

effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent corrosion or fatigue cracking of certain structural elements, which could result in reduced structural integrity of the airplane, accomplish the following:

#### Inspections

(a) Except as provided by paragraph (b) of this AD, perform structural inspections to detect corrosion or fatigue cracking of certain structural elements of the airplane, in accordance with the applicable service bulletins listed under "Service Bulletin Number, Revision, and Date" in Tables I and II of Lockheed Service Bulletin 093-51-040, Revision 1, dated October 1, 1997. Perform the initial inspections at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD. Thereafter, repeat each inspection at an interval not to exceed that specified in the applicable service bulletin.

(1) Prior to the threshold specified in the individual service bulletin listed in Table I or II of Lockheed Service Bulletin 093-51-040, Revision 1, as applicable.

(2) Within one repetitive interval after the effective date of this AD, as specified in the individual service bulletin listed in Table I or II of Lockheed Service Bulletin 093-51-040, Revision 1, as applicable.

(b) The structural inspections specified in Lockheed Service Bulletins 093-53-268, Revision 1, dated July 2, 1996, and 093-53-272, Revision 1, dated March 17, 1997; as listed in Table II of Lockheed Service Bulletin 093-51-040, Revision 1, dated October 1, 1997; are not required by this AD. The inspections specified in these service bulletins are required by AD 99-08-20, amendment 39-11128.

#### Corrective Action

(c) If any cracking is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the actions specified in paragraph (c)(1), (c)(2), (c)(3), or (c)(4) of this AD.

(1) Repair in accordance with the applicable service bulletin referenced in Table I or II of Lockheed Service Bulletin 093-51-040, Revision 1, dated October 1, 1997.

(2) Repair in accordance with the applicable section of the Lockheed L-1011 Structural Repair Manual.

(3) Accomplish the terminating modification in accordance with the applicable service bulletin referenced in Table I or II of Lockheed Service Bulletin 093-51-040, Revision 1, dated October 1, 1997.

(4) Repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

#### Terminating Action

(d) Install the terminating modification referenced in each service bulletin listed in Table II of Lockheed Service Bulletin 093-

51-040, Revision 1, dated October 1, 1997; in accordance with the applicable service bulletin listed under "Service Bulletin Number, Revision, and Date" in Table II of Lockheed Service Bulletin 093-51-040, Revision 1. Except as provided by paragraph (e) of this AD, install each modification at the later of the times specified in paragraphs (d)(1) and (d)(2) of this AD. Such installation constitutes terminating action for the applicable structural inspection required by paragraph (a) of this AD.

**Note 2:** Installation of the terminating modifications specified in Lockheed Service Bulletin 093-53-268, Revision 1, dated July 2, 1996, and Lockheed Service Bulletin 093-53-272, dated November 12, 1996, does not constitute terminating action for the repetitive inspection requirements of AD 99-08-20, amendment 39-11128.

(1) Prior to the threshold specified in the applicable service bulletin listed in Table II of Lockheed Service Bulletin 093-51-040, Revision 1.

(2) Within 5 years or 5,000 flight cycles after the effective date of this AD, whichever occurs first.

(e) At the later of the times specified in paragraphs (e)(1) and (e)(2) of this AD: Install the terminating modification listed in Lockheed Service Bulletin 093-57-215, as referenced in Table II of Lockheed Service Bulletin 093-51-040, Revision 1, dated October 1, 1997. Such installation constitutes terminating action for the inspections required by AD 98-10-14, amendment 39-10526.

(1) Prior to the threshold specified in Lockheed Service Bulletin 093-57-203, Revision 5, dated April 22, 1996.

(2) Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first.

#### Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

#### Special Flight Permits

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 18, 1999.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99-16157 Filed 6-24-99; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 20

RIN 1076-AD95

### Financial Assistance and Social Services Programs

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The comment period on the Bureau of Indian Affairs' proposed rule to govern the Financial Assistance and Social Services Program is hereby extended to provide additional opportunity for public comment. In response to tribal requests for additional time, the comment period is extended for 60 days. The proposed rule was published in the **Federal Register** on May 6, 1999 (64 FR 24296).

**DATES:** The comment period is extended from July 6, 1999 to September 7, 1999.

**ADDRESSES:** Send comments to Bureau of Indian Affairs, Division of Social Services, 1849 C Street, NW, MS-4660-MIB, Washington, DC 20240, or telephone number (202) 208-2479.

**FOR FURTHER INFORMATION CONTACT:** Larry Blair, Chief, Division of Social Services, Bureau of Indian Affairs, 202-208-2479.

