Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R09-OAR-2013-0735; FRL-9913-61-OAR]

Approval of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Las Vegas Valley, Nevada; Redesignation to Attainment for PM_{10}

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Nevada state implementation plan that provides for the maintenance of the national ambient air quality standard for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM_{10}) in Las Vegas Valley for the next ten years and to approve the related motor vehicle emissions budgets. Based in part on the proposed approval of the PM_{10} maintenance plan, EPA is also proposing to approve the State of Nevada's request for redesignation of Las Vegas Valley to attainment for the PM_{10} standard. Consistent with the assumptions of the maintenance plan, EPA is proposing to approve revisions to certain local fugitive dust rules to ensure their continued applicability after redesignation of the area to attainment. Lastly, EPA is proposing to delete the area designation for Las Vegas Valley

for the revoked national standard for total suspended particulate because the designation is no longer necessary.

DATES: Comments must be received on or before [FEDERAL REGISTER: INSERT DATE 30 DAYS AFTER THE PUBLICATION DATE].

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R09-OAR-2013-0735, by one of the following methods:

1. http://www.regulations.gov: Follow the on-line instructions for submitting comments.

2. Email: oconnor.karina@epa.gov.

3. Mail or deliver: Karina OConnor (AIR-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901. Deliveries are only accepted during the Regional Office's normal hours of operation.

Instructions: All comments will be included in the public docket without change and may be made available online at http://www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through http://www.regulations.gov or email. http://www.regulations.gov is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send

email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Documents in the docket for this action are generally available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (775) 434-8176, oconnor.karina@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we," "us," or "our" is used, we mean the EPA. This supplementary information section is arranged as follows:

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I. Summary of Today's Proposed Action

Under Clean Air Act (CAA or "Act") section 110(k)(3), EPA is proposing to approve a submittal from the Nevada Division of Environmental Protection (NDEP) dated September 7, 2012 of the *Redesignation Request and Maintenance Plan for Particulate Matter (PM_{10}), Clark County, Nevada* (August 2012) ("Las Vegas Valley PM_{10} Maintenance Plan") as a revision to the Nevada state implementation plan (SIP).

EPA finds that the Las Vegas Valley PM_{10} Maintenance Plan adequately demonstrates that the area will maintain the PM_{10} national ambient air quality standard (NAAQS or "standard") for 10 years beyond redesignation and includes sufficient contingency provisions to promptly correct any violation of the PM_{10} standard which occurs after redesignation and thereby meets the requirements for maintenance plans under CAA section 175A. EPA is also proposing to approve the motor vehicle emissions budgets (MVEBs) in the Las Vegas Valley PM_{10} Maintenance Plan because we find they meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

Under CAA section 107(d)(3)(D), EPA is also proposing to approve NDEP's request to redesignate the Las Vegas Valley PM_{10} nonattainment area from "nonattainment" to "attainment" for the PM_{10} standard. We are doing so based on our conclusion that the Las Vegas Valley has attained the PM_{10} standard; that the relevant portions of the Nevada SIP are fully approved; that the improvement in air quality is due to permanent and enforceable emissions reductions; that the State of Nevada has met all of the requirements applicable to the Las Vegas Valley PM_{10} nonattainment area with respect to section 110 and part D of the CAA; and, based on our proposed approval as described above, that the Las Vegas Valley PM_{10} Maintenance Plan meets the requirements for maintenance plans under section 175A of the CAA; and that, therefore, the State of Nevada has met the criteria for redesignation under CAA section 107(d)(3)(E) for the Las Vegas Valley PM_{10} nonattainment area.

Third, we are proposing to approve certain fugitive dust rules that Clark County has amended to ensure their continued applicability after the area is redesignated to attainment. NDEP submitted the amended rules on May 27, 2014 as a revision to the Nevada SIP.

Lastly, EPA is proposing to delete the area designation for Las Vegas Valley for the revoked NAAQS for total suspended particulate.

II. Background

On April 30, 1971 (36 FR 8186), pursuant to section 109 of the CAA, as amended in 1970, EPA promulgated the original NAAQS for the "criteria" pollutants, which included carbon monoxide, hydrocarbons, nitrogen dioxide, photochemical oxidant, sulfur dioxide, and particulate matter. The NAAQS are set at concentrations intended to protect public health and welfare. The original NAAQS for particulate matter was defined in terms of a reference method that called for measuring particulate matter up to a nominal size of 25 to 45 micrometers or microns. This fraction of total ambient particulate matter is referred to as "total suspended particulate" or TSP. Within nine months thereafter, each State was required under section 110 of the 1970 amended Act to adopt and submit to EPA a plan, referred to as a State Implementation Plan (SIP), which provides for the implementation, maintenance, and enforcement of each of the NAAQS within each State. The State of Nevada submitted its SIP on January 28, 1972, and EPA approved it later that year. *See* 37 FR 10842 (May 31, 1972).

Generally, SIPs were to provide for attainment of the NAAQS within three years after EPA approval of the plan. However, many areas of the country did not attain the NAAQS within the statutory period. In response, Congress amended the Act in 1977 to establish a new approach, based on area designations, for

attaining the NAAQS. Under section 107(d) of the 1977 amended Act, States were to make recommendations for all areas within their borders as attainment, nonattainment, or unclassifiable for each of the NAAQS, including TSP, and EPA was to designate areas based on those recommendations, as modified if appropriate. For the State of Nevada, the State recommended, and EPA approved, the use of hydrographic areas as the geographic basis for designating air quality planning areas. *See* 67 FR 12474 (March 19, 2002). For the TSP NAAQS, EPA designated a number of areas in Nevada as "nonattainment," including Las Vegas Valley[1] (hydrographic area (HA) #212). *See* 43 FR 8962, at 9012 (March 3, 1978). The area designations for air quality planning purposes within the State of Nevada are codified at 40 CFR 81.329.

As amended in 1977, the CAA required States to revise their SIPs by January 1979 for all designated nonattainment areas. The various local entities and the State of Nevada responded by developing and submitting attainment plans for the TSP nonattainment areas, including Las Vegas Valley, and in 1981,

[1] The Las Vegas Valley encompasses roughly 1,500 square miles within Clark County and includes the cities of Las Vegas, North Las Vegas, and Henderson. Roughly two million people reside in Clark County, mostly within Las Vegas Valley. NDEP is the state agency under state law that is responsible for SIP matters for the State of Nevada. Within Clark County, the Clark County Board of County Commissioners, acting through the Clark County Department of Air Quality (Clark County DAQ), is empowered under state law to develop air quality plans and to regulate stationary sources within the county with the exception of certain types of power plants, which lie exclusively within the jurisdiction of NDEP.

EPA approved these plans on condition that the State submit, within a prescribed period of time, revisions to correct certain deficiencies. *See* 46 FR 21758 (April 14, 1981). In 1982, we found that the State had submitted the required revisions correcting the identified deficiencies, and we revoked the conditions placed on our approval of the TSP plans. *See* 47 FR 15790 (April 13, 1982).

In 1987, EPA revised the NAAQS for particulate matter, eliminating TSP as the indicator for the NAAQS and replacing it with the "PM_{10}" indicator. See 52 FR 24634 (July 1, 1987). PM_{10} refers to particles with an aerodynamic diameter less than or equal to a nominal 10 microns. At that time, EPA established two PM_{10} standards: a 24-hour standard of 150 micrograms per cubic meter ($\mu g/m^3$) and an annual standard of 50 $\mu g/m^3$.[2] We indicated in the preamble to our regulations implementing the then-new PM_{10} NAAQS that we would consider deletion of TSP area designations once EPA had reviewed and approved revised SIPs that include control strategies for the PM_{10} NAAQS and once EPA had promulgated PM_{10} increments for the prevention of significant deterioration (PSD) program. *See* 52 FR 24672, at 24682 (July 1, 1987).

[2] In 2006, EPA retained the 24-hour PM_{10} standard but revoked the annual PM_{10} standard. *See* 71 FR 61144 (October 17, 2006). More recently, as part of the Agency's periodic review of the NAAQS, EPA reaffirmed the 24-hour PM_{10} NAAQS. *See* 78 FR 3086 (January 15, 2013). *See* 40 CFR 50.6 ("National primary and secondary ambient air quality standards for PM_{10}").

Under our regulations for implementing the revised particulate matter NAAQS (i.e., the PM_{10} NAAQS), EPA did not designate areas as nonattainment, attainment, or unclassifiable but categorized areas into three groups, referred to as Group I, Group II, or Group III. Group I areas were those that had a probability of not attaining the PM_{10} NAAQS (based on existing TSP data) of at least 90%. Group I areas were required to submit SIP revisions that contain full PM_{10} control strategies including a demonstration of attainment. *See* 52 FR 24672, at 24681 (July 1, 1987). We identified the Las Vegas (HA #212) and Reno (HA #87, known as "Truckee Meadows") planning areas as Group I areas. *See* 52 FR 29383 (August 7, 1987) and 55 FR 45799 (October 31, 1990).

The CAA was significantly amended in 1990. Under the 1990 amended Act, Congress replaced the PM_{10} regulatory approach established by EPA in 1987 with the area designation concept and designated former "Group I" areas and certain other areas as nonattainment areas for PM_{10} by operation of law. *See* section 107(d)(4)(B) of the Act. As former "Group I" areas, the Las Vegas planning area was designated as nonattainment areas for PM_{10} by operation of law. *See* 56 FR 11101 (March 15, 1991).

Las Vegas Valley was initially classified as a "moderate" PM_{10} nonattainment area but was later re-classified as a "serious" PM_{10} nonattainment area. *See* 58 FR 3334 (January 8,

1993). States with "serious" PM_{10} nonattainment areas were required under the CAA, as amended in 1990, to submit revisions to their SIPs to, among other things, demonstrate attainment of the PM_{10} standard as expeditiously as practicable, but no later than 2001. *See* CAA section 188(c). However, EPA is authorized to extend the attainment date for such an area by up to 5 years if the State qualifies for an extension under the terms specified in the statute. *See* CAA section 188(e). To qualify, among other requirements, a State must demonstrate that the plan includes the most stringent measures (MSM) 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.

In 2001, NDEP submitted the *PM-10 State Implementation Plan for Clark County* (June 2001) ("Las Vegas Valley PM_{10} Attainment Plan") to EPA as a revision to the Nevada SIP to meet the requirements for "serious" PM_{10} nonattainment areas. In 2002, NDEP submitted certain amendments to the Las Vegas Valley PM_{10} Attainment Plan and a set of local fugitive dust rules relied upon by the plan. In 2004, EPA approved the Las Vegas Valley PM_{10} Attainment Plan, as amended, and the set of fugitive dust rules. *See* 69 FR 32273 (June 9, 2004).

Specifically, as part of our 2004 final action, EPA approved the following SIP elements:

- The baseline and projected emissions inventories as required under CAA section 172(c)(3);
- The demonstration that attainment of the 24-hour standard by December 31, 2001 is impracticable as required under CAA section 189(b)(1)(A);
- The demonstration that attainment of the 24-hour standard will occur by the most expeditious alternative date practicable, in this case, December 31, 2006, as required under CAA sections 189(b)(1)(A) and 188(e);
- The demonstration that the plan includes MSM as required under CAA section 188(e);
- The demonstration that the plan provides for implementation of best available control measures (BACM) as required under CAA section 189(b)(1)(B);
- The demonstration that major sources of PM_{10} precursors such as nitrogen oxides and sulfur dioxide do not significantly contribute to violations of the PM_{10} standards as authorized under CAA section 189(e);
- The demonstration that the plan provides for reasonable further progress and quantitative milestones as required under CAA sections 189(c) and 172(c)(2);
- The contingency measures as required under CAA section 172(c)(9);

- Transportation conformity motor vehicle emissions budgets, including a budget of 141.41 tons per day beginning in year 2006; and
- Clark County fugitive dust rules: section 90 ("Fugitive Dust from Open Areas and Vacant Lots"), section 91 ("Fugitive Dust from Unpaved Roads, Unpaved Alleys and Unpaved Easement Roads"), section 92 ("Fugitive Dust from Unpaved Parking Lots, Material Handling & Storage Yards, & Vehicle & Equipment Storage Yards"), section 93 ("Fugitive Dust from Paved Roads & Street Sweeping Equipment"), and section 94 ("Permitting & Dust Control for Construction Activities").

