

FY 2015 Awards under CFDA 84.327C	Grantee project name
H327C170002 (Transferred from H327C150003).	Captionmax LLC, Minneapolis, MN. <i>Project:</i> Television Access for Preschool and Elementary School Children.

The Office of Special Education Programs (OSEP) also funds one project under CFDA 84.327N, Educational Technology, Media, and Materials for Individuals with Disabilities—Captioned and Described Educational Media, the Center for the Described and Captioned Media Program (DCMP; 84.327N). The purpose of the DCMP is to establish and operate an Accessible Learning Center that would oversee the selection, acquisition, captioning, video description, and distribution of educational media through a free loan service for eligible users. The video description and captioning projects are required to use the DCMP's portal as a repository so that eligible users can easily access the video described and captioned media. The DCMP's project period started on October 1, 2016, and will end on September 30, 2021.

#### Waivers and Extensions

OSEP proposes to extend the five video description and captioning projects to align the projects' end dates with that of the DCMP, which will receive its final year of funding in FY 2020 and end on September 30, 2021. OSEP does not believe that it would be in the public interest to run a competition for CFDA 84.327C in FY 2020. Aligning the ends of these project periods would allow the Department to better coordinate the Description and Captioning program. Aligning the video description and captioning projects' periods with the DCMP's project period also would improve coordination across projects, allow for more efficient use of the funding available to support these activities, and ensure easier access to a wider range and increasing numbers of captioned and described educational media and programming.

For these reasons, the Secretary proposes to waive the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, as well as the requirements in 34 CFR 75.261(a) and (c)(2), which allow the extension of a project period only if the extension does not involve the obligation of additional Federal funds. The waiver would allow the Department to issue a one-time FY 2020 continuation award to each of the five currently funded 84.327C projects.

Any activities carried out during the year of this continuation award must be consistent with, or a logical extension of, the scope, goals, and objectives of the

grantees' applications as approved in the FY 2015 competition. The requirements for continuation awards are set forth in 34 CFR 75.253.

#### Regulatory Flexibility Act Certification

The Secretary certifies that the proposed waiver and extension of the project period would not have a significant economic impact on a substantial number of small entities. The only entities that would be affected by the proposed waiver and extension of the project period are the current grantees.

The Secretary certifies that the proposed waiver and extension would not have a significant economic impact on these entities, because the extension of an existing project period imposes minimal compliance costs, and the activities required to support the additional year of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

#### Paperwork Reduction Act of 1995

This notice of proposed waiver and extension of the project period does not contain any information collection requirements.

#### Intergovernmental Review

These programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides early notification of our specific plans and actions for this program.

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#### Mark Schultz,

*Commissioner, Rehabilitation Services Administration. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R09-OAR-2019-0654; FRL 10007-30-Region 9]

### PM<sub>10</sub> Maintenance Plan and Redesignation Request; Imperial Valley Planning Area; California

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the "Imperial County 2018 Redesignation Request and Maintenance Plan for Particulate Matter Less Than 10 Microns in Diameter (PM<sub>10</sub>)" ("Imperial PM<sub>10</sub> Plan") as a revision of the California state implementation plan (SIP). The Imperial PM<sub>10</sub> Plan includes, among other elements, a demonstration of implementation of best available control measures (BACM) and a maintenance plan that includes an emissions inventory consistent with attainment, a maintenance demonstration, contingency provisions, and motor vehicle emissions budgets for use in transportation conformity determinations. In connection with the proposed approval of the Imperial PM<sub>10</sub> Plan, the EPA is proposing to determine that PM<sub>10</sub> precursors do not contribute significantly to elevated PM<sub>10</sub> levels in the area. The EPA is also proposing to

approve the State of California's request to redesignate the Imperial Valley Planning Area from nonattainment to attainment for the PM<sub>10</sub> national ambient air quality standards. The EPA is proposing these actions because the SIP revision meets the applicable statutory and regulatory requirements for such plans and motor vehicle emissions budgets and because the area meets the Clean Air Act requirements for redesignation of nonattainment areas to attainment. Lastly, the EPA is beginning the adequacy process for the 2016 and 2030 motor vehicle emissions budgets in the 2018 Imperial PM<sub>10</sub> Plan through this proposed rule.

**DATES:** Comments must be received on or before May 4, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2019-0654, at <http://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the EPA's full public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Ginger Vagenas, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone at 415-972-3964, or by email at [Vagenas.Ginger@epa.gov](mailto:Vagenas.Ginger@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms "we," "us," and "our" mean the EPA.

## Table of Contents

- I. Background
  - A. National Ambient Air Quality Standards
  - B. State Implementation Plans and Area Designations

- C. Exceptional Events Rule
- D. Imperial Valley Planning Area
- E. PM<sub>10</sub> Planning in the Imperial Valley Planning Area
- II. Procedural Requirements for Adoption and Submittal of State Implementation Plan Revisions
- III. Clean Air Act Requirements for Redesignation to Attainment
- IV. Evaluation of the State's Redesignation Request for the Imperial PM<sub>10</sub> Nonattainment Area
  - A. Determination That the Area Has Attained the PM<sub>10</sub> National Ambient Air Quality Standards
  - B. The Area Must Have a Fully Approved State Implementation Plan Meeting the Requirements Applicable for Purposes of Redesignation Under Section 110 and Part D
  - C. The Area Must Show the Improvement in Air Quality is Due to Permanent and Enforceable Emission Reductions
  - D. The Area Must Have a Fully Approved Maintenance Plan Under Section 175A
- V. Proposed Actions and Request for Public Comment
- VI. Statutory and Executive Order Reviews

## I. Background

### A. National Ambient Air Quality Standards

Under section 109 of the Clean Air Act (CAA or "Act"), the EPA has established national ambient air quality standards (NAAQS or "standards") for certain pervasive air pollutants (referred to as "criteria pollutants") and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The EPA sets the NAAQS for criteria pollutants at levels required to protect public health and welfare.<sup>1</sup> Particulate matter is one of the ambient pollutants for which the EPA has established NAAQS.<sup>2</sup>

<sup>1</sup> For a given air pollutant, "primary" standards are those determined by the EPA as requisite to protect the public health. "Secondary" standards are those determined by the EPA as requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. CAA section 109(b).