Dated: June 19, 1999.

**Kevin Gover,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 99-16251 Filed 6-24-99; 8:45 am]

BILLING CODE 4310-02-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA-221-158; FRL-6366-6]

### Approval and Promulgation of Implementation Plans; California—Owens Valley Nonattainment Area; PM-10

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the State Implementation Plan (SIP) submitted by the State of California for attaining the particulate matter (PM-10) national ambient air quality standards (NAAQS) in the Owens Valley Planning Area, along with the State's request for an extension to December 31, 2006 to attain the PM-10 NAAQS in the area.

EPA is proposing to approve the SIP revision and extension request under provisions of the Clean Air Act (CAA) regarding EPA action on SIP submittals, SIPs for national primary and secondary standards, and plan requirements for nonattainment areas.

**DATES:** Written comments on this proposal must be received by July 9, 1999.

**ADDRESSES:** Comments should be addressed to the EPA contact below. Copies of the State's submittal and other information are contained in the docket for this rulemaking. The docket is available for inspection during normal business hours at the following location:

U. S. Environmental Protection Agency, Region 9, Air Division, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the SIP materials are also available for inspection at the addresses listed below:

California Air Resources Board, 2020 L Street, P.O. Box 2815, Sacramento, CA 95814.

Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514.

**FOR FURTHER INFORMATION CONTACT:**

Larry Biland, U. S. Environmental Protection Agency, Region 9, Air Division (AIR-2), 75 Hawthorne Street, San Francisco, CA 94105-3901, (415) 744-1227.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

**A. Executive Summary**

**1. The Particulate Matter Problem in Owens Valley**

Owens Lake is located in Inyo County in eastern-central California. The lake is part of a chain of lakes formed during the late Pleistocene Epoch. In 1913, the Los Angeles Department of Water and Power (LADWP) completed an aqueduct system and began diverting the waters of the Owens River to the City of Los Angeles. By 1930, these diversions had drained Owens Lake almost completely dry.

Strong winds over the dry, alkaline bed of Owens Lake have produced among the highest measured concentrations of PM-10 ever recorded, more than 25 times the federal 24-hour standard.<sup>1</sup> Analysis of meteorological

data and PM-10 samples in the Owens Valley Planning Area during days when violations are recorded shows that 94 percent of PM-10 concentrations come from the Owens Lake bed and another 5 percent come from reentrained Owens Lake dust already deposited in the area. Annual PM-10 emissions from Owens Lake may exceed 400,000 tons, and dust transport from the Lake can result in violations of the 24-hour PM-10 NAAQS more than 40 miles to the South.<sup>2</sup>

Approximately 40,000 permanent residents live in the area affected by Owens Lake particulate emissions. Included in this number are members of 4 tribes: the Lone Pine Paiute/Shoshone Tribe, the Fort Independence Tribe, the Big Pine Tribe, and the Bishop Tribe. Residents and visitors to the area suffer the health effects from high PM-10 concentrations, including lung damage, increased respiratory disease, and premature death. Children, the elderly, and people suffering from heart and lung disease, such as asthma, are especially at risk. Moreover, the dust from the lake bed contains carcinogenic compounds, including arsenic, nickel, and cadmium.<sup>3</sup>

Elevated levels of Owens Valley particulate matter harm visibility and vegetation as far as 150 miles away. Included in the impact area are 3 national parks (Death Valley, Kings

over a 3-year period does not exceed 50 micrograms per cubic meter (ug/m3). The 24-hour PM-10 standard of 150 ug/m3 is attained if samples taken for 24-hour periods have no more than one expected exceedance per year, averaged over 3 years. See 40 CFR 50.6 and 40 CFR part 50, appendix K.

On July 18, 1997, EPA reaffirmed the annual PM-10 standard, and slightly revised the 24-hour PM-10 standard (62 FR 38651). In the same action, EPA also established two new standards for PM, both applying only to particulate matter up to 2.5 microns in diameter (PM-2.5).

This SIP submittal addresses the 24-hour and annual PM-10 standards as originally promulgated. A recent opinion issued by the U.S. Court of Appeals for the D.C. Circuit in *American Trucking Assoc., Inc., et al. v. USEPA*, No. 97-1440 (May 14, 1999), among other things, vacated the new standards for PM-10 that were published on July 18, 1997 and became effective September 16, 1997. However, the PM-10 standards promulgated on July 1, 1987 were not an issue in this litigation, and the Court's decision does not affect the applicability of those standards in this area. Codification of those standards continues to be recorded at 40 CFR 50.6. In the notice promulgating the new PM-10 standards, the EPA Administrator decided that the previous PM-10 standards that were promulgated on July 1, 1987, and provisions associated with them, would continue to apply in areas subject to the 1987 PM-10 standards until certain conditions specified in 40 CFR 50.6(d) are met. See 62 FR 38701. EPA has not taken any action under 40 CFR 50.6(d) for the Owens Valley Planning Area.