As noted above, EPA approved the demonstration in the Las Vegas Valley PM_{10} Attainment Plan of December 31, 2006 as the most expeditious practicable alternative attainment date, and in 2010, based on a review of the ambient monitoring data for years 2004-2006, EPA determined that the Las Vegas Valley PM_{10} nonattainment area had attained the 24-hour PM_{10} NAAQS by the approved alternative attainment date, i.e., December 31, 2006. *See* 75 FR 45485 (August 3, 2010).

On September 7, 2012, NDEP submitted the Las Vegas Valley PM_{10} Maintenance Plan and requested that EPA redesignate the Las Vegas Valley PM_{10} nonattainment area to attainment for the 24-hour PM_{10} NAAQS, and on May 27, 2014, NDEP submitted revised

versions of Clark County's fugitive dust rules that were amended by Clark County to ensure their continued applicability once the area is redesignated to attainment. In today's proposed rule, we are proposing action on NDEP's September 7, 2012 submittal of the Las Vegas Valley PM_{10} Maintenance Plan and request for redesignation to attainment, as well as the amended Clark County fugitive dust rules.

The 1990 Act Amendments also provided for the continued transition from TSP to PM_{10}. Specifically, section 107(d)(4)(B) states in relevant part: "Any designation for particulate matter (measured in terms of total suspended particulates) that the Administrator promulgated pursuant to this subsection (as in effect immediately before November 15, 1990) shall remain in effect for purposes of implementing the maximum allowable increases in concentrations of particulate matter (measured in terms of total suspended particulates) pursuant to section 163(b) of this title, until the Administrator determines that such designation is no longer necessary for that purpose."

Section 166(f) of the 1990 amended Act authorizes EPA to replace the TSP increments with PM_{10} increments, and in 1993, EPA promulgated the PM_{10} increments and revised the PSD regulations accordingly. See 58 FR 31622 (June 3, 1993). In our June 1993 final rule, we indicated that the replacement of the TSP increments with PM_{10} increments negates the need for the TSP

attainment or unclassifiable area designations to be retained. We also indicated that we would delete such TSP designations in 40 CFR part 81 upon the occurrence of, among other circumstances, EPA's approval of a State's or local agency's revised PSD program containing the PM_{10} increments. See 58 FR 31622, at 31635 (June 3, 1993).

In November 2002, we deleted the TSP attainment or unclassifiable area designations throughout the State of Nevada, except for those in Clark County. *See* 67 FR 68769 (November 13, 2002). In April 2013, we deleted the TSP attainment or unclassifiable area designations within Clark County and deleted the TSP nonattainment area designations for all of the Nevada TSP nonattainment areas, except for the Las Vegas planning area (i.e., HA #212, Las Vegas Valley) and the Reno planning area (i.e., HA #87, Truckee Meadows).[3] *See* 78 FR 22425 (April 16, 2013). In today's proposed rule, we are proposing to delete the TSP nonattainment area designation for Las Vegas Valley.

[3] In June 1992, the State of Nevada requested that we reclassify the eight existing TSP nonattainment areas in Nevada to "unclassifiable" status. *See* letter from L.H. Dodgion, Administrator, NDEP, to Daniel W. McGovern, Regional Administrator, EPA Region IX, dated June 15, 1992. We believe that deletion of the TSP nonattainment designations is administratively more efficient than redesignation of the area to unclassifiable. As noted above, we have already deleted six of the TSP nonattainment area designations and are proposing to delete the one for Las Vegas Valley herein. We will consider deletion of the one other remaining TSP area designation, i.e., the TSP designation for Reno (HA #87, Truckee Meadows), in a future rulemaking.

III. Procedural Requirements for Adoption and Submittal of SIP Revisions

Sections 110(a)(1) and 110(l) of the Act require States to provide reasonable notice and public hearing prior to adoption of SIP revisions. In this action, we are proposing action on NDEP's September 7, 2012 submittal of the Las Vegas Valley PM_{10} Maintenance Plan (August 2012) as a revision to the Nevada SIP.[4] We are also proposing action on NDEP's May 27, 2014 submittal of Clark County's amended fugitive dust rules as a revision to the Nevada SIP. These two submittals contain documentation of the public review process followed by Clark County and NDEP in adopting the SIP revisions prior to submittal to EPA. As discussed below, the documentation provides sufficient evidence that reasonable notice of public hearings was provided to the public and that public hearings were conducted prior to adoption.

NDEP's submittal of the Las Vegas Valley PM_{10} Maintenance Plan includes a letter dated August 27, 2012 from Lewis Wallenmeyer, Director, Clark County Department of Air Quality (Clark County DAQ), to Colleen Cripps, Administrator, NDEP, submitting the Las Vegas Valley PM_{10} Maintenance Plan and redesignation request to NDEP. NDEP's letter dated September 7, 2012 transmitting the plan to EPA and requesting that EPA

[4] NDEP's September 7, 2012 submittal of the Las Vegas Valley PM_{10} Maintenance Plan became complete by operation of law on March 7, 2013.

approve the plan and redesignation request constitutes NDEP's adoption of the plan as a revision to the Nevada SIP.

Appendix B ("Documentation of the Public Review Process") of the Las Vegas Valley PM_{10} Maintenance Plan includes a copy of the notice to the public published in a newspaper of general circulation on January 15, 2012 announcing a 30-day comment period on the proposed Las Vegas Valley PM_{10} Maintenance Plan and a public hearing after the close of the comment period; a copy of comments received and Clark County DAQ's responses; various web notices issued by Clark County DAQ in connection with review of the proposed plan; and documentation of the public hearing on the proposed plan and subsequent adoption of the plan by the Clark County Board of County Commissioners on August 21, 2012. These materials adequately document the public review process followed by Clark County in adopting the plan prior to transmittal to NDEP and provide sufficient evidence that reasonable notice of a public hearing was provided to the public and that a public hearing was conducted prior to adoption.

NDEP's May 27, 2014 submittal of Clark County's amended fugitive dust rules includes documentation of the public process used by Clark County to adopt the changes, including publication of notice of a 30-day public review and comment period (February 22, 2014 – March 25, 2014) and related public hearing in a newspaper of general circulation. As documented in the

submittal, Clark County Board of County Commissioners adopted the amendments on April 15, 2014, effective April 29, 2014.

Based on the documentation included in NDEP's submittals, discussed above, we find that the submittals of the Las Vegas Valley PM_{10} Maintenance Plan and the amended fugitive dust rules as SIP revisions satisfy the procedural requirements of sections 110(a) and 110(l) of the Act for revising SIPs.

IV. Substantive Requirements for Redesignation

The CAA establishes the requirements for redesignation of a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation provided that the following criteria are met: (1) EPA determines that the area has attained the applicable NAAQS; (2) EPA has fully approved the applicable implementation plan for the area under section 110(k); (3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions; (4) EPA has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and (5) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

EPA provided guidance on redesignations in a document titled, "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," published in the Federal Register on April 16, 1992 (57 FR 13498), and supplemented on April 28, 1992 (57 FR 18070). Other relevant EPA guidance documents include: "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, September 4, 1992 (referred to herein as the "Calcagni memo"); "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and "State Implementation Plans for Serious PM_{10} Nonattainment Areas, and Attainment Date Waivers for PM_{10} Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).

For the reasons set forth below in section V of this document, we propose to approve NDEP's request for redesignation of the Las Vegas Valley PM_{10} nonattainment area to attainment for the 24-hour PM_{10} NAAQS based on our conclusion that all of the criteria under CAA section 107(d)(3)(E) have been satisfied.

V. Evaluation of the State's Redesignation Request for the Las Vegas Valley PM_{10} Nonattainment Area

A. Determination That the Area Has Attained the PM_{10} NAAQS.

CAA section 107(d)(3)(E)(i) states that, for an area to be redesignated to attainment, EPA must determine that the area has attained the relevant NAAQS. In this case, the relevant NAAQS is the PM_{10} NAAQS. As noted above, in 2010, EPA determined that the Las Vegas Valley nonattainment area attained the PM_{10} standard by the area's applicable attainment date of December 31, 2006 based on data for years 2004-2006. Today's action updates this determination based on the most recent available PM_{10} monitoring data.

Generally, EPA determines whether an area's air quality is meeting the 24-hour PM_{10} NAAQS based upon complete,[5] quality-assured, and certified data gathered at established state and local air monitoring stations (SLAMS) in the nonattainment area and entered into the EPA Air Quality System (AQS) database. EPA will consider air quality data from air monitoring stations other than SLAMS in the nonattainment area provided those stations meet the federal monitoring requirements for SLAMS, including the quality assurance and quality control criteria in

[5] For PM_{10}, a complete set of data includes a minimum of 75 percent of the scheduled PM_{10} samples per quarter. *See* 40 CFR part 50, Appendix K, section 2.3(a).

40 CFR part 58, appendix A. *See* 40 CFR 58.20; 71 FR 61236, 61242; (October 17, 2006).

Data from air monitors operated by state, local, or tribal agencies in compliance with EPA monitoring requirements must be submitted to AQS. These monitoring agencies certify annually that these data are accurate to the best of their knowledge. Accordingly, EPA relies primarily on data in AQS when determining the attainment status of an area. *See* 40 CFR 50.6; 40 CFR part 50, appendices J and K; 40 CFR part 53; and, 40 CFR part 58, appendices A, C, D, and E. All valid data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix K.

Attainment of the 24-hour PM_{10} standard is determined by calculating the expected number of exceedances of the standard in a year. The 24-hour PM_{10} standard is attained when the expected number of exceedances averaged over a three-year period is less than or equal to one at each monitoring site within the nonattainment area. Three consecutive years of air quality data are required to show attainment of the 24-hour PM_{10} standard. *See* 40 CFR part 50 and appendix K. More than three years may be considered if all additional representative years of data meeting the 75 percent criterion are utilized. Data not meeting these criteria may also suffice to show attainment; however, such exceptions must be approved by the appropriate Regional

Administrator in accordance with EPA guidance. *See* 40 CFR part 50, appendix K, section 2.3.

Clark County DAQ is responsible for monitoring ambient air quality within Clark County. Clark County submits annual monitoring network plans to EPA. These network plans describe the monitoring network operated by Clark County DAQ within Clark County. These plans discuss the status of the air monitoring network, as required under 40 CFR 58.10.

EPA regularly reviews these annual plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to PM_{10}, EPA has found that the area's network plans meet the applicable reporting requirements under 40 CFR part 58.[6] EPA also concluded from its 2012 Technical System Audit that Clark County DAQ's monitoring network currently meets or exceeds the requirements for the minimum number of SLAMS for PM_{10} in the Las Vegas Valley nonattainment area.[7] Clark County DAQ annually certifies that the data it submits to AQS are complete and quality-assured.[8]

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[6] See, e.g., letter from Meredith Kurpius, Manager, Air Quality Analysis Office, EPA Region IX, to Phil Wiker, Engineering Manager, Clark County DAQ, dated December 11, 2013, approving the relevant portions of Clark County DAQ's 2013 Annual Network Plan.

[7] See EPA Region IX, Technical System Audit Report, Clark County Department of Air Quality Ambient Air Monitoring Program, July 26-July 27, 2012, Final report, July 2013, page 8. Enclosed with letter from Deborah Jordan, Director, Air Division, U.S. EPA Region IX, to Lewis Wallenmeyer, Clark County DAQ (August 1, 2013).

[8] See, e.g., letter from Lewis Wallenmeyer, Clark County DAQ, to Fletcher Clover, Air Quality Analysis Office, EPA Region IX, certifying 2013 ambient air quality data and quality assurance data (April 22, 2014).

During the 2004-2006 period, Clark County DAQ operated 13 PM_{10} SLAMS monitoring sites within Las Vegas Valley. *See* 75 FR 45485, at 45488 (August 3, 2010). Between 2006 and 2009, four of the sites were closed or stopped monitoring PM_{10}. In 2010, Clark County DAQ discontinued PM_{10} monitoring at three more sites: Lone Mountain (northwest Las Vegas), Orr School (central-southeast Las Vegas), and Craig Road (North Las Vegas).[9] Notwithstanding the decrease in the number of PM_{10} monitoring sites, Clark County DAQ continues to meet EPA requirements for the minimum number of PM_{10} monitoring sites in Clark County.