<sup>2</sup> Particulate matter is the generic term for a broad class of chemically and physically diverse substances that exist as discrete particles (liquid droplets or solids) over a wide range of sizes. Particles originate from a variety of anthropogenic stationary and mobile sources as well as from natural sources. Particles may be emitted directly or form in the atmosphere by transformations of gaseous emissions such as sulfur dioxide (SO<sub>2</sub>), oxides of nitrogen (NO<sub>x</sub>), volatile organic compounds (VOC), and ammonia (NH<sub>3</sub>). The chemical and physical properties of particulate matter vary greatly with time, region, meteorology, and source category. SO<sub>2</sub>, NO<sub>x</sub>, VOC, and NH<sub>3</sub> are referred to as PM<sub>10</sub> precursors. As discussed later in this proposed rule, precursors do not contribute significantly to elevated ambient PM<sub>10</sub> concentrations in the Imperial Valley Planning Area. Some California air quality plans use the term reactive organic gases (ROG) instead of VOC. The

In 1987, the EPA established primary and secondary NAAQS for particles with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM<sub>10</sub>).<sup>3</sup> At that time, the EPA established two PM<sub>10</sub> standards; an annual standard and a 24-hour standard.<sup>4</sup> An area attains the 24-hour standard of 150 micrograms per cubic meter (µg/m<sup>3</sup>) when the expected number of days per calendar year with a 24-hour concentration in excess of the standard (referred to as an exceedance), averaged over three years, is equal to or less than one.<sup>5</sup> The annual PM<sub>10</sub> standard was subsequently revoked.<sup>6</sup> More recently, the EPA announced that it was retaining the 24-hour PM<sub>10</sub> NAAQS as a 24-hour standard of 150 µg/m<sup>3</sup>.<sup>7</sup> In this document, "PM<sub>10</sub> NAAQS" or "PM<sub>10</sub> standard" refer to the 24-hour-average PM<sub>10</sub> NAAQS.

### B. State Implementation Plans and Area Designations

Following promulgation of a new or revised NAAQS, section 110 of the CAA requires states to adopt and submit a plan, referred to as the SIP, that provides for the implementation, maintenance, and enforcement of each NAAQS within each state. Under CAA section 107(d), the EPA is required to designate areas throughout the nation as nonattainment, attainment, or unclassifiable based on ambient pollutant monitoring data showing whether the area is attaining or not attaining the NAAQS. States with nonattainment areas are required to revise their SIPs to provide for attainment of the NAAQS and to meet other nonattainment area requirements.

### C. Exceptional Events Rule

Congress has recognized that it may not be appropriate for the EPA to use certain monitoring data collected by the ambient air quality monitoring network and maintained in the EPA's Air Quality

terms cover essentially the same compounds, and herein we use the term VOC.

<sup>3</sup> 52 FR 24634 (July 1, 1987).

<sup>4</sup> The primary and secondary standards were set at the same level for both the 24-hour and the annual PM<sub>10</sub> standards.

<sup>5</sup> An exceedance is defined as a daily value that is above the level of the 24-hour standard, 150 µg/m<sup>3</sup>, after rounding to the nearest 10 µg/m<sup>3</sup> (*i.e.*, values ending in five or greater are to be rounded up). Consequently, a recorded value of 154 µg/m<sup>3</sup> would not be an exceedance because it would be rounded to 150 µg/m<sup>3</sup>. A recorded value of 155 µg/m<sup>3</sup> would be an exceedance because it would be rounded to 160 µg/m<sup>3</sup>. 40 CFR part 50, Appendix K, section 1.0.

<sup>6</sup> In 2006, the EPA retained the 24-hour PM<sub>10</sub> standards but revoked the annual standards. 71 FR 61144 (October 17, 2006).

<sup>7</sup> 78 FR 3086 (January 15, 2013).

System database (AQS)<sup>8</sup> in certain regulatory determinations. Thus, in 2005, Congress provided the statutory authority for the exclusion of data influenced by “exceptional events” meeting specific criteria by adding section 319(b) to the CAA.<sup>9</sup> To implement this 2005 CAA amendment, the EPA promulgated the 2007 Exceptional Events Rule.<sup>10</sup> The 2007 Exceptional Events Rule created a regulatory process codified at 40 CFR parts 50 and 51 (sections 50.1, 50.14 and 51.930). These regulatory sections, which superseded the EPA’s previous guidance on handling data influenced by events, contain definitions, procedural requirements, requirements for air agency demonstrations, criteria for the EPA’s approval of the exclusion of event-affected air quality data from the data set used for regulatory decisions, and requirements for air agencies to take appropriate and reasonable actions to protect public health from exceedances or violations of the NAAQS. In 2016, the EPA promulgated a comprehensive revision to the 2007 Exceptional Events Rule.<sup>11</sup>

Under the Exceptional Events Rule, if a state demonstrates to the EPA’s satisfaction that emissions from a high wind dust event caused a specific air pollution concentration in excess of the NAAQS at a particular air quality monitoring location and otherwise satisfies the requirements of 40 CFR 50.14, the EPA must exclude that data from use in determinations of exceedances and violations.<sup>12</sup> The EPA considers high wind dust events to be natural events in cases where windblown dust is entirely from natural undisturbed lands in the area or where all anthropogenic sources are reasonably controlled.<sup>13</sup> For areas in California, the EPA accepts sustained winds of 25 miles per hour as a high wind threshold.<sup>14</sup>

<sup>8</sup> AQS is the EPA’s official repository of ambient air data.

<sup>9</sup> Under CAA section 319(b), an exceptional event means an event that (i) affects air quality; (ii) is not reasonably controllable or preventable; (iii) is an event caused by human activity that is unlikely to recur at a particular location or a natural event; and (iv) is determined by the EPA under the process established in regulations promulgated by the EPA in accordance with section 319(b)(2) to be an exceptional event. For the purposes of section 319(b), an exceptional event does not include (i) stagnation of air masses or meteorological inversions; (ii) a meteorological event involving high temperatures or lack of precipitation; or (iii) air pollution relating to source noncompliance.

<sup>10</sup> 72 FR 13560, March 22, 2007.

<sup>11</sup> 81 FR 68216 (October 3, 2016). We refer herein to the 2016 revision as the “Exceptional Events Rule.”