<sup>2</sup> Owens Valley PM-10 Planning Area Demonstration of Attainment State Implementation Plan ("1998 SIP"), pp. S-5 and S-3.

<sup>3</sup> 1998 SIP, pp. S-3 and 3-12.

Canyon, and Sequoia), 4 wilderness areas (Domeland, Golden Trout, John Muir, and South Sierra), 1 national historic site (Manzanar), and 2 national forests (Inyo and Sequoia). Finally, Owens Lake dust events adversely affect operations at China Lake Naval Air Weapons Station, since many of the Navy's operations require good visibility.<sup>4</sup>

**2. The Owens Valley PM-10 Plan**

On November 16, 1998, after over a decade of planning, research, analysis, and negotiation, the Governing Board of the Great Basin Unified Air Pollution Control District ("the District") unanimously adopted the 1998 Revision to the Owens Valley PM-10 Planning Area Demonstration of Attainment State Implementation Plan ("the 1998 SIP" or "the plan"). While the District was principally responsible for the plan, there were many participants in the planning process, including the California Air Resources Board (CARB), LADWP, the City of Los Angeles, the tribal governments, Federal land managers, the Navy, the State Lands Commission, and members of the public.

In preparing the 1998 SIP, the District and the other plan participants confronted one of the most challenging air quality problems: how to reduce peak PM-10 concentrations from almost 4000 micrograms per cubic meter (ug/m3) to the 24-hour NAAQS of 150 ug/m3.<sup>5</sup> While the origin of the PM-10 problem was well understood—the draining of Owens Lake by the City of Los Angeles in the early part of this century, and continued LADWP withdrawals from Owens River—the solution to the problem, particularly over the relatively short time allowed under the CAA, proved controversial.

Among the unique complexities of the Owens Valley PM-10 planning process are the competing authorities and responsibilities of the District to protect Owens Valley residents from the harmful effects of air pollution and the City of Los Angeles to provide its residents with an adequate water supply.

In 1983, the California Legislature attempted to resolve these contentious issues by enacting Senate Bill 270 (California Health and Safety Code section 42316). This law has the following provisions:

(a) it exempts water-gathering operations from State air quality permit regulations;

<sup>4</sup> 1998 SIP, pp. 3-13 through 3-15.

<sup>5</sup> A 24-hour PM-10 concentration of 3,929 ug/m3 was recorded at Keeler on April 13, 1995 (1998 SIP, p. A1-27).

<sup>1</sup> EPA revised the NAAQS for particulate matter on July 1, 1987 (52 FR 24672), replacing standards for total suspended particulates with new standards applying only to particulate matter up to 10 microns in diameter (PM-10). At that time, EPA established two PM-10 standards. The annual PM-10 standard is attained when the expected annual arithmetic mean of the 24-hour samples averaged

(b) it provides that the City of Los Angeles must fund control measure development and must implement reasonable measures ordered by the District to mitigate the impacts of its water diversion activities at Owens Lake, on the basis of substantial evidence establishing that the City's activities cause or contribute to violations of federal or State air quality standards;

(c) it prevents the District from mandating measures that affect the City's right to produce, divert, store, or convey water; and

(d) it provides opportunities for the City to appeal to CARB any measures or fees imposed by the District.

Before settling on the 3 primary control measures in the plan, the District examined many strategies but found them not to be feasible or effective in significantly reducing dust emissions from the lake bed. Rejected measures include use of sprinklers, chemical dust suppressants, surface compaction, sand fences, and brush fences.

In cooperation with LADWP, the District designed and issued a unique order to the City.<sup>6</sup> The order requires the City to implement 3 measures: shallow flooding, managed vegetation, and application of gravel cover. The order further provides that implementation will proceed in 2 increments, each divided into 3 phases, and covering the period 1999 through 2006.

