similar to those already funded, we have added the same funding limitation to TCM C as we have with TCM B. That is, MTC will not fund TLC projects that result in significant environmental impacts that cannot be mitigated. In addition, we have deleted from this revised version of TCM C, MTC's Housing

Table A

Incentive Program (HIP). This deletion in no way affects our support for the HIP program. However, due to concerns raised by comments related to the possibility of growth inducement, MTC will not include the HIP program in the Ozone Attainment Plan.

4. TCM D:

TCM D is a commitment to add approximately 55 lane miles by December 2006 to our Freeway Service Patrol program. MTC is already implementing this TCM, expanding the program to include most of the additional 55 lane miles in this current fiscal year (2001-2002). We plan to add at least the balance of the 55 miles by 2003, well ahead of the December 2006 commitment date. Depending on available funding, we may actually add more lane miles than is required by this control measure. This program, which covered well over 300 route miles in July 2000, was first introduced in 1992 in Contra Costa County. The program has been expanded to all nine bay area counties. It offers free tow and emergency road services on Bay Area freeways and other roadways. It has been identified by the federal Department of Transportation in 1996 as one of twelve exemplary innovative transportation projects in the country for helping to improve air quality. MTC's record of this control measure includes documentation of the program's benefits and positive public feedback over the past nine years. One feature of the program that was not noted in the TCM previously is that the tow truck fleet is required to meet all applicable California Air Resources Board motor vehicle standards. That requirement has now been specifically added to this TCM.

5. TCM E:

TCM E is a restatement of MTC's commitment to the BART transit access to San Francisco International Airport, scheduled to begin

operations in FY2003. This service, once started, will help reduce the number of automobile trips to and from the airport.

6. Assessment of all of the TCMs:

In its effort to assess the enforceability, feasibility, effectiveness, and environmental impacts of these TCMs, MTC staff has relied upon various reports, studies, and proposals related to past and ongoing similar TCMs. For instance, with respect to TCM A, staff relied on analyses indicating which bus routes would maximize ridership and consequently generate the best possible emissions offset. In both the case of TCM A, and TCM D, bus and tow truck emissions were factored in when calculating net emission reductions. With respect to TCMs B and C, staff reviewed numerous past applications for program funding over the past three years, covering the time span of the current Regional Transportation Plan and the Transportation Improvement Program. Staff, as expected, found that none of the specific projects in each of the approved programs generated any unmitigated significant environmental impacts. Similarly, with respect to TCM D, staff relied upon air quality studies that demonstrate the substantial reduction in ozone precursor pollutants incident to unclogged freeways will substantially outweigh the emissions contribution from new tow trucks. These reports, studies, and other materials have been previously available to the public in connection with past projects, or are currently included in MTC's files in connection with the Revised Ozone Attainment Plan. These materials include drafts of environmental documents that have been released for public review, as well as internal MTC memoranda. These documents, along with others relevant to the staff's and Commission's decision on the merits of the Revised Ozone Attainment Plan, are all part of what constitutes the record of proceedings, in accordance with Public Resources Code Section 21167.6 of the California Environmental Quality Act.

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