<sup>12</sup> 40 CFR 50.14(b)(5).

<sup>13</sup> 40 CFR 50.14(b)(5)(ii).

<sup>14</sup> 40 CFR 50.14(b)(5)(iii).

#### D. Imperial Valley Planning Area

Through its enactment of the Clean Air Act Amendments of 1990, Congress designated certain areas of the country as nonattainment areas for the PM<sub>10</sub> NAAQS. A portion of Imperial County (or “County”), referred to as the Imperial Valley Planning Area, was one of the areas designated as nonattainment.<sup>15</sup> In 1991, the EPA classified the Imperial Valley Planning Area, also referred to herein as the “Imperial PM<sub>10</sub> nonattainment area,” as a “Moderate” PM<sub>10</sub> nonattainment area.<sup>16</sup>

Imperial County encompasses approximately 4,500 square miles in southeastern California. It is home to approximately 190,600 people, and its principal industries are farming and retail trade. It is bordered by Riverside County to the north, Arizona to the east, Mexico to the south, and San Diego County and coastal mountains to the west. The Salton Sea straddles the boundary between Riverside and Imperial counties with most of the lake located in the northwest portion of Imperial County. Winters are mild and dry, and summers are extremely hot, with average annual rainfall of about 3 inches. The topography and meteorology of the area creates conditions conducive to moderate and occasionally extremely high winds that result in elevated levels of particulate matter.<sup>17</sup>

The Imperial PM<sub>10</sub> nonattainment area encompasses the western and central parts of the County and includes the Imperial Valley.<sup>18</sup> The Imperial Valley runs north-south through the central part of the County. Most of the County’s population and industries exist within this relatively narrow land area, which extends about one-fourth the width of the County. The rest of Imperial County is primarily open desert, with little or no human population. The Torres Martinez Desert Cahuilla Indians have reservation land in the northwestern corner of the nonattainment area, and the Quechan Tribe of the Fort Yuma Indian

<sup>15</sup> CAA section 107(d)(4)(B)(i) and 52 FR 29383 (August 7, 1987).

<sup>16</sup> 56 FR 56694 (November 6, 1991). On March 19, 2013, we clarified the description of the Imperial Valley planning area. 78 FR 16792. An exact description of the Imperial PM<sub>10</sub> nonattainment area is provided in 40 CFR 81.305.

<sup>17</sup> Section 1.3 of the Imperial PM<sub>10</sub> Plan includes a description of the geography, climate and meteorology, and atmospheric stability and dispersion characteristics in Imperial County.

<sup>18</sup> Figure 1–3 of the Imperial PM<sub>10</sub> Plan illustrates the boundary of the nonattainment area. Generally, the nonattainment area covers that portion of Imperial County that lies west of the crestline of the Chocolate Mountains.

Reservation has reservation land in the southeastern portion of the nonattainment area.

In California, the California Air Resources Board (CARB) is the state agency responsible for the adoption and submission to the EPA of California SIPs and SIP revisions and it has broad authority to establish emissions standards and other requirements for mobile sources. Local and regional air pollution control districts in California are responsible for the regulation of stationary sources and are generally responsible for the development of air quality plans. In Imperial County, the Imperial County Air Pollution Control District (ICAPCD or “District”) develops and adopts air quality plans to address CAA planning requirements applicable to the Imperial Valley Planning Area. Such plans are then submitted to CARB for adoption and submittal to the EPA as revisions to the California SIP.

#### E. PM<sub>10</sub> Planning in the Imperial Valley Planning Area

Under section 189(a) of the CAA, as amended in 1990, states with Moderate PM<sub>10</sub> nonattainment areas were required to develop and submit SIP revisions that, among other things, provide for implementation of reasonably available control measures (RACM) and that demonstrate that the nonattainment area would attain the PM<sub>10</sub> NAAQS no later than the applicable attainment date of December 31, 1994. Subsequent to litigation over the extent to which PM<sub>10</sub> emissions generated within Mexico contributed to PM<sub>10</sub> exceedances over the 1992 to 1994 period, we determined that the Imperial PM<sub>10</sub> nonattainment area did not attain the PM<sub>10</sub> NAAQS by the Moderate area deadline (December 31, 1994) and reclassified the area from Moderate to “Serious.”<sup>19</sup>

Under section 189(b) of the CAA, states with Serious PM<sub>10</sub> nonattainment areas are required to submit SIP revisions that, among other things, provide for implementation of BACM and attainment no later than applicable Serious area attainment date (December 31, 2001). In the case of the Imperial PM<sub>10</sub> nonattainment area, we determined that the area did not attain the PM<sub>10</sub> NAAQS by the Serious area deadline (December 31, 2001), which triggered the requirement under CAA section 189(d) for the State to revise the SIP to provide for attainment of the PM<sub>10</sub> NAAQS in the Imperial PM<sub>10</sub> nonattainment area and to provide at

<sup>19</sup> 69 FR 48972 (August 11, 2004). Please see our August 11, 2004 final rule for details concerning the litigation and our determination that the Imperial PM<sub>10</sub> nonattainment area had failed to attain by the applicable Moderate area attainment date.

least five percent annual reductions in PM<sub>10</sub> or PM<sub>10</sub> precursor emissions until attainment is reached.<sup>20</sup>

Meanwhile, in response to the designation of the Imperial Valley Planning Area as a Moderate, then Serious, nonattainment area, the District and CARB developed several air quality plans to address applicable CAA requirements for the area. In developing the plans and control strategies, the District and CARB identified direct PM<sub>10</sub> sources, such as fugitive dust sources (*e.g.*, farming, construction, and vehicle travel over paved and unpaved roads) and windblown dust as two principal sources of PM<sub>10</sub> emissions causing or contributing to PM<sub>10</sub> exceedances in the nonattainment area.<sup>21</sup> The District and CARB found that secondarily-formed PM<sub>10</sub> (*i.e.*, PM<sub>10</sub> derived from PM<sub>10</sub> precursors such as NO<sub>x</sub> and SO<sub>2</sub>) contributed little to exceedances in the nonattainment area.