In 2012, Clark County DAQ established a new PM_{10} monitoring site,[10] and thus, at the present time, Clark County DAQ operates seven PM_{10} SLAMS monitoring sites within Las Vegas Valley: Green Valley (Henderson), J.D. Smith School (North Las Vegas), Joe Neal (northwest Las Vegas), Paul Meyer Park (southwest Las Vegas), Palo Verde School (west Las Vegas), Sunrise Acres School (central Las Vegas), and Jerome Mack (east Las Vegas).[11] All seven sites monitor PM_{10} concentrations on a continuous, year-round basis using beta attenuation methods. *See* Clark County

[9] EPA has approved Clark County DAQ's discontinuation of PM_{10} monitoring at these sites. See letter from Matthew Lakin, U.S. EPA Region IX, to Mike Sword, Clark County DAQ (June 5, 2013)(Lone Mountain and Orr sites), and letter from Meredith Kurpius, U.S. EPA Region IX, to Mike Sword, Clark County DAQ (October 30, 2013)(Craig Road site).

[10] The new site is the Jerome Mack site, AQS ID: 32-003-0540. In addition, in 2013, the Las Vegas Paiute tribe began monitoring for PM_{10} at an eighth site within the Las Vegas Valley PM_{10} nonattainment area. This eighth site has not been approved by EPA for NAAQS compliant monitoring.

[11] Figure 2-1 of the Las Vegas Valley PM_{10} Maintenance Plan illustrates the locations of Clark County DAQ PM_{10} monitoring sites (other than Jerome Mack).

DAQ's *Annual Monitoring Network Plan Report* (June 2013). Each of these methods has been granted the Federal Equivalent Method (FEM) designation by EPA. The PM_{10} monitoring sites have been established to monitor for population exposure in the middle or neighborhood scale.[12]

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the quality-assured and certified PM_{10} ambient air monitoring data as recorded in AQS for the applicable monitoring period collected at the monitoring sites in the Las Vegas Valley nonattainment area and determined that the data are of sufficient completeness for the purposes of making comparisons with the PM_{10} standards.

EPA's review of monitoring data for the PM_{10} standard for Las Vegas Valley includes exceedances of the standard recorded during the 2011-2013 time period. However, EPA is excluding the exceedances of the standard in 2011 from the attainment determination presented herein because they were the result of an exceptional event. On April 16, 2014 Clark County DAQ submitted a demonstration for a high wind PM_{10} exceptional event covering the two exceedances recorded on July 3, 2011 at the J.D. Smith and Sunrise Acres monitoring sites. EPA reviewed the

[12] In this context, "middle scale" refers to conditions characteristic of areas from 100 meters to half a kilometer, and "neighborhood scale" refers to conditions throughout some reasonably homogeneous urban sub-region with dimensions of a few kilometers. *See* 40 CFR part 58, appendix D, section 4.6.

documentation that Clark County DAQ provided to demonstrate that the exceedances on these days meet the criteria for an exceptional event under EPA's Exceptional Events Rule (EER).[13] EPA concurred with Clark County DAQ's request for exceptional event determination that, based on the weight of evidence, the two exceedances were caused by a high wind exceptional event.[14] Accordingly, EPA has determined that the monitored exceedances associated with this exceptional event should be excluded from use in determinations of exceedances and violations, including the evaluation of whether Las Vegas Valley has attained the standard for the purposes of redesignation under CAA section 107(d)(3)(E)(i).

Table 1 below shows the maximum 24-hour PM_{10} concentrations monitored at the seven PM_{10} sites over the most recent three-year period (2011-2013) and lists the calculated expected exceedances per year at each of the sites over that same period. As shown in table 1 below, exceedances were monitored at four of the sites in 2012, and at all of the sites in 2013. All of the exceedances in 2012 were recorded on May 10, 2012, and all of the exceedances in 2013 were recorded on two days, April 15 and October 28, 2013. Clark County DAQ has flagged these exceedances as exceptional events. As noted above in connection with the

[13] 40 CFR 50.1(j), (k), (l); 50.14; 51.930.
[14] See letter from Jared Blumenfeld, EPA Region IX, to Lewis Wallenmeyer, Clark County DAQ, dated June 25, 2014.

2011 exceedances, if EPA concurs on exceedances as exceptional events, they are excluded from the determination of whether the area is attaining the NAAQS, but EPA has not taken action to concur on any of the exceedances in 2012 or 2013, and thus, the 2012 and 2013 exceedances are not being excluded from today's evaluation.

TABLE 1—SUMMARY OF LAS VEGAS VALLEY PM_{10} MONITORING DATA, 2011-2013

Monitoring Site (AQS Monitor ID)	Highest 24-hour PM_{10} concentration ($\mu g/m^3$)			2nd Highest 24-hour PM_{10} concentration ($\mu g/m^3$)			Expected Exceedances per year
	2011	2012	2013	2011	2012	2013	2011-2013
Green Valley (32-003-0298)	143	145	196[b]	82	125	88	0.3
J.D. Smith (32-003-2002)	71	203[b]	237[b]	66	82	169[b]	1.0
Jerome Mack (32-003-0540)	NA	228[b]	243[b]	NA	138	121	0.7[a]
Joe Neal (32-003-0075)	130	182[b]	226[b]	100	88	131	0.7
Palo Verde (32-003-0073)	89	138	212[b]	43	94	119	0.3
Paul Meyer (32-003-0043)	103	147	164[b]	62	139	74	0.3
Sunrise Acres (32-003-0561)	85	211[b]	267[b]	66	81	136	0.7

NA = Not applicable. The Jerome Mack site opened in 2012.
[a]The listed design value is not valid because it does not meet completeness requirements
[b]Values represent exceedances of the 150 $\mu g/m^3$ NAAQS. Violations occur when the "expected exceedances per year" averaged over a three-year period exceed 1.0.

Source: Letter and attachments from Lewis Wallenmeyer, Clark County DAQ, to Fletcher Clover, Air Quality Analysis Office, EPA Region IX, certifying 2013 ambient air quality data and quality assurance data (April 22, 2014).

Based on a review of air quality data during the most recent complete three-year period (2011-2013)(summarized above in table 1) and without excluding the 2012 or 2013 exceedances, we find that the expected number of exceedances per year for Las Vegas Valley is 1.0 days per year (based on the J.D. Smith monitoring site). The 24-hour PM_{10} standard is attained when the expected number of exceedances averaged over a three-year period is less than or equal to one at each monitoring site within the nonattainment area. Therefore, we find that, based on complete, quality-assured, and certified data for three most recent years (2011-2013) that the Las Vegas Valley PM_{10} nonattainment area has attained the 24-hour PM_{10} standard. SLAMS data for 2014 are not yet available from these monitoring sites but will be reviewed prior to final action to ensure that they are consistent with continued attainment.

B. The Area Must Have a Fully Approved SIP Meeting Requirements Applicable for Purposes of Redesignation under Section 110 and Part D.

Section 107(d)(3)(E)(ii) and (v) require EPA to determine that the area has a fully-approved applicable SIP under section 110(k) that meets all applicable requirements under section 110 and part D for the purposes of redesignation.

1. Basic SIP Requirements under CAA Section 110

Section 110(a)(2) sets forth the general elements that a SIP must contain in order to be fully approved. Although section 110(a)(2) was amended in 1990, a number of the requirements did not change in substance, and therefore, EPA believes that the pre-amendment EPA-approved SIP met these requirements in Clark County with respect to PM_{10}. As to those requirements that were amended, (see 57 FR 27936 and 27939, June 23, 1992), many are duplicative of other requirements of the Act.

On numerous occasions over the past 38 years, NDEP has submitted, and we have approved, provisions addressing the basic CAA section 110 provisions. The Clark County portion of the approved Nevada SIP contains enforceable emission limitations; requires monitoring, compiling and analyzing of ambient air quality data; requires preconstruction review of new or modified stationary sources; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and provides the necessary assurances that the State maintains responsibility for ensuring that the CAA requirements are satisfied in the event that Clark County is unable to meet its CAA obligations.[15]

[15] The applicable SIP for NDEP and Clark County may be found at http://yosemite.epa.gov/r9/r9sips.nsf/allsips?readform&state=Nevada. We note that SIPs must be fully approved only with respect to applicable requirements for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). Thus, for example, CAA section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. However, the section 110(a)(2)(D) requirements for a state are not linked with a particular

There are no outstanding or disapproved applicable SIP submittals with respect to the Clark County portion of the SIP that prevent redesignation of the Las Vegas Valley PM_{10} nonattainment area for the 24-hour PM_{10} standard.[16] Therefore, we find that NDEP and Clark County have met all SIP requirements for Clark County applicable for purposes of redesignation under section 110 of the CAA (General SIP Requirements).

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nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state.

Thus, we do not believe that these requirements should be construed to be applicable requirements for purposes of redesignation. In addition, EPA believes that the other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The State will still be subject to these requirements after Las Vegas Valley is redesignated. The section 110 and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing policy on applicability of conformity (i.e., for redesignations) and oxygenated fuels requirement. *See* Reading, Pennsylvania, proposed and final rulemakings 61 FR 53174-53176 (October 10, 1996), 62 FR 24826 (May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking 61 FR 20458 (May 7, 1996); and Tampa, Florida, final rulemaking 60 FR 62748 (December 7, 1995). *See* also the discussion of this issue in the Cincinnati redesignation at 65 FR 37890 (June 19, 2000), in the Pittsburgh redesignation at 66 FR 53099 (October 19, 2001), and in the Los Angeles redesignation at 72 FR 6986 (February 14, 2007) and 72 FR 26718 (May 11, 2007). EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation.

[16] In 2012, EPA took final limited approval and limited disapproval action on updated new source review (NSR) rules adopted by Clark County and submitted as a revision to the Nevada SIP (77 FR 64039, October 18, 2012) and issued a partial approval and partial disapproval of Nevada's "infrastructure" SIP for the 1997 8-hour ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS (77 FR 64737, October 23, 2012). While these two final rules are not full approvals, they do not represent an obstacle to redesignation of the Las Vegas Valley PM_{10} nonattainment area because the "infrastructure" SIP elements that EPA disapproved are not related to the nonattainment SIP requirements for the Las Vegas Valley PM_{10} nonattainment area and thus are not relevant for the purposes of redesignation and because, notwithstanding the limited approval and limited disapproval of the amended NSR rules, the Clark County DAQ NSR rules continue to meet the fundamental SIP requirements for NSR in "serious" PM_{10} nonattainment areas.

2. SIP Requirements under Part D

Part D Requirements Other Than NSR or Conformity

Subparts 1 and 4 of part D, title I of the CAA contain air quality planning requirements for PM_{10} nonattainment areas. Subpart 1 contains general requirements for all nonattainment areas of any pollutant, including PM_{10}, governed by a NAAQS. The subpart 1 requirements include, in relevant part, provisions for emissions inventories, reasonable further progress (RFP), a program for preconstruction review and permitting of new or modified major stationary sources ("New Source Review," or NSR), contingency measures, and conformity.

Subpart 4 contains specific SIP requirements for PM_{10} nonattainment areas. The requirements set forth in CAA sections 189(a), (c), and (e) apply specifically to "moderate" PM_{10} nonattainment areas and include, in relevant part: (1) provisions for implementation of reasonably available control measures (RACM); (2) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date; and (3) provisions to ensure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where EPA has determined that such sources do not contribute significantly to PM_{10} levels that exceed the NAAQS in the area. Under CAA section 189(b), "serious" PM_{10} nonattainment areas, such as Las Vegas Valley,

must meet the "moderate" area requirements discussed above and, in addition, must develop and submit an attainment demonstration as well as provisions to assure the implementation of best available control measures (BACM) for the control of PM_{10}.

As noted previously, in 2004, EPA approved the *PM-10 State Implementation Plan for Clark County* (June 2001) ("Las Vegas Valley PM_{10} Attainment Plan") as a revision to the Nevada SIP. *See* 69 FR 32273 (June 9, 2004). The Las Vegas Valley PM_{10} Attainment Plan was developed to meet the SIP requirements for "serious" PM_{10} nonattainment areas under subparts 1 and 4 of part D, except those related to NSR or conformity. More specifically, as part of our 2004 final action, EPA approved the Las Vegas Valley PM_{10} Attainment Plan as meeting the following requirements: baseline and projected emissions inventories as required under CAA section 172(c)(3); the demonstration that the plan provides for RFP and quantitative milestones as required under CAA sections 172(c)(2) and 189(c); the contingency measures as required under CAA section 172(c)(9); the demonstration that major sources of PM_{10} precursors such as nitrogen oxides and sulfur dioxide do not significantly contribute to violations of the PM_{10} standards as provided in CAA section 189(e); the attainment demonstration under CAA sections 189(b)(1)(A); and the demonstration that the plan provides for implementation of BACM as required under CAA section

189(b)(1)(B). Because the demonstration of BACM subsumes the demonstration of RACM, a separate analysis to determine if the measures represent a RACM level of control was not necessary. EPA's approval of the BACM demonstration in the Las Vegas Valley PM_{10} Attainment Plan, therefore, also represented a finding that the plan provides for the implementation of RACM as required under CAA section 189(a)(1)(C). *See* 69 FR 32273 (June 9, 2004).