Although small scale tests have been performed, the plan's technically difficult dust controls have never been applied over an area the size of the Owens Lake project—a 35-square mile control area within the 110-square mile lake bed.<sup>7</sup> For this reason, the order provides that the District will periodically assess the actual effectiveness of the controls, and will revise the SIP by December 31, 2003, to incorporate the knowledge gained by previous implementation of control measures, in order to ensure sufficient reductions to attain the NAAQS by 2006. EPA agrees with the District and the City that this empirical approach is appropriate in view of the area's challenging control strategies and unique emission reduction requirements.

As discussed below, EPA proposes to approve this SIP as a critically important blueprint for clean air in one of the country's most difficult PM-10 nonattainment areas. Primary credit for this remarkable achievement is shared by the District and LADWP, and successful plan implementation will require that both agencies continue to work effectively together. However, the other participating members of the public and the State's air pollution professionals should also be commended for assisting in the identification and refinement of the control approaches included in the plan, and their continued involvement will be vital as the plan is carried forward and evolves in the future.

#### *B. CAA Requirements*

The Federal CAA was substantially amended in 1990 to establish new planning requirements and attainment deadlines for the NAAQS. The most fundamental of these nonattainment area provisions applicable to Owens Valley is the requirement that the State submit a SIP demonstrating attainment of the PM-10 NAAQS. This demonstration must be based upon enforceable measures to achieve emission reductions leading to emissions at or below the level predicted to result in attainment of the NAAQS throughout the nonattainment area. The measures must meet the standard for Best Available Control Measures (BACM), and the measures must be implemented expeditiously and ensure attainment no later than the applicable CAA deadline.

EPA has issued a "General Preamble" describing the Agency's preliminary views on how EPA intends to act on SIPs submitted under Title I of the Act. See 57 FR 13498 (April 16, 1992), 57 FR 18070 (April 28, 1992). EPA later issued an Addendum to the General Preamble providing guidance on SIP requirements for serious PM-10 areas. 59 FR 41998 (August 16, 1994). The reader should refer to these documents for a more detailed discussion of EPA's preliminary interpretations of Title I requirements. In this proposed rulemaking action, EPA applies these policies to the Owens Valley PM-10 SIP submittal, taking into consideration the specific factual issues presented.

#### *C. Designation and Classification*

On the date of enactment of the 1990 CAA Amendments, PM-10 areas, including the Owens Valley Planning Area, meeting the qualifications of section 107(d)(4)(B) of the amended Act, were designated nonattainment by operation of law. See 56 FR 11101

(March 15, 1991). The boundaries of the Owens Valley nonattainment area (Hydrologic Unit #18090103) are codified at 40 CFR 81.305.

Once an area is designated nonattainment, section 188 of the CAA outlines the process for classification of the area and establishes the area's attainment date. In accordance with section 188(a), at the time of designation, all PM-10 nonattainment areas, including Owens Valley, were initially classified as moderate by operation of law. Section 188(b)(1) of the Act further provides that moderate areas can subsequently be reclassified as serious before the applicable moderate area attainment date if at any time EPA determines that the area cannot "practicably" attain the PM-10 NAAQS by this attainment date.

CARB submitted a moderate area PM-10 SIP for Owens Valley on January 9, 1992. Based on this submittal, EPA determined on January 8, 1993, that Owens Valley could not practicably attain by the applicable attainment deadline for moderate areas (December 31, 1994, per section 188(c)(1) of the Act), and reclassified Owens Valley as serious (58 FR 3334). In accordance with section 189(b)(2) of the Act, the applicable deadline for submittal of a SIP for Owens Valley addressing the requirements for serious PM-10 nonattainment areas in section 189(b) and (c) of the Act is February 8, 1997—4 years after the effective date of the reclassification (58 FR 3340–1).

#### *D. Adoption and Submittal of the 1998 SIP*

Because of controversy regarding appropriate control requirements, the plan was not adopted until November 16, 1998. Following adoption by the District, CARB also adopted the 1998 SIP and submitted it to EPA on December 10, 1998. On February 2, 1999, EPA deemed the submittal complete.<sup>8</sup>

Both the District and CARB satisfied applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption of the plan. The District conducted numerous public workshops and properly noticed the public hearing at which the plan was adopted. The SIP submittal includes proof of publication for notices of the public hearing. Therefore, EPA proposes to approve the 1998 SIP as meeting the public notice and involvement requirements of section 110(a)(1) of the CAA.

<sup>8</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

<sup>6</sup> Great Basin Unified Air Pollution Control District Board Order #981116–01, November 16, 1998, adopted as part of Governing Board Resolution No. 98–05. The order and control measures are discussed in more detail below, in section I.F.

<sup>7</sup> The SIP control measures are discussed in detail in section I.F., below.