To address fugitive dust sources in the nonattainment area and to address the Serious area requirement for implementation of BACM, the District adopted a set of rules in Regulation VIII establishing emission control requirements for such fugitive sources as construction and earthmoving, bulk materials, carry out and track out, open areas, paved and unpaved roads, and agricultural activities. In 2010, the EPA approved the rules, but also identified certain deficiencies with respect to the BACM requirement in some of the rules that prevented full approval.<sup>22</sup> In response, in 2012, the District amended certain Regulation VIII rules, including the rules for open areas, paved and unpaved roads, and agricultural activities.

In the following year, the EPA found that the deficiencies had been corrected and approved the amended rules as revisions to the Imperial County portion of the California SIP.<sup>23</sup> In our 2013 final rule, we indicated our preliminary view that the Regulation VIII rules, as revised in 2012, constitute reasonable control of the sources covered by Regulation VIII for the purpose of evaluating whether an exceedance of the PM<sub>10</sub> NAAQS is an exceptional event pursuant to the Exceptional Events Rule, including reasonable and appropriate control measures on significant contributing anthropogenic sources.<sup>24</sup>

More recently, the District and CARB reviewed the PM<sub>10</sub> ambient monitoring data collected within the Imperial Valley Planning Area and preliminarily determined that the Imperial Valley Planning Area has attained the PM<sub>10</sub> NAAQS based on 2014–2016 data. Their preliminary determination assumes the EPA's concurrence, under the Exceptional Events Rule, on the District's and CARB's determination that nearly all the exceedances during that period were exceptional events caused by emissions due to high winds. Attainment of the NAAQS is one of the criteria for redesignation of a nonattainment area to attainment, and the District and CARB developed the Imperial PM<sub>10</sub> Plan to address all the redesignation criteria, including the attainment criterion.

Following approval by the District in October 2018 and by CARB in December 2018, CARB submitted the Imperial PM<sub>10</sub> Plan to the EPA under cover of letter dated February 6, 2019, as a revision to the Imperial County portion of the California SIP. We received the SIP submittal on February 13, 2019. In addition to the Imperial PM<sub>10</sub> Plan itself, the SIP revision submittal package includes the District Board Minute Order approving the plan and related District staff report, the CARB Board Resolution 18–58 adopting the plan and related CARB staff report, and documentation of public participation. In this action, for the reasons discussed in the following sections of this document, we are proposing to approve the Imperial PM<sub>10</sub> Plan and to approve CARB's request to redesignate the Imperial Valley Planning Area from nonattainment to attainment for the PM<sub>10</sub> NAAQS.

## II. Procedural Requirements for Adoption and Submittal of State Implementation Plan Revisions

CAA sections 110 (a)(1) and (2) and section 110(l) require a state to provide reasonable notice and opportunity for public hearing prior to adoption and submission of a SIP or SIP revision. To meet these procedural requirements, every SIP submission should include evidence that the state provided adequate public notice and an opportunity for a public hearing consistent with the EPA's implementing regulations in 40 CFR 51.102.

of NAAQS other than the PM<sub>10</sub> NAAQS or to events that differ significantly in terms of meteorology, sources, or conditions from the events that were at issue in the EPA's July 2010 final action and associated litigation, nor was our preliminary statement intended to be a determination with respect to any specific PM<sub>10</sub> exceedances.

CARB's February 6, 2019 SIP submittal package includes documentation of the public processes used by the District and CARB to adopt the Imperial PM<sub>10</sub> Plan. As documented in the SIP revision submittal package, on September 20, 2018, the District published a notice in a newspaper of general circulation in Imperial County that a public hearing to consider adoption of the plan would be held on October 23, 2018. As documented in the Minute Order of the Air Pollution Control Board that is included in the SIP revision submittal package, the Imperial County Air Pollution Control Board of Directors adopted the Imperial PM<sub>10</sub> Plan on October 23, 2018, following the public hearing.

Following transmittal by the District of the adopted Imperial PM<sub>10</sub> Plan to CARB, on November 9, 2018, CARB published on its website a notice of a public hearing to be held on December 13, 2018, to consider adoption of the plan. As evidenced by CARB Resolution 18–58, CARB adopted the Imperial PM<sub>10</sub> Plan on December 13, 2018, following a public hearing. Based on documentation included in the February 6, 2019 SIP revision submittal package, we find that both the District and CARB have satisfied the applicable statutory and regulatory requirements for reasonable public notice and hearing prior to the adoption and submission of the Imperial PM<sub>10</sub> Plan. Therefore, we find that the submission of the Imperial PM<sub>10</sub> Plan meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l) and in 40 CFR 51.102.

## III. Clean Air Act Requirements for Redesignation to Attainment

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) The EPA determines that the area has attained the applicable NAAQS; (2) the EPA has fully approved the applicable implementation plan for the area under 110(k); (3) the EPA determines that the improvement in air quality is due to permanent and enforceable reductions; (4) the EPA has fully approved a maintenance plan for the area as meeting the requirements of CAA 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. Section 110 identifies a comprehensive list of elements that SIPs must include and part D establishes the SIP requirements for nonattainment areas. Part D is divided into six subparts. The generally-

<sup>20</sup> 72 FR 70222 (December 11, 2007).

<sup>21</sup> CARB, "Status Report on Imperial County Air Quality and Approval of the State Implementation Plan Revision for PM<sub>10</sub>," Release Date: April 26, 2010.

<sup>22</sup> 75 FR 39366 (July 8, 2010).

<sup>23</sup> 78 FR 23677 (April 22, 2013).

<sup>24</sup> *Id.*, at 23682. As stated in our 2013 final rule, our preliminary view did not extend to exceedances

applicable nonattainment SIP requirements are found in part D, subpart 1, and the particulate matter-specific SIP requirements are found in part D, subpart 4.

The EPA provided guidance on redesignations in a document entitled “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,<sup>25</sup> and supplemented on April 28, 1992<sup>26</sup> (referred to herein as the “General Preamble”). We issued additional guidance on September 4, 1992, in a memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, entitled “Procedures for Processing Requests to Redesignate Areas to Attainment” (referred to herein as the “Calcagni memo”). On August 16, 1994, the EPA published guidance for Serious PM<sub>10</sub> nonattainment areas in a document entitled “State Implementation Plans for Serious PM<sub>10</sub> Nonattainment Areas, and Attainment Date Waivers for PM<sub>10</sub> Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” (herein referred to as the “Addendum”).<sup>27</sup>

Maintenance plan submittals are SIP revisions, and as such, the EPA is obligated under CAA section 110(k) to approve them or disapprove them depending upon whether they meet the applicable CAA requirements for such plans.