Thus, for the reasons given above, and excluding NSR and conformity, which we address separately below, we find that Clark County has a fully-approved PM_{10} SIP with respect to the part D requirements for RACM, BACM, and other serious PM_{10} area SIP requirements.

Permits for New and Modified Major Stationary Sources

To meet the requirements of CAA sections 172(c)(5) and 189(a)(1)(A), states must submit SIP revisions that meet the requirements under 40 CFR 51.165 ("Permit requirements"). Under 40 CFR 51.165, states are required to submit SIP revisions that establish certain requirements for new or modified stationary sources in nonattainment areas, including provisions to ensure that major new sources or major modifications of existing sources of nonattainment pollutants incorporate the highest level of control, referred to as the Lowest Achievable Emission Rate (LAER), and that increases in emissions from such stationary sources are offset so as to provide for reasonable

further progress towards attainment in the nonattainment area. *See* CAA section 173(a)(1)(A) and 40 CFR 51.165(a)(9)(ii)(A).

The process for reviewing permit applications and issuing permits for new or modified stationary sources of air pollution is referred to as "New Source Review" (NSR). With respect to nonattainment pollutants in nonattainment areas, this process is referred to as "nonattainment NSR." With respect to pollutants for which an area is designated as attainment or unclassifiable, states are required to submit SIP revisions that ensure that major new stationary sources and major modifications of existing stationary sources meet the Federal requirements for Prevention of Significant Deterioration (PSD), including application of "best available control technology," for each applicable pollutant emitted in significant amounts, among other requirements.

Within the Las Vegas PM_{10} nonattainment area, two agencies are responsible for meeting the requirements for nonattainment NSR and PSD: NDEP and Clark County DAQ. Under Nevada law, exclusive NDEP jurisdiction extends to specific electric steam-generating emission units (i.e., power plants) throughout the State of Nevada, and thus, state regulations govern air pollution permits issued to those types of units within Clark County. Clark County DAQ is responsible for all other stationary

source emissions units within Clark County, and Clark County regulations govern air pollutant permits issued to them.

With respect to those sources that are under State jurisdiction, we have approved a State rule (Nevada Administrative Code (NAC) section 445B.22083) that prohibits new power plants or major modifications to existing power plants under State jurisdiction within the Las Vegas Valley nonattainment area. See 69 FR 31056, 31059 (June 2, 2004) and 69 FR 54006, at 54017 (September 7, 2004). In 2008, we approved an amended version of NAC section 445B.22083 that clarifies the application of NSR requirements to any relocation of power generating units. *See* 73 FR 20536 (April 16, 2008). The submittal and approval of the State's prohibition on new major power plants or major modifications to existing power plants in Las Vegas Valley adequately substitutes for submittal and approval of a SIP revision meeting nonattainment NSR requirements in Las Vegas Valley with respect to sources under NDEP jurisdiction.

With respect to sources under Clark County DAQ jurisdiction, we approved Clark County's NSR rules as meeting the requirements of section 172(c)(5) and, for PM_{10}, section 189(a)(1)(A). *See* 69 FR 54006 (September 7, 2004); also, *see* our proposed rule at 69 FR 31056, at 31059 (June 2, 2004) for details on how Clark County's NSR rules complied with CAA

requirements for PM_{10} nonattainment areas. In recent years, Clark County DAQ has adopted comprehensive changes to its NSR program and, in 2012, EPA issued a limited approval and limited disapproval for the revised program. *See* 77 FR 64039 (October 18, 2012). With respect to nonattainment NSR, EPA found a number of deficiencies; however, the Clark County NSR rules continue to meet the basic requirements for a serious PM_{10} nonattainment NSR area, including a definition of "major stationary source" as a stationary source which emits, or has the potential to emit, seventy (70) tons per year or more of PM_{10}, emissions limitations that constitute LAER, and emissions reductions to offset emissions increases that would otherwise occur.[17] See Clark County section 12.3.2 ("Definitions," subsection (y) "Major Stationary Source"); 12.3.5.2 ("Permit Requirements to Achieve LAER"); and 12.3.6 ("Emissions Offset").

Moreover, Clark County's SIP-approved NSR rules have served as a federally-enforceable constraint on the growth of stationary source emissions, and thus have supported the region's efforts to lower ambient PM_{10} concentrations in Las Vegas Valley. Therefore, given the prohibition on new sources or major modifications of existing sources under NDEP jurisdiction and given that the fundamental nonattainment NSR requirements

[17] The deficiencies that have any bearing on PM_{10} are limited to a few definitions: "allowable emissions," "baseline actual emissions," "net emissions increase," and "major modification." *See* 77 FR 64039, at 64047 (October 18, 2012).

are approved into the SIP for sources under Clark County DAQ jurisdiction, we conclude that the State has met the applicable NSR requirements for the Las Vegas PM_{10} nonattainment area for the purposes of redesignation of the area to attainment for the PM_{10} standard.

General and Transportation Conformity Requirements

Under section 176(c) of the Clean Air Act Amendments of 1990, States are required to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. Section 176(c) further provided that State conformity provisions must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. EPA's conformity regulations are codified at 40 CFR part 93, subparts A (referred to herein as "transportation conformity") and B (referred to herein as "general conformity"). Transportation conformity applies to transportation plans, programs, and projects developed, funded, and approved under title 23 U.S.C. or the Federal Transit Act, and general conformity applies to all other Federally-supported or funded projects. SIP revisions intended to address the conformity requirements are referred to herein as "conformity SIPs."

In November 2008, EPA approved Clark County's transportation conformity criteria and procedures as meeting the

related SIP requirements under part 51, subpart T ("Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws"). *See* 73 FR 66182 (November 7, 2008).

In August 2005, Congress passed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which eliminated the requirement for States to adopt and submit conformity SIPs addressing general conformity requirements. *See* 75 FR 17254 (April 5, 2010) for conforming changes to EPA's general conformity regulations. Based on our approval of Clark County's transportation conformity SIP and SAFETEA-LU's elimination of the general conformity SIP requirement, we find that Clark County and the State have met the requirements for conformity SIPs in the Las Vegas Valley PM_{10} nonattainment area under CAA section 176(c). In any event, EPA believes it is reasonable to interpret the conformity requirements as not applicable for purposes of evaluating a redesignation request under section 107(d)(3)(E). See *Wall v. EPA*, 265 F.3d 426, 439 (6th Cir. 2001) upholding this interpretation.

3. Conclusion With Respect To Sections 107(d)(3)(E)(ii) and (v)

Thus, EPA finds, based on our review of EPA's previous rulemakings on the relevant portions of the Nevada SIP and for

the reasons provided above, that the Las Vegas Valley has a fully approved applicable SIP under section 110(k) that meets all applicable requirements under section 110 and part D for the purposes of redesignation, and thereby meets the criteria for redesignation under CAA sections 107(d)(3)(E)(ii) and (v).

C. The Area Must Show the Improvement in Air Quality is Due to Permanent and Enforceable Emissions Reductions.

Section 107(d)(3)(E)(iii) precludes redesignation of a nonattainment area to attainment unless EPA determines that the improvement in air quality is due to permanent and enforceable emissions reductions resulting from implementation of the applicable SIP and applicable Federal air pollution control regulations and other permanent and enforceable regulations. Under this criterion, the state must be able to reasonably attribute the improvement in air quality to emissions reductions which are permanent and enforceable. Attainment resulting from temporary reductions in emissions rates (e.g., reduced production or shutdown due to temporary adverse economic conditions) or unusually favorable meteorology would not qualify as an air quality improvement due to permanent and enforceable emission reductions. *See* the Calcagni memo, page 4.

The Las Vegas Valley PM_{10} Maintenance Plan credits a number of local and Federal control measures for having reduced PM_{10} emissions and concentrations within Las Vegas Valley

sufficiently to attain the NAAQS, and relies on their continued implementation to provide for maintenance of the NAAQS now that the NAAQS has been attained. The local control measures cited in the maintenance plan include certain Clark County Air Quality Regulations (AQR), such as the NSR rule (AQR section 12), the acid rain permit rule (AQR section 21), and the fugitive dust rules (AQR sections 90 through 94); best available retrofit technology to meet the requirements of EPA's regional haze rule; the transportation conformity process; and the Clark County Natural Events Action Plan. Federal control measures cited in the maintenance plan include the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) and Standards of Performance for New Stationary Sources (NSPS).

While we agree that all of the measures cited above contributed to attainment and will contribute to maintenance of the PM_{10} NAAQS in Las Vegas Valley, the backbone of the control strategy that provided for attainment of the PM_{10} NAAQS was Clark County's section 90 series regulations governing fugitive dust sources. Clark County's section 12 NSR rule and local ordinances (Clark County, and the cities of Las Vegas, North Las Vegas, and Henderson) regulating new fireplaces also contributed to attainment of the standard and will contribute to maintenance of the standard.

In our approval of the BACM demonstration in the Las Vegas Valley PM_{10} Attainment Plan, we described the BACM analysis in terms of a series of steps intended to identify all of the sources or source categories that significantly contribute to exceedances of the NAAQS and to provide for implementation of BACM for all of those sources or source categories. Clark County's approved BACM demonstration identified certain fugitive dust sources, including disturbed vacant land/unpaved parking lots, construction (including highway construction), paved roads, unpaved roads, and race tracks as the source categories that significantly contribute to exceedances of the PM_{10} NAAQS in Las Vegas Valley. *See* 68 FR 2954, at 2959 (January 22, 2003). In the approved Las Vegas Valley PM_{10} Attainment Plan, Clark County further demonstrated how Clark County AQR sections 90 through 94 implemented BACM for the relevant source categories.[18] EPA approved these regulations as part of the SIP at the same time that EPA approved the Las Vegas Valley PM_{10} Attainment Plan, 69 FR 32273 (June 9, 2004), and since then, the Clark County fugitive dust regulations have been federally enforceable. Clark County's section 12 NSR rule has been approved as part of the

[18] The 90 series rules include Clark County AQR section 90 ("Fugitive Dust from Open Areas and Vacant Lots"), section 91 ("Fugitive Dust from Unpaved Roads, Unpaved Alleys and Unpaved Easement Roads"), section 92 ("Fugitive Dust from Unpaved Parking Lots, Material Handling & Storage Yards, & Vehicle & Equipment Storage Yards"), section 93 ("Fugitive Dust from Paved Roads & Street Sweeping Equipment"), and section 94 ("Permitting & Dust Control for Construction Activities").

SIP, most recently at 77 FR 64039 (October 18, 2012), as have the local fireplace ordinances cited above, 68 FR 52838 (September 8, 2003).

We also note that Clark County's 90 series regulations were implemented in the early 2000s, and a rough indication of their impact on ambient PM_{10} concentrations can be seen in figure 2-2 in the Las Vegas Valley PM_{10} Maintenance Plan that shows a steep decline in design values[19] for Las Vegas Valley from the late 1990s beginning in 2002 to a level below the NAAQS beginning in 2005. This improvement occurred despite a 30 percent increase in population in Las Vegas Valley during the same period.[20] Thus, the improvement in air quality since 2000 may reasonably be attributed to implementation of Clark County's 90 series (i.e., fugitive dust) rules. Moreover, while we recognize that annual rainfall during the 2003-2005 period in Las Vegas Valley was higher than normal, we note that the downward trend in concentrations began prior to that time and that maintenance of

[19] In this context, the design value at each monitoring site refers to the first-, second-, third, or fourth-highest measured concentration (depending on the frequency of monitoring) over a three-year period. The highest design valley among the monitoring sites determines the design value for the nonattainment area. A design value for a given year reflects the data for that year and the previous two years. For example, a design value for 2002 reflects 2000-2002 data.

[20] *See* population figures in table 4-1 of the Las Vegas Valley PM_{10} Maintenance Plan.

the NAAQS has continued since the mid-2000s despite lower-than-normal rainfall from 2006-2009.[21]

Thus, we find that the improvement in air quality in the Las Vegas Valley PM_{10} nonattainment area is the result of permanent and enforceable emissions reductions from a combination of permanent and enforceable measures, including, but not limited to fugitive dust rules, the NSR rule, and fireplace ordinances, and is not the result of adverse economic conditions or unusual meteorological conditions. As such, we find that the criterion for redesignation set forth at CAA section 107(d)(3)(E)(iii) is satisfied.