### E. Emissions Inventories

The plan includes 1995 baseline emissions inventories for peak 24-hour and annual emissions in tons per day. The inventory covers the expected control area for the plan, the southern half of the nonattainment area, which includes all sources that have been found to contribute to PM-10 violations. Because future emissions are not expected to change significantly in this rural and relatively undeveloped area, the attainment year inventories are assumed to be identical to the 1995 inventories.

The peak 24-hour PM-10 inventory includes 8,346 tons per day (tpd) from wind erosion on the exposed Owens dry lake bed; 516 tpd from off-lake sources of lake bed dust; and 42 tpd from prescribed burning. The Owens Valley inventory has insignificant emissions from major source categories in typical PM-10 nonattainment areas, including reentrained dust from motor vehicles (0.15 tpd unpaved roads, 0.19 paved roads), residential wood burning (0.24 tpd), and industrial facilities (0.23 tpd, plus a proposed soda ash project projected to emit 0.51 tpd). Secondary aerosols are also insignificant PM-10 sources in Owens Valley, and so the inventories are for primary particulate only.

Where appropriate, the District used EPA emission factors (Compilation of Air Pollution Emissions Factors, AP-42, USEPA, 1985). The District relied on permitted emissions for the area's 4 industrial facilities. Finally, the District developed specific emission algorithms for wind erosion based on wind tunnel studies (1998 SIP, section 4-3). The plan provides adequate documentation of the wind erosion emission factor development and validation.

EPA concludes that the emissions inventories are comprehensive, accurate, and current, and that they are consistent with EPA's guidance.<sup>9</sup> EPA proposes to approve the emissions inventories as meeting the requirements of section 172(c)(3) of the CAA.

### F. Control Measures

#### 1. Description of Control Measures

The plan includes 3 control measures, each of which is designed to reduce emissions from the Owens Lake bed. They are shallow flooding, managed vegetation, and gravel cover. The following is a brief summary of each of the measures, which are described at more length in Chapter 5 of the 1998 SIP.

#### a. Shallow Flooding

This control measure consists of releasing water along the upper edge of the Owens Lake bed and allowing it to spread and flow down-gradient toward the center of the lake. To attain the required PM-10 control efficiency, the District concludes that at least 75 percent of each square mile of the control area must be wetted to produce standing water or surface saturated soil, between September 15 and June 15 of each year. The District estimates that a maximum of 4 acre-feet of water is required annually to control PM-10 emissions from an acre of lake bed.

To maximize project water use efficiency, flows to the control area will be precisely regulated so that only the exact amount of water is released to keep the soil wet. Although the quantity of excess water will be minimized through system operation, any water that does reach the lower end of the control area will be collected in berms keyed into lake bed sediments and pumped back to the outlets to be reused.

Shallow flooding will require the City to construct a large-scale water transmission, distribution, and outlet infrastructure; electrical power lines; access roads; and water control berms. The City will take appropriate steps to minimize adverse environmental impacts during this construction and after flooding. The project will include a program to remove any salt cedar (*Tamarix ramosissima*) and other undesirable non-native plant and grass species that invade wet playa areas. The City must also prevent disruption of shorebird breeding activities when water delivery is reduced on June 15 of each year. Finally, the City will design and implement mosquito abatement programs, including the erection of bat roosting structures, and will monitor the impact of any pesticide usage to ensure that mosquito control activities do not result in unacceptable rates of egg thinning and failure.

#### b. Managed Vegetation

This control measure consists of creating a farm-like environment containing a mosaic of small (approximately 4 to 20 acre) confined fields constructed of saltgrass (*Distichlis spicata*) that are irrigated with shallow pulses of water. The City will need to carefully monitor release of water to leach soils to within a level suitable for saltgrass. Saltgrass will be the only plant species to be introduced to the fields. It is tolerant of relatively high soil salinity, spreads rapidly via rhizomes, and provides good protective cover year-round even when dead or dormant.

Saltgrass stands can subsist with minimal amounts of applied water during the summer. Dust control effectiveness should remain undiminished, provided that adequate irrigation has stimulated plant growth and has delivered stored water in the rooting zone during the spring months. Biological, mechanical, and chemical control methods will be used to remove pest plants and noxious grasses.

Program implementation will require construction of earthen infrastructure for water distribution, including ditches, berms, channels, and reservoirs that allow for level border irrigation strategies that leach and drain readily through the fractured structure of the soil. The drainage system will be designed and constructed to allow for mixing of fresh water and saline drain water to achieve an ideal irrigation salinity. This will serve to maintain a downward gradient of salts in the rooting column of the soil in order to prevent salt from the shallow water table from rising into the rooting zone by capillary action. The drainage system must also be managed to prevent the rise of the water table into the rooting zone. Finally, the project will involve construction of special areas for saturated evaporite deposits.