For reasons set forth in Section IV of this document, we propose to approve the Imperial PM<sub>10</sub> Plan and to approve CARB’s request for redesignation of the Imperial Valley Planning Area from nonattainment to attainment for the PM<sub>10</sub> NAAQS based on our conclusion that all the criteria under CAA section 107(d)(3)(E) have been satisfied.

#### **IV. Evaluation of the State’s Redesignation Request for the Imperial PM<sub>10</sub> Nonattainment Area**

##### *A. Determination That the Area Has Attained the PM<sub>10</sub> National Ambient Air Quality Standards*

Section 107(d)(3)(E)(i) of the CAA states that, for an area to be redesignated

to attainment, the EPA must determine that the area has attained the relevant NAAQS. In this case, the relevant standard is the PM<sub>10</sub> NAAQS. Generally, the EPA determines whether an area’s air quality is meeting the PM<sub>10</sub> NAAQS based upon complete, quality-assured, and certified data gathered at established state and local air monitoring stations (SLAMS) in the nonattainment area and entered into the EPA’s AQS database.<sup>28</sup>

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, the EPA relies primarily on data in AQS when determining the attainment status of an area.<sup>29</sup> All valid data are reviewed to determine the area’s air quality status in accordance with 40 CFR part 50, Appendix K.

The PM<sub>10</sub> standard is attained when the expected number of exceedances per year, averaged over a three-year period, is less than or equal to one. The expected number of exceedances averaged over a three-year period at any given monitor is known as the PM<sub>10</sub> design value. The PM<sub>10</sub> design value for the area is the highest design value within the nonattainment area. Three consecutive years of air quality data are required to show attainment of the PM<sub>10</sub> standard.<sup>30</sup> The demonstration of attainment in the Imperial PM<sub>10</sub> Plan is based on data from 2014–2016. In order to ensure the area has continued to attain, the EPA is also considering data collected subsequent to the time frame of the Plan.

ICAPCD is a monitoring organization within the CARB Primary Quality Assurance Organization (PQAO). ICAPCD and CARB are jointly responsible for monitoring ambient air quality within the Imperial PM<sub>10</sub> nonattainment area. CARB submits annual monitoring network plans to the EPA describing the monitoring network operated by ICAPCD and CARB within Imperial County and discussing the

<sup>28</sup> For PM<sub>10</sub>, a complete year of air quality data includes all four calendar quarters with each quarter containing a minimum of 75 percent of the scheduled PM<sub>10</sub> sampling days. 40 CFR part 50, Appendix K, section 2.3(a).

<sup>29</sup> 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.

<sup>30</sup> 40 CFR part 50 and Appendix K.

status of the air monitoring network, as required under 40 CFR 58.10.

The EPA reviews these annual plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to PM<sub>10</sub>, the EPA has found that CARB’s network plans meet the applicable reporting requirements for the area under 40 CFR part 58.<sup>31</sup> The EPA also concluded from its 2018 Technical System Audit that CARB and ICAPCD’s monitoring network currently meets or exceeds the requirements for the minimum number of SLAMS for PM<sub>10</sub> in the El Centro, CA Metropolitan Statistical Area, which includes the Imperial PM<sub>10</sub> nonattainment area.<sup>32</sup> ICAPCD and CARB annually certify that the data they submit to AQS are complete and quality-assured.<sup>33</sup>

During the 2014–2016 time period, CARB operated one and ICAPCD operated four PM<sub>10</sub> SLAMS monitoring sites within the Imperial PM<sub>10</sub> nonattainment area. These sites are oriented along a roughly north-south axis in the central, populated part of the nonattainment area.<sup>34</sup> Historically, all five sites monitored PM<sub>10</sub> concentrations using filter-based designated Federal Reference Method (FRM) monitors. Two sites have also monitored concentrations using continuous Federal Equivalent Method (FEM) monitors since 2009.

<sup>31</sup> For example, see letter dated November 26, 2018, from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Ravi Ramalingam, Chief, Consumer Products and Air Quality Assessment Branch, CARB, approving CARB’s 2018 Annual Network Plan.

<sup>32</sup> See EPA Region IX, Technical Systems Audit Final Report of the Ambient Air Monitoring Program: California Air Resources Board, September–December 2018. Enclosed with letter dated February 3, 2020, from Elizabeth J. Adams, Director, Air and Radiation Division, EPA Region IX, to Richard Corey, Executive Officer, CARB.

<sup>33</sup> See, e.g., letter dated August 12, 2019, from Michael Benjamin, Chief, Air Quality Planning and Science Division, CARB, to Mike Stoker, Regional Administrator, EPA Region IX, certifying 2018 ambient air quality data and quality assurance data.

<sup>34</sup> Section 2.2 of the Imperial PM<sub>10</sub> Plan includes a description of the monitoring sites and information regarding the history and timing of the addition of BAM monitors to the network. Figure 2–1 of the Imperial PM<sub>10</sub> Plan shows the locations of the SLAMS monitoring sites within the Imperial Valley Planning Area.

<sup>25</sup> 57 FR 13498.

<sup>26</sup> 57 FR 18070.

<sup>27</sup> 59 FR 41998.

Between 2015 and 2016, data from FEM monitors became available at the remaining stations, while the filter-based FRM monitors at all five stations were gradually retired.<sup>35</sup> The PM<sub>10</sub> monitoring sites have been established to monitor for population exposure in the middle or neighborhood scale.<sup>36</sup>

Consistent with the requirements contained in 40 CFR part 50, the EPA has reviewed the quality-assured and certified PM<sub>10</sub> ambient air monitoring data as recorded in AQS for the applicable monitoring period collected at the monitoring sites in the Imperial PM<sub>10</sub> nonattainment area and determined that the data are of sufficient completeness for the purposes of making comparisons with the PM<sub>10</sub> standards.