D. The Area Must Have a Fully-Approved Maintenance Plan under CAA Section 175A.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under CAA section 175A, a maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the

[21] *See* section 4.3 of the Las Vegas Valley PM_{10} Maintenance Plan for wind and rainfall data in Las Vegas Valley.

maintenance plan must contain such contingency provisions as EPA deems necessary to promptly correct any violation of the NAAQS that occurs after redesignation of the area.

To meet these requirements, maintenance plans should include the following core elements: attainment inventory, maintenance demonstration, continuation of an adequate monitoring network, verification of continued attainment, and contingency plan. See Calcagni memo, pages 8 through 13. Based on our review and evaluation of the plan, as detailed below, we are proposing to approve the Las Vegas Valley PM_{10} Maintenance Plan because we have found that it meets the requirements of CAA section 175A.

1. Attainment Inventory

A maintenance plan for the 24-hour PM_{10} standard must include an inventory of emissions of PM_{10} in the area to identify a level of emissions sufficient to attain the 24-hour PM_{10} NAAQS.[22] This inventory must be consistent with EPA's most recent guidance on emissions inventories for nonattainment areas available at the time and should represent emissions during the

[22] PM_{10} precursor emissions may also be required depending upon the contribution of secondarily-formed particulate matter to ambient PM_{10} concentrations. As discussed in our proposed approval of the Las Vegas Valley PM_{10} Attainment Plan, 68 FR 2958 (January 22, 2003), Clark County determined, based on analyses of inventories (see chapter 4, section 4.2.1 of the Attainment Plan) and Chemical Mass Balance modeling, that secondary particulate contributes less than significant amounts to ambient PM_{10} concentrations. Therefore, PM_{10} precursors, including oxides of nitrogen, sulfur dioxide and volatile organic compounds, are not included in the Las Vegas Valley PM_{10} Maintenance Plan, and we find their absence acceptable.

time period associated with the monitoring data showing attainment. The inventory must also be comprehensive, including emissions from stationary point sources, area sources, nonroad mobile sources, and on-road mobile sources, and must be based on actual emissions during the appropriate season or episode, if applicable. In the following paragraphs, we summarize our findings with respect to the emissions inventories prepared for the Las Vegas Valley PM_{10} Maintenance Plan.

First, emissions inventories for attainment or maintenance plans are generally developed for the entire nonattainment area. For the Las Vegas Valley PM_{10} Maintenance Plan, Clark County DAQ developed emissions inventories for a subset of the nonattainment area referred as to the BLM disposal area.[23] See figure 1-1 in the Las Vegas Valley PM_{10} Maintenance Plan for a map showing the BLM disposal area in relation to the Las Vegas Valley PM_{10} nonattainment area. EPA accepted the BLM disposal area as the geographic basis for the emissions inventories in the Las Vegas Valley PM_{10} Attainment Plan (see 68 FR 2954, at 2958 (January 22, 2003), and we do so again for the Las Vegas Valley PM_{10} Maintenance Plan. The BLM disposal area remains an

[23] The Las Vegas Valley PM_{10} Maintenance Plan explains that most of the land in Nevada is under federal jurisdiction, and most of the federal land is managed by the Bureau of Land Management (BLM). In 1998, Congress passed the Southern Nevada Public Land Management Act, which allowed BLM to sell, trade, or lease public land within a specific area around Las Vegas. There was an amendment to the boundary for this area in 2003, and minor adjustments thereafter. The area currently comprises approximately 327,000 acres and is known as the BLM disposal area.

appropriate geographic basis for air quality planning purposes because more than 99 percent of the population within the nonattainment area lives within BLM disposal area, more than 98 percent of the vehicle miles traveled within the nonattainment area occurs within the BLM disposal area, and nearly all of the anthropogenic sources within the nonattainment area are located within the BLM disposal area.

Furthermore, most of the area within the nonattainment area but outside the BLM disposal area lies under the jurisdiction of the federal government, and all lands controlled by the federal government outside the BLM disposal area are to remain in their native or managed state. The disposal area boundary can only be changed by an act of Congress. Continued reliance on the BLM disposal area for air quality planning purposes was confirmed in 2007 by a PM_{10} monitoring study conducted by Clark County DAQ under which samplers were deployed outside the BLM disposal area. No violations were recorded. We note that, while the inventory corresponds to the BLM disposal area, the regulations adopted by Clark County DAQ to address PM_{10} sources apply to the entire PM_{10} nonattainment area.

Second, as to the year selected for attainment inventory purposes, Clark County DAQ selected year 2008 as the year for the attainment inventory in the Las Vegas Valley PM_{10} Maintenance Plan. Emissions during year 2008 are reflected in three three-

year periods that could be used to evaluate whether the area is attaining the standard: 2006-2008, 2007-2009, and 2008-2010. In the latter two periods, the expected number of exceedances averaged over the relevant three-year period was less than 1.0, which reflects attainment conditions. The period 2006-2008 has an expected number of exceedances of 1.1, which represents a violation of the standard; however, the value of 1.1 reflects two exceedances for which Clark County DAQ has flagged as exceptional events. Under these circumstances, we do not believe that the violation calculated for the 2006-2008 period should preclude the selection of 2008 for the inventory and find its selection by Clark County DAQ to be acceptable.

Third, the emissions inventories developed by Clark County DAQ for the Las Vegas Valley PM_{10} Maintenance Plan reflect "design day" conditions. The specific day selected for emissions inventory purposes was April 15, 2008. Clark County DAQ selected that day based on a review of data from all of the PM_{10} monitoring sites that operated from 2008 through 2010 that showed April 15, 2008 to be the day during which the highest PM_{10} concentration not unduly affected by high-wind events was measured. We find the use of a design day inventory, and selection of April 15, 2008 as the specific day for the inventory, to be acceptable.

Fourth, as to comprehensiveness, we find that the emissions inventories in the maintenance plan to be comprehensive in that they include estimates of PM_{10} from all of the relevant source categories, which the plan divides among point sources,[24] nonpoint sources,[25] on-road mobile sources, nonroad mobile sources, and emission reduction credits. *See* table 6-2 of the Las Vegas Valley PM_{10} Maintenance Plan for a summary of the attainment inventory (2008), as well as future year emissions projections for years 2015 and 2023. Appendix A to the PM_{10} Maintenance Plan contains source-category-specific descriptions of emission calculation procedures and sources of input data.

Table 2 below summarizes the attainment inventory (for 2008) in the Las Vegas Valley PM_{10} Maintenance Plan, and also summarizes the plan's projected emissions inventories for an interim year (2015) and the maintenance plan's horizon year (2023). Based on the estimates in table 2, the nonpoint category of emissions accounted for nearly 99% of the PM_{10}, with wind erosion from vacant lands making up 62%, wind erosion from construction making up 26%, and paved road dust and construction emissions each making up 4% of the total PM_{10} inventory for 2008.

[24] "Point sources" refer to those stationary source facilities that are required to report their emissions to Clark County DAQ or NDEP.
[25] "Nonpoint sources" refer to those stationary and area sources that fall below point source reporting levels and that are too numerous or small to identify individually.

TABLE 2: TOTAL DAILY LAS VEGAS VALLEY PM_{10} EMISSIONS, 2008, 2015, AND 2023

Category	Subcategory	PM_{10} (tons per day)[a]		
		2008	2015	2023
Point		2.19	2.60	2.88
Nonpoint	Wind Erosion (Vacant Lands)	439.05	288.16	122.77
	Wind Erosion (construction)	183.97	217.70	249.21
	Construction	30.93	37.69	41.22
	Paved Road	30.85	38.04	48.78
	Unpaved Road	5.84	6.51	7.49
	Other	6.59	7.24	7.89
On-Road Motor Vehicles		3.08	2.52	2.75
Nonroad Mobile Sources		3.74	2.95	1.94
Emission Reductions Credits		0.31	0.31	0.31
Totals		**706.55**	**603.72**	**485.24**

[a] Emissions correspond to the BLM disposal Area portion of the Las Vegas Valley nonattainment area and reflect design day conditions.

Source: Derived from estimates in table 6-2 of the Las Vegas Valley PM_{10} Maintenance Plan.

Lastly, we reviewed the methods, factors, and assumptions used by Clark County DAQ to develop the emissions inventories in the Las Vegas Valley PM_{10} Maintenance Plan to ensure that the

inventories are consistent with EPA's most recent guidance for such inventories. As noted above, Clark County DAQ's inventory is divided into five broad categories (point sources, nonpoint sources, on-road mobile sources, nonroad mobile sources, and emission reduction credits). Multiple subcategories of emissions are calculated within each of these broad categories.

For point sources, Clark County DAQ based the inventory estimates on source-reported actual 2008 emissions data. For nonpoint or area wide sources, Clark County calculated emissions based on county-wide reported data for fuel usage, product sales, population, employment data, land area, and other parameters covering a wide range of activities. The largest emission sources for the PM_{10} inventory, wind erosion from construction and wind erosion from vacant lands, are included in nonpoint emissions. These two source categories contribute over 80% of the total PM_{10} emissions in 2008. Emission factors for windblown fugitives were developed based on a series of wind-tunnel studies conducted by University of Nevada, Las Vegas (UNLV). These emission factors were combined with estimates of vacant land and developed land from the Clark County Department of Comprehensive Planning (DCP)'s Geographic Integrated Land Use Information System (GILIS).

The nonroad mobile source category includes aircraft, boats, and off-road vehicles and equipment used for

construction, farming, commercial, industrial, and recreational activities. With respect to such sources, Clark County DAQ used EPA's nonroad emissions model NONROAD2008a, the current version of the model at the time the plan was created. The model includes both emissions factors and default county level population and activity data. The model estimates both emissions factors and emissions. This includes more than 80 basic and 260 specific types of non-road equipment, and further stratifies equipment by horsepower rating and fuel type. The model has default estimates, variables and factors used in the calculations. No local data sets were available for Clark County, therefore only model defaults were used.

The on-road mobile source category consists of trucks, automobiles, buses, and motorcycles. The on-road emissions inventory estimates in the Las Vegas Valley PM_{10} Maintenance Plan were prepared by Clark County DAQ using EPA's Motor Vehicle Emissions Simulator (MOVES2010a) model and AP-42. The vehicle miles traveled were developed from vehicle activity data from the Regional Transportation Commission of Southern Nevada (RTC) using the transportation demand model, TransCAD.

The on-road emissions estimates for the Las Vegas Valley PM_{10} Maintenance Plan assumed the implementation of the federal heavy-duty diesel rule, limits to Reid Vapor Pressure (RVP) of 9 pounds per square inch (PSI) with a 1.0 psi waiver for ethanol-

blended fuels, the phase-in of federal tier 2 motor vehicle emission standards, and the continuation of the SIP-approved enhanced vehicle inspection and maintenance (I/M) program in the urban areas of Clark County.[26]

Based on our review of the emissions inventories (and related documentation) from the Las Vegas Valley PM_{10} Maintenance Plan, we find that the inventory for 2008 is comprehensive, that the methods and assumptions used by Clark County to develop the emission inventory are reasonable, and that, therefore, the 2008 inventory reasonably estimates actual PM_{10} emissions in an attaining year. Moreover, we find that the emissions inventory in the PM_{10} Maintenance Plan reflects the latest planning assumptions and emissions models available at the time the plan was developed, and provides a comprehensive and reasonably accurate basis upon which to forecast PM_{10} emissions for years 2015 and 2023.

2. Maintenance Demonstration

Section 175A(a) of the CAA requires a demonstration of maintenance of the NAAQS for 10 years after redesignation. A state may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future anticipated

[26] The EPA's most recent action on Nevada's I/M program updated the corresponding State statutes and rules. 73 FR 38124 (July 3, 2008).

mix of sources and emission rates will not cause a violation of the NAAQS. *See* Calcagni memo, pages 9 through 11.

The Las Vegas Valley PM_{10} Maintenance Plan includes emissions inventory projections for 2015 and 2023 and corresponding estimates of future-year design values to demonstrate maintenance through 2023. In doing so, Clark County DAQ relies on "rollback," the scaling of measured concentrations proportional to emissions, with conservative assumptions for the rollback concentration target and for the background concentration. In this case, Clark County DAQ predicted future year design values by adjusting a 2008 design value by the proportional change in overall PM_{10} emissions from the attainment inventory (2008) relative to the inventories for the future years (2015 and 2023), taking into account a background level (on the design value day) of approximately 40 $\mu g/m^3$. We find Clark County DAQ's use of a "rollback" type of analysis appropriate in this case given that ambient PM_{10} concentrations in Las Vegas Valley are driven primarily by ground-level direct PM_{10} emissions (in particular fugitive dust) with generally consistent dispersion characteristics.