#### c. Gravel Cover

A 4-inch layer of coarse gravel laid on the surface of the Owens Lake playa will prevent PM-10 emissions by: (1) preventing the formation of efflorescent evaporite salt crusts, because the large spaces between the gravel particles interfere with the capillary forces that transport the saline water to the surface where it evaporates and deposits salts; and (2) raising the threshold wind velocity required to lift the large gravel particles so that transport of the particles is not possible by wind speeds typical of the Owens Lake area.

Gravel blankets can work effectively on essentially any type of soil surface. Under certain limited conditions of sandy soils combined with high groundwater levels, it may be possible for some of the gravel blanket to settle into lake bed soils and thereby lose effectiveness in controlling PM-10 emissions. To prevent the loss of any protective gravel material into lake bed soils, a permeable geotextile fabric may be placed between the soil and the gravel where necessary. This will prevent the loss of any gravel.

Gravel areas must be protected from water- and wind-borne soil and dust. The gravel blanket will be the last control measure to be implemented in order to eliminate wind-borne depositions. Gravel areas will be

<sup>9</sup>PM-10 Emission Inventory Requirements (EPA-450/2-93), USEPA 1993.

protected from flood deposits with flood control berms, drainage channels and desiltation and retention basins, which will ensure that the gravel blanket will remain an effective PM-10 control measure for many years.

To attain the required PM-10 control efficiency, 100 percent of all areas designated for gravel must be covered with a layer of gravel 4 inches thick. All gravel material shall be screened to a size greater than 3/8-inch in diameter.

#### d. Additional Measures

In addition to these three control measures, the City is authorized to implement one or more control measures of its choosing on 3.5 square miles of the lake bed in the "Dirty Socks" area, at the southern boundary of the lake and near State Highway 190. The controls placed in this area may be one of the 3 identified measures, modified versions of these measures, or other unidentified measures. The control measures placed in this area do not need to be approved by the District. However, if the City elects to apply controls in the Dirty Socks area, the City is responsible for assuring that the Dirty Socks control measures are integrated into an entire control strategy that meets the PM-10 NAAQS by December 31, 2006.

#### 2. Implementation Schedule

The proposed control strategy will be implemented in 2 increments. The first increment will take place between November 16, 1998, and December 31, 2003. This requires the implementation of control measures on 16.5 square miles of the Owens Lake bed, unless the District finds that attainment is achieved by placing controls on a smaller area. During this time the emphasis will be on controlling those portions of the lake bed that are most emissive in terms of the frequency and severity of emissions. The focus will be on improving control measure efficiencies and on identifying those remaining areas of the lake bed that will continue to contribute to PM-10 NAAQS violations, if any.

The second increment will take place between January 1, 2004 and December 31, 2006. This will require implementation of any additional control measures necessary to provide for attainment of the PM-10 NAAQS by December 31, 2006.

The District commits to revise the SIP in 2003 to incorporate new knowledge and provide for attainment of the PM-10 NAAQS by December 31, 2006. If the District determines that additional or fewer controls are required to meet the NAAQS by December 31, 2006, the 2003

SIP will provide for implementation of the appropriate control measures for the final step of the control strategy.

#### 3. BACM Requirement

The Owens Valley serious area SIP must include control measures consistent with the requirements for Reasonably Available Control Measures (RACM), Reasonably Available Control Technology (RACT), BACM, and Best Available Control Technology (BACT). RACM and RACT are control technology requirements applicable to moderate areas. The requirements for RACT and BACT, which apply to stationary and area sources, are generally not applicable within the Owens Valley area, in which all PM-10 sources except for wind erosion are *de minimis*. The 1998 SIP's BACM provision for wind erosion sources is more stringent than the RACM mandate.