The monitoring data for the PM<sub>10</sub> standard for the Imperial PM<sub>10</sub> nonattainment area include exceedances of the standard recorded during the 2014–2016 time period and in 2017 and 2018. However, the EPA is excluding most of the exceedances of the standard in these years from the attainment determination because they were the result of exceptional events as defined in section 319(b) of the Act and its implementing regulations, referred to

herein as the Exceptional Events Rule.<sup>37</sup> The Exceptional Events Rule defines an exceptional event as an event that the EPA determines affects air quality in such a way that there is a clear causal relationship between the event and a monitored exceedance (or violation) that is not reasonably controllable or preventable. Such events can be natural (for example, high winds or wildfires) or can be caused by human activity that is unlikely to recur.<sup>38</sup>

On various dates, CARB submitted demonstrations for high wind PM<sub>10</sub> exceptional events covering the exceedances recorded at various monitoring sites in the nonattainment area during the 2014–2018 time period.<sup>39</sup> The demonstrations include a narrative conceptual model of each event that describes the event-specific characteristics, evidence showing the exceedances were not reasonably controllable or preventable, and evidence of the clear causal relationship between the high wind events and the exceedances flagged as exceptional events.

The EPA reviewed the documentation that CARB and the District developed to demonstrate that the exceedances on these days met the criteria for an

exceptional event under the Exceptional Events Rule. As conveyed in the EPA's concurrence letters included in the docket for this action, we have concurred with 91 exceedance days that the State requested for determinations that, based on the weight of evidence, exceedances were caused by high wind exceptional events.<sup>40</sup> Accordingly, the EPA has determined that the monitored exceedances associated with these exceptional events should be excluded from use in determinations of exceedances and violations, including the evaluation of whether the Imperial PM<sub>10</sub> nonattainment area has attained the standard for the purposes of redesignation under CAA section 107(d)(3)(E)(i). Table 1 presents a summary of the PM<sub>10</sub> design values for 2016, 2017, and 2018 at the various monitors within the Imperial Valley Planning Area, excluding the exceedances for which the EPA has issued concurrences, based on the data for 2014–2016, 2015–2017 and 2016–2018 data, respectively.<sup>41</sup> The PM<sub>10</sub> design value for the area is the PM<sub>10</sub> design value at the monitor with the highest design value in a given year.

TABLE 1—2016, 2017, AND 2018 DESIGN VALUES FOR THE 1987 PM<sub>10</sub> NAAQS AT IMPERIAL COUNTY, CA AIR QUALITY MONITORING STATIONS

Station Name	AQS ID	PM <sub>10</sub> design value					
		2016	Valid	2017	Valid	2018	Valid
Calexico .....	06-025-0005-3 ...	0.0 <sup>a</sup> .....	Y	0.7 <sup>a</sup> .....	Y	1.0 .....	Y
Brawley .....	06-025-0007-1 ...	Invalid <sup>b</sup> .....	N	N/A <sup>c</sup> .....	Y	N/A <sup>c</sup> .....	Y
Brawley .....	06-025-0007-3 ...	0.0 .....	Y	0.3 .....	Y	0.3 .....	Y
El Centro .....	06-025-1003-4 ...	0.0 <sup>a</sup> .....	Y	0.0 <sup>a</sup> .....	Y	0.3 .....	Y
Westmorland .....	06-025-4003-3 ...	0.0 <sup>a</sup> .....	Y	0.3 <sup>a</sup> .....	Y	0.3 .....	Y
Niland .....	06-025-4004-1 ...	0.0 .....	Y	N/A <sup>c</sup> .....	Y	N/A <sup>c</sup> .....	Y
Niland .....	06-025-4004-3 ...	0.0 .....	Y	0.0 .....	Y	0.0 .....	Y

<sup>a</sup> The 2016 and 2017 design values for the Westmorland (06-025-4003-3), El Centro (06-025-1003-4), and Calexico (06-025-0005-3) are derived from a combination of data resulting from the monitoring agency transitioning from one monitor to a newer monitor at the same monitoring station.

<sup>b</sup> The 2016 design value for Brawley (06-025-0007-1) is invalid due to insufficient data completeness in 2014.

<sup>c</sup> The Niland (06-025-4004-1) and Brawley (06-025-0007-1) monitors were approved for closure by the EPA.

Based on a review of air quality data during the three-year period covered by the Plan (2014–2016) (summarized above in Table 1), excluding the exceedances flagged by CARB and

ICAPCD and concurred with by the EPA as exceptional events, we find that the 2016 design value for the Imperial PM<sub>10</sub> nonattainment area is 0.0 and that the area attained the standard by that year.

We have also evaluated the certified data for 2017 and 2018 and find that that the 2017 design value for the Imperial PM<sub>10</sub> nonattainment area is 0.7 and the 2018 design value is 1.0, which

<sup>35</sup> Memorandum dated March 5, 2020, from Jennifer Williams, EPA Region IX and Brett Gantt, EPA Office of Air Quality Planning and Standards, to Docket Number EPA-R09-OAR-2019-0654, Subject: Imperial County, CA PM<sub>10</sub> Nonattainment Area Design Value Calculations.

<sup>36</sup> 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. 40 CFR part 58, Appendix D, section 4.6.

<sup>37</sup> As noted in Section I.C. of this notice, the EPA promulgated the Exceptional Events Rule (“Treatment of Data Influenced by Exceptional Events”) on March 22, 2007 (72 FR 13560) and later revised it on October 3, 2016 (81 FR 68216).

<sup>38</sup> 40 CFR 50.1.

<sup>39</sup> While submitted by CARB, the demonstrations and addendums were developed through a joint effort by CARB and ICAPCD. The exceptional

events demonstrations are included in the docket for this action.

<sup>40</sup> The EPA's concurrence letters and technical support documents are located in the docket for this action.

<sup>41</sup> More information can be found in the memorandum dated March 5, 2020, from Jennifer Williams, EPA Region IX and Brett Gantt, EPA Office of Air Quality Planning and Standards, to Docket Number EPA-R09-OAR-2019-0654, Subject: Imperial County, CA PM<sub>10</sub> Nonattainment Area Design Value Calculations.

demonstrates that the area continues to attain the standard. Therefore, based on complete, quality-assured, and certified data for 2014–2018, we find that the Imperial County PM<sub>10</sub> nonattainment area attained the PM<sub>10</sub> NAAQS in 2016 and has continued to attain since that time.

