

Attachment 4
Addendum to the October 17, 2001 Staff Report
Chytilo Comments on the Revised Plan and Staff Responses

This attachment is a review of an additional set of comments received on October 22, 2001 but not included in Attachment 3.

#	ISSUE	COMMENT	STAFF RESPONSE
1.	Commitment	Law Offices of Marc Chytilo (<i>letter, October 17, 2001</i>) The Ozone Attainment Plan is a “commitment SIP” and therefore illegal.	<p>The thrust of the Chytilo argument is that the Plan’s commitment to achieve additional emission reductions, should those prove necessary, constitutes a “commitment SIP” and is therefore illegal. But the Plan’s attainment assessment shows that the region will reach attainment without this commitment. The additional commitment serves to address the uncertainty that will exist until Central California Ozone Study data is available for new photochemical model runs. (See Attachment 3, responses to Comments 2 and 13).</p> <p>Chytilo has suggested that the Bay Area situation is similar to that in the Houston/Galveston area, where EPA has proposed approval of a SIP submittal that included commitments to achieve additional emission reductions of 56 tons per day. The crucial distinction, however, is that the modeling and weight of evidence demonstration done by the State of Texas showed that an additional 96 tons per day of emission reductions were required. The Bay Area 2001 Ozone Plan makes the case that the proposed new measures will be adequate to attain the standard. The commitment to additional reductions is in response to EPA comments and is pending additional technical analysis to be completed in 2003. The 2001 Plan is therefore not a commitment SIP.</p> <p>Even if the Bay Area Plan is a “commitment SIP,” EPA has proposed approval of the SIP commitment for the Houston area. The Houston area violated the national 1-hour standard 44 times in 2000. The Bay Area exceeded the standard twice last year and once this year, so the scope of additional controls is very different.</p>

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2.	Control Strategy	Law Offices of Marc Chytilo (<i>letter, October 17, 2001</i>) The control strategy is vague because it states that emission reductions from stationary control measures will come from <i>any combination</i> of those measures and emission reductions from transportation control measures will come from <i>any combination</i> of those measures.	The control strategy statement recognizes inherent uncertainties in air quality planning and rule development. It is structured in this manner to ensure that if any control measure falls short of the emission reduction projection made for the measure in the Plan, that shortfall can be made up through other measures for which emission reductions may exceed projections. This does not make the Plan vague. The District and MTC have committed to adopt all of the measures in the Plan. It is simply not possible to have complete certainty about emission reductions until detailed analysis and the rule development process have been conducted.
3.	Transport	Law Offices of Marc Chytilo (<i>letter, October 17, 2001</i>) The Plan is inadequate until it prohibits emissions contributing to transport.	Requirements for mitigating transport are addressed by the California Clean Air Act – not federal law. ARB’s transport mitigation policy calls for air 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.