EPA defines BACM as "the maximum degree of emissions reduction of PM-10 and PM-10 precursors from a source \* \* \* which is determined on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, to be achievable for such source through application of production processes and available methods, systems, and techniques for control of each such pollutant." General Preamble Addendum, 59 FR 42010 (August 16, 1994). EPA exempts from the BACM requirement *de minimis* source categories, which do not contribute significantly to nonattainment. 59 FR 42011. CAA section 189(b)(1)(B) requires that the plan contain provisions to assure that BACM for the control of PM-10 shall be implemented 4 years after the effective date of the reclassification, or by February 8, 1997.<sup>10</sup>

In the plan and in the appendices to the plan, the District has provided extensive documentation on both the control measures included in the plan and those rejected. The documentation quantifies the costs of construction, materials, operation, and maintenance, and examines other factors, including energy and environmental impacts. EPA agrees that adequate time must be allowed to carry out the control measures successfully, since the measures are uniquely vast in scale, materiel, and required construction activity. The District's order to the City

establishes an aggressive, but phased, implementation schedule, which is shown to be as expeditious as practicable.

#### 4. EPA Proposed Action on Control Measures

EPA concludes that the plan demonstrates that:

(a) Only wind erosion emissions from the lake bed cause or contribute to PM-10 violations in the area and, hence, applying BACM to other source categories would not contribute significantly to achieving the NAAQS as expeditiously as practicable;

(b) The plan's 3 control measures for wind erosion are consistent with the BACM requirement in terms of the timing, degree, and extent of the control program; and

(c) There is insufficient evidence, at this time, to support the economic and technological feasibility of any alternative or additional measures for the control of wind erosion emissions in Owens Valley, even assuming the high degree of control stringency associated with the BACM requirement.

EPA therefore proposes to approve the control measures contained in the SIP under CAA section 110(k)(3), as meeting the requirements of CAA sections 110(a) and 189(b)(1)(B).

#### G. Reasonable Further Progress (RFP)

The plan must also include measurable milestones which are to be achieved every 3 years and show RFP toward attainment by the applicable attainment deadline. The District order to the City includes enforceable schedules for annual implementation of the specified control measures, beginning with the completion, by December 31, 2001, of the phase 1 control of 10 square miles. The order requires control of an additional 3.5 square miles by 2002; 3 square miles by 2003; and 2 square miles in each of the remaining 3 years through 2006.

EPA proposes to approve this aggressive and enforceable annual schedule as meeting the RFP requirements of CAA section 189(c).

#### H. Contingency Measures

The CAA requires that the SIP include contingency measures to be implemented if the area fails to meet progress requirements or to attain the NAAQS by the applicable deadline. As discussed above, the District commits to revise the SIP in 2003 to implement additional controls if necessary to attain the NAAQS by 2006. If in 2006 the District determines that the area will not attain by the end of that year, the District order requires the City to

<sup>10</sup> Because the statutory BACM implementation deadline has passed, the plan must assure that BACM will be implemented "as soon as possible." *Delaney v. EPA*, 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be "as soon as practicable." 55 FR 36458, 36505 (September 9, 1990).

implement controls on an additional 2 square miles of the Owens Lake bed each year. Implementation of this contingency measure is automatic, and requires no further action by the District or any other agency.

EPA concludes that the plan satisfies the contingency requirements, and proposes to approve the SIP's contingency provisions under section 172(c)(9).

#### *I. Extension of the Attainment Deadline*

CAA section 188(e) allows states to apply for up to a 5-year extension of the serious area attainment deadline of December 31, 2001. In order to obtain the extension, there must be a showing that: (1) Attainment by 2001 would be impracticable, (2) the state complied with all requirements and commitments pertaining to the area in the implementation plan for the area, and (3) the state demonstrates that the plan for the area includes the most stringent measures that are included in the SIP of any state or are achieved in practice in any state, and can feasibly be implemented in the area.

The 1998 SIP has demonstrated that the plan includes all feasible and effective control measures for wind erosion, and that the implementation schedule for the control measures is as expeditious as practicable, considering the massive projects that must be undertaken. EPA agrees that no other SIP contains measures and no other area implements measures for control of wind erosion that would be feasible and effective in the Owens Valley area. Finally, EPA believes that attainment could not feasibly be achieved before 2006. Therefore, EPA proposes to grant, under CAA section 188(e), a 5-year attainment date extension to December 31, 2006.