The foundation for the maintenance demonstration is the emissions projections for year 2015 and 2023 because, using the rollback method, the predicted future year design values will remain below the attainment-year design value (and thus below

the NAAQS) if the emissions projections for the future years are less than the attainment-year inventory. In this case, Clark County DAQ identified 98 $\mu g/m^3$ as the design value for 2008 (40 $\mu g/m^3$ of which represents the background as noted above). The design value of 98 $\mu g/m^3$ excludes two exceedances measured in Las Vegas Valley in 2008 that were flagged and documented by Clark County DAQ as exceptional events. EPA has not taken action to concur, or not to concur, on the flagged exceedances, and if the two exceedances were taken into account (in determining the design value rather than being excluded), the design value for 2008 would be 123 $\mu g/m^3$, rather than 98 $\mu g/m^3$. Regardless of whether the 2008 design value is be 123 $\mu g/m^3$ or 98 $\mu g/m^3$, the general principle still applies because both design values are well below the 24-hour PM_{10} NAAQS of 150 $\mu g/m^3$. Namely, if the future-year emissions projections remain below the emissions estimated for the attainment year, then future-year concentrations should remain below the design value for the attainment year and thus well below the NAAQS.

Given the importance of the future-year emissions projections, EPA reviewed the methods and assumptions used by Clark County DAQ to adjust the attainment-year (2008) emissions inventory to develop emissions projections for 2015 and 2013, with particular attention paid to those source categories that contribute most to the overall inventory. The documentation for

Clark County DAQ's emissions projections are found in appendix A ("Technical Support Document") to the Las Vegas Valley PM_{10} Maintenance Plan.

One of the principle assumptions on which the maintenance plan is based is the continued implementation of Clark County's fugitive dust rules, particularly the 90 series rules (i.e., sections 90 through 94). As approved into the SIP, these rules, other than section 94, apply within the "PM_{10} nonattainment area." Redesignation to attainment would presumably have undercut continued implementation of the rules. However, Clark County has recently amended the rules to apply within a PM_{10} nonattainment area or an area subject to a PM_{10} maintenance plan, to ensure continued applicability after the area is redesignated attainment, and thus to be consistent with the assumptions of the maintenance demonstration in the Las Vegas Valley PM_{10} Maintenance Plan. Because EPA cannot redesignate a nonattainment area to attainment without approval of a maintenance plan, see CAA section 107(d)(3)(E)(4), Clark County's extension of applicability of the fugitive dust rules to areas subject to a maintenance plan ensures continued implementations of the rules after redesignation. In section VI of this document, we are proposing to approve the amended fugitive dust rules as a part of this action.

As described in appendix A to the maintenance plan, Clark County DAQ relied primarily on growth factors generated by EPA's Economic Growth Analysis System, Version 5 (EGAS); however, population forecasts were also used to estimate future-year emissions or activity throughput where applicable. With respect to population forecasts, Clark County DAQ relied on the most recent forecasts developed by the Center for Business and Economic Research (CBER) at the University of Nevada, Las Vegas (UNLV) using 2010 U.S. Census data. CBER forecasts a population increase from 2008 to 2015 of 8.6% and a population increase from 2008 to 2023 of 25%.[27] Examples of source categories for which population forecasts were used to develop the emissions projections include construction, wind erosion, and unpaved road sectors. We find this approach to be acceptable.

While EGAS growth factors were used for many source categories, other than those driven by population, Clark County DAQ declined to use EGAS factors for certain sources or source categories if more accurate local data were available. These source and source categories and related data sources include Nellis Air Force Base; fuel consumption projections from the U.S. Energy Information Agency; Union Pacific railroad operations; and vehicle miles traveled (VMT) projections from the Regional Transportation Commission of Southern Nevada (RTC)

[27] *See* page 2-1 of appendix A ("Technical Support Document") to the Las Vegas Valley PM_{10} Maintenance Plan.

for use in estimating entrainment of PM_{10} from vehicle travel over paved roads.[28] Clark County DAQ also included banked emissions reduction credits (ERCs) for 2015 and 2023 in the event that the ERCs are used for the purposes of issuing permits for new or modified stationary sources in the air quality planning area.[29] We find these data sources to be appropriate for use in developing emissions projections for the maintenance plan.

Representing approximately 62% of the overall inventory, wind erosion over vacant lands represents the single largest source category in terms of its contribution to the overall PM_{10} inventory for year 2008 for the BLM disposal area. Clark County DAQ estimated that emissions from this category would decline from approximately 440 tons per day in 2008 to 290 tons per day by 2015 and then to 123 tons per day by 2023. Given this significant predicted decrease in emissions relative to existing conditions, EPA reviewed in detail the assumptions and basis for these forecasts.

As described in section 5.2 of appendix A to the Las Vegas Valley PM_{10} Maintenance Plan, the emissions projections for wind erosion from vacant lands were made using emissions factors that were developed based on a series of wind-tunnel studies

[28] *See* page 4-13 of appendix A ("Technical Support Document") to the Las Vegas Valley PM_{10} Maintenance Plan.
[29] *See* Las Vegas Valley PM_{10} Maintenance Plan, section 6.4.4.

conducted by UNLV, combined with soil inventory data based on satellite imagery and estimates of vacant land and developed land from the Clark County Department of Comprehensive Planning (DCP)'s Geographic Integrated Land Use Information System (GILIS), adjusted over time based on a vacant land consumption rate of approximately 3,400 acres per year and projected population growth rates. The rate for vacant land consumption from 2011 to 2023 is projected to be approximately 23% less than the 30-year average vacant land consumption rate (approximately 4,400 acres per year). The decrease in emissions projected for the wind erosion over vacant lands reflects the reduction in total disturbed unstable lands within the BLM disposal area from approximately 10,100 acres in 2008 to 8,200 acres in 2015 and then to 6,100 acres in 2023. We believe Clark County DAQ's approach to projecting emissions from this source category to be reasonable and find that projected decrease in emissions from this source category is logical given the extent to which the lands within the BLM disposal area are already developed or remain as native desert.

Based on our review described above, we find that the methods, growth factors, and assumptions used by Clark County DAQ to project emissions in 2015 and 2023 based on the attainment inventory for 2008 are reasonable. Given that the projections (summarized in table 2 above) show future emissions

in 2015 (603.72 tons per day) and 2023 (485.24 tons per day) to be well below those in 2008 (706.55 tons per day), we find that the projections provide an adequate basis to demonstrate maintenance of the PM_{10} NAAQS within the Las Vegas Valley area through 2023. Also, as described further in section V.D.7 of this document, Clark County DAQ has chosen to include "safety margins" in the motor vehicle emissions budgets for 2015 (90.63 tons per day) and 2023 (78.29 tons per day), but we find that the overall emissions projections, including the safety margins for the budgets, for 2015 (694.35 tons per day) and 2023 (563.53 tons per day) remain below those in 2008 (706.55 tons per day), and thus, the safety margins are consistent with maintenance of the NAAQS through 2023.

Lastly, we note that, under CAA section 175A(a), a maintenance plan must provide for maintenance of the NAAQS in the area "for at least 10 years after the redesignation." Although final EPA action on this proposed redesignation will not occur until year 2014, we find that the Las Vegas Valley PM_{10} Maintenance Plan satisfies the requirement to provide for maintenance of the NAAQS for at least 10 years after redesignation, which in this case, means through 2024, because (1) significant emissions controls (e.g. Clark County's fugitive dust regulations) remain in place and will continue to provide reductions that keep the area in attainment; (2) the 2023

projected emission inventory is well below the 2008 attainment year level and is expected to decline or remain stable during the 2023 to 2024 period due to continued developed of lands within the BLM disposal area and corresponding reduction in wind erosion over vacant disturbed land; and (3) air quality concentrations are well below the 24-hour PM_{10} NAAQS, and, when coupled with the emission inventory projections through 2023, clearly show it would be very unlikely for a PM_{10} violation to occur in 2024.

For the above reasons, EPA believes that the area will continue to maintain the 24-hour PM_{10} NAAQS at least through 2024 and that the Las Vegas Valley PM_{10} Maintenance Plan provides for maintenance for a period of ten years following redesignation. Thus, if EPA finalizes its proposed approval of the Las Vegas Valley PM_{10} Maintenance Plan in 2014, it is based on a showing, in accordance with section 175A, that the Las Vegas Valley PM_{10} Maintenance Plan provides for maintenance for at least ten years after redesignation.

3. Monitoring Network

Continued ambient monitoring of an area is generally required over the maintenance period. As discussed in section V.A. of this document, PM_{10} is currently monitored by Clark County DAQ within the Las Vegas Valley PM_{10} nonattainment area. In the Las Vegas Valley PM_{10} Maintenance Plan (see section 6-8 of

the plan), Clark County commits to continue operation of an air quality monitoring network that meets or exceeds the minimum monitoring requirements and will be relying on ambient PM_{10} monitoring to verify continued attainment of the 24-hour PM_{10} NAAQS. The Las Vegas Valley PM_{10} Maintenance Plan also notes that a review of the entire monitoring network will be undertaken annually as required by federal regulations.[30] We find Clark County's commitment for continued ambient PM_{10} monitoring as set forth in the Las Vegas Valley PM_{10} Maintenance Plan to be acceptable.

4. Verification of Continued Attainment

Clark County has the legal authority to implement and enforce the requirements in the Las Vegas Valley PM_{10} Maintenance Plan. This includes the authority to adopt, implement and enforce any emission control contingency measures determined to be necessary to correct 24-hour PM_{10} NAAQS violations. To verify continued attainment, Clark County commits in the PM_{10} Maintenance Plan to the continued operation of a PM_{10} monitoring network that meets EPA ambient air quality surveillance requirements.

Second, the transportation conformity process, which would require a comparison of on-road motor vehicle emissions that

[30] EPA's requirements for annual review of monitoring networks are found at 40 CFR 58.10.

and programs with the MVEBs in the Las Vegas Valley PM_{10} Maintenance Plan, represents another means by which to verify continued attainment of the 24-hour PM_{10} NAAQS in the Las Vegas Valley. Lastly, while not cited in the plan, Clark County must inventory emissions sources and report to EPA on a periodic basis under 40 CFR part 51, subpart A ("Air Emissions Reporting Requirements"). These emissions inventory updates will provide a third way to evaluate emissions trends in the area and thereby verify continued attainment of the NAAQS. These methods are sufficient for the purpose of verifying continued attainment.

5. Contingency Provisions

CAA section 175A(d) requires that maintenance plans include contingency provisions, as EPA deems necessary, to promptly correct any violations of the NAAQS that occur after redesignation of the area. Such provisions must include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned that were contained in the SIP for the area before redesignation of the area as an attainment area. In this instance, the Las Vegas Valley PM_{10} Maintenance Plan does not provide for the repeal or relaxation of any of the measures that contributed to attainment of the PM_{10} standard in Las Vegas Valley, and thus, the plan need not provide for any such measures to be reinstituted as a contingency in the event of an exceedance of the NAAQS.

Contingency provisions for maintenance plan purposes are distinguished from those generally required for nonattainment areas under section 172(c)(9) in that they are not required to be fully-adopted measures that will take effect without further action by the state in order for the maintenance plan to be approved. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a specified event. The maintenance plan should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific timeline for action by the State. As a necessary part of the plan, the State should also identify specific indicators or triggers, which will be used to determine when the contingency measures need to be implemented.

As required by section 175A of the CAA, Clark County has adopted a contingency plan to address possible future PM_{10} air quality problems. *See* section 6.9 of the Las Vegas Valley PM_{10} Maintenance Plan. As described in section 6.9 of the maintenance plan, Clark County DAQ intends to rely on its continuous ambient PM_{10} monitoring network to track PM_{10} concentrations and has selected a confirmed violation of the PM_{10} NAAQS, defined as more than one expected exceedance per year averaged over a three-year period, as the primary triggering mechanism. Clark County DAQ

refers to the date sixty days from such a violation as the trigger date after which the contingency plan would go into effect.