We have also reviewed preliminary data for 2019 that have been entered in AQS and have determined that they are consistent with attainment.<sup>42</sup> We will review any additional data that becomes available prior to final action to ensure that they are consistent with continued attainment.<sup>43</sup>

*B. The Area Must Have a Fully Approved State Implementation Plan Meeting the Requirements Applicable for Purposes of Redesignation Under Section 110 and Part D*

Sections 107(d)(3)(E)(ii) and (v) require the 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. The EPA may rely on prior SIP approvals in approving a redesignation request<sup>44</sup> as well as any additional measure it may approve in conjunction with a redesignation action.<sup>45</sup> In this instance, we are proposing to approve two part D elements as part of this action—the

<sup>42</sup> AQS Design Value Report (AMP 480), dated March 5, 2020.

<sup>43</sup> We recognize that, on October 22, 2019, the Imperial County Board of Supervisors adopted a proclamation of local emergency for air pollution at the Salton Sea. See letter dated November 4, 2019, from Tony Rouhotas, Jr., County Executive Officer, to Gavin Newsom, Governor of the State of California. The proclamation was based primarily on ambient PM<sub>10</sub> concentration data collected at two nonregulatory monitors located immediately west of the Salton Sea at Salton City and Naval Test Base that showed exceedances of the PM<sub>10</sub> NAAQS. Nonregulatory monitors are those that have not been determined to comply with the minimum requirements in 40 CFR part 58 (“Ambient Air Quality Surveillance”), such as the siting criteria. While data from nonregulatory monitors are not appropriate for use in determining whether an area attained or failed to attain the NAAQS, the data are appropriate for other purposes. In this case, under the Salton Sea Air Quality Mitigation Program, the nonregulatory data are used to produce the annual emissions inventories, assemble dust control plans, and evaluate the performances of the dust control plans. Imperial PM<sub>10</sub> Plan, 5–5. The State of California’s initial response to Imperial County’s November 4, 2019 letter is contained in a letter dated January 6, 2020, from Wade Crowfoot, Secretary for Natural Resources and Jared Blumenfeld, Secretary for Environmental Protection, which is included in the docket for this rulemaking.

<sup>44</sup> Calcagni Memo, 3; *Wall v. EPA*, F.3d 416 (6th Cir. 2001); and *Southwestern Pennsylvania Growth Alliance v. Browner*, (144 F.3d 984, 989–990 (6th Cir. 1998)).

<sup>45</sup> 68 FR 25418, 25426 (May 12, 2003) and citations within.

emissions inventory under CAA section 172(c)(3) and the BACM demonstration under CAA section 189(b)(1)(B). With full approval of those two elements, the Imperial County portion of the California SIP will be fully approved under section 110(k) for the purposes of redesignation of the area to attainment.

1. Basic State Implementation Plan Requirements Under Section 110

The general SIP elements and requirements set forth in section 110(a)(2) include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permitting program; provision for the implementation of part C requirements for prevention of significant deterioration; provisions for the implementation of part D requirements for nonattainment new source review permit programs; provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

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). The section 110(a)(2) (and part D) requirements that are linked to a particular nonattainment area’s designation and classification are the relevant measures to evaluate in reviewing a redesignation request. Requirements that apply regardless of the designation of any particular area of a state are not applicable requirements for the purposes of redesignation, and the State will remain subject to these requirements after the Imperial PM<sub>10</sub> nonattainment area is redesignated to attainment.

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: These SIPs are often referred to as “transport SIPs.” Because the section 110(a)(2)(D) requirements for transport SIPs are not linked to a particular nonattainment area’s designation and classification, but rather apply regardless of the area’s attainment status, these are not applicable requirements for the purposes of redesignation under section 107(d)(3)(E).

Similarly, the EPA considers other section 110(a)(2) (and part D) requirements that are not linked to

nonattainment plan submissions or to an area’s attainment status as not applicable requirements for purposes of redesignation. The EPA evaluates the section 110 (and part D) requirements that relate to a particular nonattainment area’s designation and classification as the relevant measures to evaluate in reviewing a redesignation request. This is consistent with the EPA’s existing policy on applicability of the conformity SIP requirement for redesignations.<sup>46</sup>

On numerous occasions, CARB and ICAPCD have submitted and we have approved provisions addressing the basic CAA section 110 provisions. The Imperial County portion of the California SIP contains enforceable emissions 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 Imperial County is unable to meet its CAA obligations.<sup>47</sup> There are no outstanding or disapproved applicable SIP submittals with respect to the Imperial County portion of the SIP that prevent redesignation of the Imperial PM<sub>10</sub> nonattainment area for the PM<sub>10</sub> NAAQS. Therefore, we find that CARB and ICAPCD have met all general SIP requirements for Imperial that are applicable for purposes of redesignation under section 110 of the CAA.

2. State Implementation Plan Requirements Under Part D

Subparts 1 and 4 of part D, title 1 of the CAA contain air quality planning requirements for PM<sub>10</sub> nonattainment areas. Subpart 1 contains general requirements for all nonattainment areas of any pollutant, including PM<sub>10</sub>, governed by a NAAQS. The subpart 1 requirements include, in relevant part, provisions for implementation of RACM, a demonstration of reasonable further progress (RFP), emissions inventories, a program for preconstruction review and permitting of new or modified major stationary sources, contingency measures, transportation conformity, and for areas that fail to attain the standard by the applicable attainment date, a plan

<sup>46</sup> 75 FR 36023, 36026 (June 24, 2010) and citations within.

<sup>47</sup> The Imperial County portion of the federally approved California SIP can be viewed at <https://www.epa.gov/sips-ca/epa-approved-imperial-county-apcd-regulations-california-sip>.

meeting the requirements of section 179(d).

Subpart 4 contains specific planning and scheduling requirements for PM<sub>10</sub> nonattainment areas. Section 189(a), (c), and (e) requirements apply specifically to Moderate PM<sub>10</sub> nonattainment areas and include the following: An approved permit program for construction of new and modified major stationary sources; provisions for RACM; an attainment demonstration; quantitative milestones demonstrating RFP toward attainment by the applicable attainment date; and provisions to ensure that the control requirements applicable to major stationary sources of PM<sub>10</sub> also apply to major stationary sources of PM<sub>10</sub> precursors, except where the Administrator has determined that such sources do not contribute significantly to PM<sub>10</sub> levels that exceed the NAAQS in the area.