#### *J. Attainment Demonstration*

The SIP must provide a detailed demonstration (including air quality modeling) that the specified control strategy will reduce PM-10 emissions so that the standards will be attained as soon as practicable but no later than December 31, 2006, assuming final EPA approval of the attainment deadline extension. CAA section 189(b)(1)(A). EPA considers the area to be in attainment of the NAAQS if 24-hour concentrations are 150 ug/m<sup>3</sup> or less and the annual arithmetic mean is 50 ug/m<sup>3</sup> or less. See footnote 1. The attainment demonstration in the Owens Valley area focuses on the 24-hour NAAQS, since the area does not violate the annual NAAQS. The 3-year annual

arithmetic mean for the most recent period (1996–1998) is 37.0 ug/m<sup>3</sup>.<sup>11</sup>

Air quality modeling techniques were applied to assess control scenarios developed by the District to reduce PM-10 concentrations and bring the airshed into attainment. The specific computer model used by the District is called the Industrial Source Complex Short-Term Version 3 model or ISCST3. ISCST3 is the EPA recommended dispersion model for regulatory assessment of fugitive dust sources (40 CFR part 51, appendix W). The modeling analysis itself comports with existing modeling guidelines.<sup>12</sup>

A performance evaluation was also conducted to determine the uncertainty and reliability of these modeling methods based on a comparison of model predictions with ambient PM-10 measurements. Chapter 6 of the 1998 SIP contains a detailed description of the air quality modeling used for the Owens Valley.

The objectives of the air quality modeling are:

- (1) To conduct the dispersion modeling in accordance with the regulatory guidance for PM-10 SIPs using EPA recommended modeling tools and procedures.
- (2) To perform an evaluation of the proposed dispersion modeling techniques using 2 years of ambient data and focus the evaluation on the higher observed 24-hour PM-10 concentrations. The performance evaluation was used to assess model uncertainty and aid in the selection of several aspects of the modeling procedures.
- (3) To assess and refine control strategies until the modeling approach demonstrates attainment of the PM-10 NAAQS.

The air quality model shows that the proposed set of control strategies would reduce ambient PM-10 impacts at shoreline almost 97 percent. After implementation of the control strategies, the number of PM-10 exceedances at the shoreline will be less than one per year, which complies with the PM-10 standard.

To achieve the emission reductions necessary to meet the PM-10 standard,

<sup>11</sup> Preliminary information from EPA's Aerometric Information Retrieval System (AIRS). The 1998 SIP's wind erosion control measures should be effective in reducing not only 24-hour PM-10 concentrations but also annual concentrations, since primary and secondary wind erosion is 99 percent of the anthropogenic PM-10 emissions on an annual basis, and 99.5 percent on a 24-hour basis.

<sup>12</sup> PM-10 SIP Development Guideline (USEPA 450/2-86-001, 6/87); Guideline on Air Quality Models (Revised); Memorandum from Joseph Tikvart and Robert Bauman dated July 5, 1990.

the controlled emission rate must be 1.25 metric tons of PM-10 per square kilometer per day (approximately 1.4 tons per 250 acres per day). This is based on the emissions for the design day meteorology on March 12, 1994. The 3 control measures (shallow flooding, managed vegetation and gravel) each would result in emissions below this controlled emission rate.

EPA concludes that the air quality modeling and attainment demonstration contained in the 1998 SIP are consistent with existing EPA guidelines. EPA proposes to approve the attainment demonstration under CAA section 189(b)(1)(A).

#### **II. Summary of EPA's Proposed Action**

EPA is proposing to approve the serious area PM-10 SIP submitted by the State of California for the Owens Valley PM-10 nonattainment area. Specifically, EPA is proposing to approve the 1998 SIP with respect to the CAA requirements for public notice and involvement under section 110(a)(1); emissions inventories under section 172(c)(3); control measures under section 110(k)(3), as meeting the requirements of sections 110(a) and 189(b)(1)(B); RFP and rate-of-progress milestones under section 189(c); contingency measure(s) under section 172(c)(9); and demonstration of attainment under section 189(b)(1)(A). EPA is also proposing to approve the State's request for an extension of the attainment date from December 31, 2001 to December 31, 2006, under CAA section 188(e).

#### **III. Administrative Requirements**

##### *A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

##### *B. Executive Order 12875*

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written

communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

#### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

#### D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to

develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that

may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 18, 1999.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 68

[FRL-6367-2]

#### List of Regulated Substances and Thresholds for Accidental Release Prevention; Flammable Hydrocarbon Fuel Exemption

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On May 28, 1999, the Environmental Protection Agency proposed to modify the rule listing regulated substances and threshold quantities for the Risk Management Program (RMP) issued under section 112(r) of the Clean Air Act as amended. EPA proposed that regulated flammable hydrocarbon substances need not be considered in determining whether more than a threshold quantity is present when the substance is intended for use as a fuel and does not exceed 67,000 pounds in a process that is not manufacturing the fuel, does not contain greater than a threshold quantity of another regulated substance, and is not collocated or interconnected to another covered process. This notice extends the public comment period for the proposed rule.

**DATES:** The comment period for the proposed rule is extended from the