Under the contingency plan, within 45 days of the trigger date, Clark County DAQ would notify EPA that an internal review process has begun to evaluate potential contingency measures. The list of potential contingency measures, not intended to be inclusive, includes:

(1) Implementing a new dust control permit requirement for short-term activities that disturb or have the potential to disturb soils that emit PM_{10}, such as mechanized weed abatement, fair, carnivals, Christmas tree and Halloween pumpkin lots, art sales;

(2) Conducting a comprehensive review and update of Clark County's Construction Activities Dust Control Handbook to increase the effectiveness of existing Best Management Practices (BMPs) and to identify new BMPs. Examples include: new management practices for soil-disturbing activities and practices for roadway and detention basin maintenance activities;

(3) Reviewing dust mitigation plan requirements in Clark County Rule 90 and 92, focusing on reducing acreage-trigger thresholds, incorporating additional mitigation plan criteria and lowering applicability thresholds for unpaved parking lots;

(4) Reassigning staff to provide additional field enforcement of the air quality regulations that control sources of fugitive dust emissions;

(5) Mapping construction activities during inspections to collect PM_{10} data to provide greater accuracy for calculating emissions from these activities;

(6) Developing a new dust control database to strengthen oversight of dust control permits and improve compliance; and

(7) Amending fugitive dust regulations to incorporate new technologies and measure for controlling emissions and prevent them from crossing property lines or causing a nuisance.

Within 90 days of the notification to EPA, Clark County DAQ has committed to send EPA an informational report outlining recommended actions. Clark County DAQ will then solicit public involvement and Clark County Board of Commissioners and/or the State Environmental Commission will hold public hearings, as necessary, to consider recommended contingency measures. Under the contingency plan, the selected contingency measures must be adopted and implemented within 18 months of the submittal of the informational report to EPA.

Based on our understanding of the contingency plan, as summarized above, we find that the contingency provisions of the Las Vegas Valley PM_{10} Maintenance Plan clearly identify specific contingency measures, contain tracking and triggering mechanisms

to determine when contingency measures are needed, contain a description of the process of recommending and implementing contingency measures, and contain specific timelines for action. Thus, we conclude that the contingency provisions of the Las Vegas Valley PM_{10} Maintenance Plan are adequate to ensure prompt correction of a violation and therefore comply with section 175A(d) of the Act.

6. Subsequent Maintenance Plan Revisions

CAA section 175A(b) provides that States shall submit a SIP revision 8 years after redesignation providing for maintaining the NAAQS for an additional 10 years. The Las Vegas Valley PM_{10} Maintenance Plan includes a commitment to prepare and submit a revised maintenance plan eight years after redesignation to attainment. *See* section 6.10 of the Las Vegas Valley PM_{10} Maintenance Plan.

7. Motor Vehicle Emissions Budgets

Transportation conformity is required by section 176(c) of the CAA. Our transportation conformity rule (codified in 40 CFR part 93, subpart A) requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do so. Conformity to the SIP means that transportation activities will not produce new air quality violations, worsen existing

violations, or delay timely attainment of the national ambient air quality standards.

PM_{10} maintenance plan submittals must specify the maximum emissions of transportation-related PM_{10} emissions[31] allowed in the last year of the maintenance period, i.e., the motor vehicle emissions budgets (MVEBs). (MVEBs may also be specified for additional years during the maintenance period.) The MVEBs serve as a ceiling on emissions that would result from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble describes how to establish MVEBs in the SIP and how to revise the MVEBs if needed.

The maintenance plan submittal must demonstrate that these emissions levels, when considered with emissions from all other sources, are consistent with maintenance of the NAAQS. In order for us to find these emissions levels or "budgets" adequate and approvable, the submittal must meet the conformity adequacy

[31] Transportation-related emissions of volatile organic compounds (VOC) and/or oxides of nitrogen (NO_x) emissions must also be specified in PM_{10} areas if EPA or the state finds that transportation-related emissions of one or both of these precursors within the nonattainment area are a significant contributor to the PM_{10} nonattainment problem and has so notified the metropolitan planning organization (MPO) and the U.S. Department of Transportation (DOT), or if the applicable SIP revision or SIP revision submittal establishes an approved or adequate budget for such emissions as part of the RFP, attainment or maintenance strategy. 40 CFR 93.102(2)(iii). Neither of these conditions apply to the Las Vegas Valley PM_{10} nonattainment area, and thus, the Las Vegas Valley PM_{10} Maintenance Plan establishes MVEBs only for PM_{10}, not for PM_{10} precursors.

provisions of 40 CFR 93.118(e)(4) and (5). For more information on the transportation conformity requirement and applicable policies on MVEBs, please visit our transportation conformity Web site at:

http://www.epa.gov/otaq/stateresources/transconf/index.htm.

EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) notifying the public of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and, (3) making a finding of adequacy or inadequacy. The process for determining the adequacy of a submitted MVEB is codified at 40 CFR 93.118(f).

On November 7, 2012, EPA announced the availability of the Las Vegas Valley PM_{10} Maintenance Plan with MVEBs and a 30-day public comment period on EPA's Adequacy Web site at: http://www.epa.gov/otaq/stateresources/transconf/currsips.htm The comment period for this notification ended on December 7, 2012, and EPA received no comments from the public. Note, however, that a second mechanism is also provided for EPA review and public comment on MVEBs, as described in 40 CFR 93.118(f)(2). This mechanism provides for EPA's review of the adequacy of an implementation plan MVEB simultaneously with its review and approval and/or disapproval of the applicable SIP revision itself. In this action, EPA used the web notification

discussed above to solicit public comments on the adequacy of Clark County's MVEBs, but is taking comment on the approvability of the submitted MVEBs through this proposed rule.

The Las Vegas Valley PM_{10} Maintenance Plan contains design-day PM_{10} MVEBs for the BLM disposal area portion of the Las Vegas Valley PM_{10} nonattainment area for the last year of the maintenance period (2023), as well as the 2008 base year (attainment inventory) and an interim year (2015). Table 3 presents the MVEBs from the Las Vegas Valley PM_{10} Maintenance Plan and shows how they are derived. Specifically, the MVEBs represent the sum of certain source categories or subcategories from the emissions inventories prepare for the Las Vegas Valley PM_{10} Maintenance Plan plus a safety margin. The applicable source categories or subcategories included in the MVEBs include vehicle emissions (including exhaust, brake wear, and tire wear), paved road dust, unpaved road dust, and three construction-related source subcategories (road construction dust, construction track-out, and wind erosion associated with road construction). The safety margins represent the difference between the sum of the emissions from the source categories or subcategories described above and the PM_{10} MVEB currently in effect in Las Vegas Valley under the approved Las Vegas Valley PM_{10} Attainment Plan (i.e., 141.41 tons per day).

TABLE 3: MOTOR VEHICLE EMISSIONS BUDGETS IN THE LAS VEGAS VALLEY PM_{10} MAINTENANCE PLAN

	Design-Day Emissions (PM_{10}, tons per day)[a]		
Category	**2008**	**2015**	**2023**
Vehicle (exhaust, brake wear, and tire wear)	3.08	2.52	2.75
Paved Road Dust	30.85	38.04	48.78
Unpaved Road Dust (public)	0.28	0.32	0.36
Road Construction Dust	1.54	1.87	2.05
Construction Track-Out	0.25	0.30	0.33
Wind Erosion (road construction)	6.53	7.73	8.85
Subtotals	42.53	50.78	63.12
Safety Margin	98.88	90.63	78.29
Totals	141.41	141.41	141.41

[a] Corresponds to the BLM disposal area portion of Las Vegas Valley.

SOURCE: Derived from tables 7-1, 7-2, and 7-3 in section 7.0 in the Las Vegas Valley PM_{10} Maintenance Plan.

The MVEBs in the Las Vegas Valley PM_{10} Maintenance Plan reflect: (1) on-road motor vehicle emission factors from EPA's current motor vehicle emissions factor model (MOVES); (2) fugitive paved and unpaved road and road construction emission factors from *Compilation of Air Pollutant Emission Factors* (AP-42);[32] and (3) updated vehicle activity data from the Regional Transportation Commission of Southern Nevada's (RTC's) Clark

[32] AP-42, *Compilation of Air Pollutant Emission Factors*, is the primary compilation of EPA's emission factor information. It contains emission factors and process information for more than 200 air pollution source categories, including paved roads. EPA released an update to AP-42 in January of 2011, which revised the equation for estimating paved road dust emissions based on an updated regression that included new emission tests results. Clark County DAQ used the updated AP-42 equation with local data on vehicle weight and silt loading data collected in 2003-2006 with Vehicle Miles Traveled (VMT) data from RTC's TransCAD model to estimate paved road emissions.

County Activity-Based Travel Demand Simulation Model (TransCAD) transportation modeling system.

As described above, the Las Vegas Valley PM_{10} Maintenance plan uses a 2008 attainment-year emissions inventory to project emissions to 2015 and 2023 and show continually decreasing emissions, thereby demonstrating maintenance of the NAAQS through 2023. As shown in table 2 of this document, the Las Vegas Valley PM_{10} Maintenance Plan estimates that design-day emissions in the BLM disposal area portion of the Las Vegas PM_{10} nonattainment area will decrease from approximately 710 tons per day in 2008 to approximately 600 tons per day in 2015 and will then further decrease to approximately 490 tons per day in 2023.

A state may choose to apply a safety margin under our transportation conformity rule so long as such margins are explicitly quantified in the applicable plan and are shown to be consistent with attainment or maintenance of the NAAQS (whichever is relevant to the particular plan). See 40 CFR 93.124(a). For the Las Vegas Valley PM_{10} Maintenance Plan, Clark County DAQ increased the motor vehicle related emissions estimates (i.e., vehicle, paved and unpaved road dust, construction track-out, and road construction (including related wind erosion) to equal 141.41 tons per day, which is the 2006 attainment-year MVEB approved in connection with the Las Vegas Valley PM_{10} Attainment Plan. The Las Vegas Valley PM_{10} Maintenance

Plan demonstrates continued maintenance with the additional safety margins by showing that, with the safety margins added to the estimates for 2015 and 2023, the overall emissions in 2015 (694.35 tons per day) and 2023 (563.53 tons per day) would still be less than the emissions inventory for the attainment year 2008 (706.55 tons per day). See table 7-3 of the Las Vegas Valley PM_{10} Maintenance Plan.

EPA is proposing to approve the MVEBs for 2008, 2015 and 2023, shown in table 3 above, as part of our approval of Las Vegas Valley PM_{10} Maintenance Plan. EPA has determined that the MVEB emission targets are consistent with emission control measures in the SIP and are consistent with maintenance of the 24-hour PM_{10} standard in Las Vegas Valley through 2023. The details of EPA's evaluation of the MVEBs for compliance with the budget adequacy criteria of 40 CFR 93.118(e) are provided in a separate memorandum[33] included in the docket of this rulemaking. Because the budgets EPA approved in 2004 are the same level as the budgets EPA is proposing to approve in this action, if EPA approves the MVEBs in the final rulemaking action, it would not change the budgets currently in use for transportation conformity determinations for Clark County. Any and all comments

[33] *See* EPA memorandum dated October 28, 2013 titled, "Adequacy Documentation for Plan Motor Vehicle Emission Budgets in August 2012 Clark County PM_{10} Maintenance State Implementation Plan."

on the approvability of the MVEBs should be submitted during the comment period stated in the **DATES** section of this document.

VI. Evaluation of Revisions to Clark County Fugitive Dust Rules

As noted above, the Las Vegas Valley PM_{10} Maintenance Plan relies on the continued application of the county's fugitive dust rules, particularly sections 90 through 94; however, these rules, with the exception of section 94, as approved into the SIP, apply within the "PM_{10} nonattainment area (hydrographic basin 212)." Section 94 applies county-wide, not just in the PM_{10} nonattainment area. Redesignation of the Las Vegas Valley PM_{10} nonattainment area to attainment, as proposed herein, could undermine continued applicability and enforceability of the rules. To address this issue, the Clark County Board of County Commissioners recently adopted revisions to the rules to clarify their continued applicability within both a "PM_{10} nonattainment area" and an "area subject to a PM_{10} maintenance plan."

Clark County section 90 specifies requirements and measures to be implemented within the nonattainment area (and Apex Valley) for control of fugitive dust emissions from open areas and vacant lots. Section 91 specifies requirements and measures to be implemented within the nonattainment area (and Apex Valley) for control of fugitive dust from unpaved roads, unpaved alleys, and unpaved easement roads. Section 92 specifies requirements and measures to be implemented within the

nonattainment area (and Apex Valley) for control of fugitive dust from unpaved parking lots, material handling and storage yards, and vehicle and equipment storage yards, not otherwise regulated under Clark County section 94 ("Permitting & Dust Control for Construction Activities"). Section 93 specifies requirements and measures to be implemented within the nonattainment area (and Apex Valley) for control of fugitive dust from paved roads and street sweeping equipment.

EPA most recently approved section 90 at 71 FR 63250 (October 30, 2006); section 91 at 69 FR 32272 (June 9, 2004), section 92 at 71 FR 63250 (October 30, 2006); and section 93 at 71 FR 63250 (October 30, 2006). Relative to the existing SIP versions, as discussed above, the rules have been amended to ensure that the rules continue to apply once the area is redesignated to attainment for PM_{10}. The rules have also been amended to reflect changes in the name of the county's air pollution control district and to use the term "hydrographic area" instead of "hydrographic basin." Lastly, Clark County has amended section 92 to add an exemption from the paving requirement for new equestrian staging areas so long as the applicable performance standards in the rule are met. We find that these changes generally improve the SIP as well as providing the necessary support for the Las Vegas PM_{10} Maintenance Plan. Moreover, we find that the limited and

qualified exemption from the paving requirement under Clark County section 92 for new equestrian staging areas would have no effect on continued maintenance of the PM_{10} standard in Las Vegas Valley and is acceptable.

NDEP's May 27, 2014 SIP revision submittal of amended Clark County fugitive dust rules also includes an amended version of section 41 ("Fugitive dust"). The most recent approval by EPA of Clark County section 41 was at 46 FR 43141 (August 27, 1981). This older fugitive dust rule establishes general fugitive dust requirements and measures applicable throughout Clark County but that are largely superseded with respect to construction activities by section 94 and, within the PM_{10} nonattainment area (and Apex Valley), by the specific measures and other requirements in sections 90 through 93. Section 41 also contains certain provisions related to off-road vehicle and motocross racing that apply only within the nonattainment area. The recent amendments adopted by the Clark County Board of County Commissioners ensure the continued applicability of the off-road vehicle and motocross-related provisions once the area is redesignated to attainment. Other changes relative to the SIP version include the deletion of provisions addressing vacant lots from which topsoil was removed prior to 1973 and the addition of provisions intended to clarify the conditions that the rule seeks to avoid through application of "reasonable

precautions." Within Las Vegas Valley and Apex Valley, vacant lots are now addressed by the specific measures and other requirements in Clark County section 90. The other changes in section 41 generally improve the SIP as well as provide support for the Las Vegas Valley PM_{10} Maintenance Plan.[34]

Therefore, for the reasons discussed above, we find that Clark County fugitive dust rules sections 90 through 93, and 41, as amended by the Clark County Board of County Commissioners on April 15, 2014 (effective April 29, 2014) and submitted by NDEP on May 27, 2014, would not interfere with attainment or maintenance of any of the NAAQS and would provide necessary support for the Las Vegas Valley PM_{10} Maintenance Plan, and thus are approvable under CAA section 110(l).[35] As such, we propose to approve the amended Clark County fugitive dust rules as a revision to the Nevada SIP.

VII. Proposed Deletion of TSP Designation for Las Vegas Valley

A. General Considerations

Consistent with section 107(d)(4)(B), we have considered the continued necessity for retaining the remaining TSP area designations in Nevada, and as discussed below, we have decided

[34] As amended on April 15, 2014, section 41 (see subsection 41.2.3) continues to include outdated references to Clark County section 15, which was replaced by section 12 a number of years ago. We recommend that Clark County update section 41 with the correct references to the appropriate subsections of section 12.

[35] CAA section 110(l) provides, in relevant part, that EPA shall not approve a SIP revision if the SIP revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

that the TSP nonattainment designation for Las Vegas Valley (HA #212) is no longer necessary. As a result, we are proposing to delete it from the TSP table in 40 CFR 81.329.

To evaluate whether the TSP area designation should be retained or can be deleted, we have relied upon the final rule implementing the PM_{10} NAAQS (see 52 FR 24634, July 1, 1987), a policy memorandum on TSP redesignations (see memo dated May 20, 1992 from Joseph W. Paisie, Acting Chief, SO2/Particulate Matter Programs Branch, EPA Office of Air Quality Planning and Standards, to Chief, Air Branch, Regions I-X, entitled "TSP Redesignation Request"), and our proposed and final rules establishing maximum allowable increases in concentrations (also known as "increments") for PM_{10} (see the proposed rule at 54 FR 41218, October 5, 1989, and the final rule at 58 FR 31622, June 3, 1993).

Based on the above references, we believe that the relevant considerations for evaluating whether the necessity of retaining the TSP area designations depend upon the status of a given area with respect to TSP and PM_{10}. For areas that are nonattainment for TSP but attainment for PM_{10}, we generally find that the TSP designations are no longer necessary and can be deleted when EPA (1) approves a State's revised PSD program containing the PM_{10} increments, (2) promulgates the PM_{10} increments into a State's SIP where the State chooses not to adopt the increments on their

own, or (3) approves a State's request for delegation of PSD responsibility under 40 CFR section 52.21(u). *See* 58 FR 31622, at 31635 (June 3, 1993).

For areas that are nonattainment for TSP and nonattainment for PM_{10}, an additional consideration is whether deletion of the TSP designations would automatically relax any emissions limitations, control measures or programs approved into the SIP. If such a relaxation would occur automatically with deletion of the TSP area designations, then we will not delete the designations until we are satisfied that the resulting SIP relaxation would not interfere with any applicable requirement concerning attainment, reasonable further progress (RFP), or maintenance of the NAAQS or any other requirement of the Clean Air Act in the affected areas. *See* section 110(l) of the Act.

In the case of Las Vegas Valley, we believe that the considerations for both types of areas described above are relevant because although Las Vegas Valley is nonattainment for PM_{10}, we are proposing to redesignate the area to attainment for PM_{10} in today's action. Thus, we must take into account both the potential for relaxation that would be inconsistent with continued maintenance of the PM_{10} NAAQS as well as protection of the PM_{10} increments (as applies in areas designated attainment or unclassifiable).

B. Deletion of TSP Nonattainment Area Designation for Las Vegas Valley

With respect to protection of the PM_{10} increments, the TSP nonattainment designations are no longer necessary in Las Vegas Valley because we have approved Clark County's NSR regulations as satisfying the related PSD requirements. See 69 FR 54006 September 7, 2004.[36] We recognize that NDEP retains jurisdiction over certain types of sources in Clark County but note that EPA's PSD pre-construction permit program promulgated at 40 CFR 52.21 apply to those sources under a delegation agreement between NDEP and EPA. See 40 CFR 52.1485(b).

To ensure that deletion of the TSP nonattainment designation for Las Vegas Valley would not result in any automatic relaxations in SIP emissions limitations, control measures or programs that would interfere with attainment, RFP or maintenance of the NAAQS (including PM_{10}) or any other requirement of the Act, we reviewed the following portions of the Nevada SIP:

- The TSP portions of the Las Vegas Valley Air Quality Implementation Plan (AQIP) adopted in response to the CAA, as amended in 1977;

[36] More recently, EPA has taken limited approval and limited disapproval of amendments to Clark County's NSR regulations. 77 FR 64039 (October 18, 2012). In our 2012 final rule, we identified a number of deficiencies in the Clark County's NSR regulations, but none of these deficiencies relate directly to protection of the PM_{10} increments.

- State stationary source rules including NAC 445B.22017 ("Visible emissions: Maximum opacity; determination and monitoring of opacity") and NAC 445B.2203 ("Emissions of particulate matter: Fuel-burning equipment");
- Clark County stationary source rules, including section 26 ("Emission of visible air contaminants"), section 27 ("Particulate matter from process weight rate"), section 28 ("Fuel burning equipment"), section 30 ("Incinerators"), and section 42 ("Open burning"); and
- Clark County fugitive dust rules, including section 41 and sections 90 through 94, as proposed for approval herein (see section VI of this document).

Based on our review of the TSP provisions in the Las Vegas Valley AQIP and the various rules cited above, we find that none are contingent upon continuation of the TSP nonattainment designations, and thus deletion of the TSP designations would not automatically relax any standard. More specifically:

- The Las Vegas Valley AQIP relies primarily on fugitive dust controls, which are now codified in section 41 and sections 90 through 94, and for which applicability does not depend on TSP designations;
- State stationary source rules that apply to coal-fired power plants (i.e., the sources that fall under State

jurisdiction in Clark County) contain percent opacity limits and PM_{10} limits for which the TSP designation is irrelevant;

- Clark County stationary source rules sections 26, 27, 28, 30, and 42 do not contain requirements for which the TSP area designation is relevant; and
- The applicability of the relevant portion of the Clark County rule section 41 ("Fugitive dust") and the other county fugitive dust rules sections 90 through 94 are expressed in terms of the designated boundaries of the PM_{10} nonattainment area (or area subject to a PM_{10} maintenance plan), and not in terms of the boundaries of the TSP area.

In summary, because the PSD PM_{10} increments apply in Las Vegas Valley and because the deletion of the TSP nonattainment designation for Las Vegas Valley would not automatically relax any emissions limitation or control measure in the Nevada SIP, we find that the TSP nonattainment designation is no longer necessary and can be deleted. Based on the above discussion and evaluation, therefore, we are proposing to delete the TSP nonattainment area designation for Las Vegas Valley (HA #212) from the "Nevada-TSP" table in 40 CFR 81.329.

VIII. Proposed Action and Request for Public Comment

Under CAA section 110(k)(3), and for the reasons set forth above, the EPA is proposing to approve NDEP's submittal dated

September 7, 2012 of the *Redesignation Request and Maintenance Plan for Particulate Matter (PM_{10}), Clark County, Nevada* (August 2012) ("Las Vegas Valley PM_{10} Maintenance Plan") as a revision to the Nevada SIP. The EPA finds that the maintenance demonstration showing how the area will continue to attain the 24-hour PM_{10} NAAQS for 10 years beyond redesignation, and the contingency provisions describing the actions that Clark County will take in the event of a future monitored violation, meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. The EPA is also proposing to approve the motor vehicle emissions budgets in the Las Vegas Valley PM_{10} Maintenance Plan (i.e., 141.14 tons per day in 2008, 2015, and 2023) because we find they meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

Second, under CAA section 107(d)(3)(D), we are proposing to approve NDEP's request, which accompanied the submittal of the maintenance plan, to redesignate the Las Vegas Valley PM_{10} nonattainment area to attainment for the 24-hour PM_{10} NAAQS. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Our conclusion in this regard is in turn based on our proposed determination that the area has attained the 24-hour PM_{10} NAAQS, that relevant portions of the Nevada SIP are fully approved, that the improvement in air quality is due to permanent and

enforceable reductions in emissions, that Nevada has met all requirements applicable to the Las Vegas Valley PM_{10} nonattainment area with respect to section 110 and part D of the CAA, and based on our proposed approval as part of this action of the Las Vegas Valley PM_{10} Maintenance Plan. Our proposed determination that the area has attained the 24-hour PM_{10} NAAQS is based in part on our concurrence with Clark County DAQ that the exceedances monitored in Las Vegas Valley on July 3, 2011 were caused by a high wind exceptional event and our related exclusion of the exceedances from the attainment determination.

Third, EPA is proposing to approve revisions to Clark County fugitive dust rules sections 41, and 90 through 93 that were submitted on May 27, 2014 as a revision to the Nevada SIP because we find that they ensure continued implementation of the rules after redesignation of Las Vegas Valley to attainment and because they meet all other applicable requirements. Proposing to do so is consistent with the assumptions upon which the maintenance plan is based.

Lastly, EPA is proposing to delete the area designation for Las Vegas Valley for the revoked national standard for total suspended particulate because the designation is no longer necessary.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. We will accept

comments from the public on this proposal for the next 30 days. We will consider these comments before taking final action.

IX. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. Redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, these actions merely propose to approve a State plan and redesignation request as meeting Federal requirements and do not impose additional requirements beyond those by State law. For these reasons, these proposed actions:

- Are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive

Order 13563 (76 FR 3821, January 21, 2011);

- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address disproportionate human health or environmental

effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law. Nonetheless, EPA has discussed the proposed action with the one Tribe, the Las Vegas Paiute Tribe, located within the Las Vegas Valley PM_{10} nonattainment area.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 27, 2014

Alexis Strauss
Acting Regional Administrator,
Region IX.

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