Under CAA section 189(b), Serious PM<sub>10</sub> nonattainment areas such as the Imperial PM<sub>10</sub> nonattainment area, must meet the subpart 1 and Moderate area requirements discussed above and, in addition, must develop and submit provisions to assure the implementation of BACM for the control of PM<sub>10</sub>.<sup>48</sup> Under CAA section 189(d), Serious PM<sub>10</sub> nonattainment areas that fail to attain the standard by the applicable attainment date, such as Imperial County, must develop and submit plan revisions that provide for attainment of the PM<sub>10</sub> standard and, from the date of such submission until attainment, for an annual reduction in PM<sub>10</sub> of not less than 5 percent of the amount of such emissions.

In the context of evaluating an area's eligibility for redesignation, the EPA has interpreted CAA requirements associated with attainment of the NAAQS (such as attainment and RFP demonstrations) as not being applicable for purposes of redesignation.<sup>49</sup> The Calcagni memo similarly provides that requirements for RFP and other measures needed for attainment will not apply for redesignations because they have meaning and applicability only where areas do not meet the NAAQS.<sup>50</sup> With respect to contingency measures, the EPA explained that the section 172(c)(9) contingency measure requirements are directed at ensuring

<sup>48</sup> In Moderate PM<sub>10</sub> nonattainment areas, major sources include sources that emit or have the potential to emit at least 100 tons per year of PM<sub>10</sub> or its precursors. Sources that emit less than 100 tons per year are minor sources. In Serious PM<sub>10</sub> nonattainment areas, the threshold distinguishing major stationary sources from minor stationary sources is 70 tons per year.

<sup>49</sup> General Preamble, 13564.

<sup>50</sup> Calcagni memo, 6.

RFP and attainment by the applicable date and that, consequently, these requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, CAA section 175A(d) provides for specific requirements for maintenance plan contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas.<sup>51</sup>

Thus, the requirements associated with attainment do not apply for purposes of evaluating whether an area that has attained the standard qualifies for redesignation. The EPA has enunciated this position since the General Preamble was published more than 25 years ago, and it represents the Agency's interpretation of what constitutes applicable requirements under section 107(d)(3)(E). The courts have recognized the scope of the EPA's authority to interpret "applicable requirements" in the redesignation context.<sup>52</sup>

The remaining applicable Part D requirements for Serious PM<sub>10</sub> areas include the following: (1) An emissions inventory under section 172(c)(3); (2) a permit program for the construction and operation of new and modified major stationary sources of PM<sub>10</sub> under sections 172(c)(5), 189(a)(1)(A) and 189(b)(3); (3) provisions to assure the implementation of BACM under section 189(b)(1)(B); (4) control requirements for major stationary sources of PM<sub>10</sub> precursors under section 189(e), except where the Administrator determines that such sources do not contribute significantly to PM<sub>10</sub> levels that exceed the standard in the area; (5) requirements under section 172(c)(7) that meet the applicable provisions of section 110(a)(2); and (6) provisions to ensure that federally supported or funded transportation projects conform to the air quality planning goals in the applicable SIP under section 176(c). We discuss each of these requirements below.

#### a. PM<sub>10</sub> Precursors

While CAA section 189(e) expressly requires control of precursors from major stationary sources, it is clear that subpart 4 and other CAA provisions collectively require the control of direct PM<sub>2.5</sub> and PM<sub>2.5</sub> precursors from all types of sources (*i.e.*, stationary sources, area sources and mobile sources) as may be needed for the purposes of

<sup>51</sup> Our evaluation of the contingency plan element of the Imperial PM<sub>10</sub> Plan in in Section IV.D.4 of this document.

<sup>52</sup> The Seventh Circuit in *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004) (upholding EPA redesignation of the St. Louis metropolitan area to attainment) is one such example.

demonstrating attainment as expeditiously as practicable in a given nonattainment area. See CAA requirements for states to demonstrate attainment "as expeditiously as practicable." CAA section 188(c)(1) and section 172(a)(1).

For the purposes of the redesignation request and development of the maintenance plan, CARB undertook an analysis of mass and speciation data to determine the extent to which PM<sub>10</sub> precursors contribute to ambient concentrations of PM<sub>10</sub> in the Imperial Valley Planning Area.<sup>53</sup> CARB identified five days within the period of 2007 to 2016 where concentrations of PM<sub>10</sub> were greater than 95% of the NAAQS and for which PM<sub>10</sub> mass and PM<sub>10</sub> and PM<sub>2.5</sub> speciation data were available.<sup>54</sup> Values for PM<sub>10</sub> mass on these dates ranged from 144 µg/m<sup>3</sup> to 305 µg/m<sup>3</sup>.<sup>55</sup> Using this information, CARB calculated that for these five days, on average, SO<sub>x</sub><sup>56</sup> contributes 4.5 µg/m<sup>3</sup> or 2 percent (%) of the PM<sub>10</sub> mass, NO<sub>x</sub> contributes 3 µg/m<sup>3</sup> or 1.3% of the PM<sub>10</sub> mass, ammonia contributes 4.7 µg/m<sup>3</sup> or 2.1% of the PM<sub>10</sub> mass, and VOC contributes 4.1 µg/m<sup>3</sup> or 1.8% of the PM<sub>10</sub> mass.

In its evaluation of whether precursors are significant contributors to PM<sub>10</sub> nonattainment, CARB relied upon a significance threshold of 3.7%, which CARB derived by adapting for PM<sub>10</sub> the recommended significance threshold of 1.3 µg/m<sup>3</sup> for the 24-hour PM<sub>2.5</sub> standard of 35 µg/m<sup>3</sup>.<sup>57</sup> CARB concluded that, because each of the precursors contribute less than 2.1% of the PM<sub>10</sub> standard,<sup>58</sup> they do not contribute significantly to elevated PM<sub>10</sub> concentrations in the Imperial Valley Planning Area.

CARB also plotted PM<sub>2.5</sub> and PM<sub>10</sub> from the Calexico monitoring site collected from 2007 through 2016 to illustrate the relationship between PM<sub>10</sub>

<sup>53</sup> Imperial PM<sub>10</sub> Plan, Appendix A, "PM<sub>10</sub> Precursor Analysis for Imperial County."

<sup>54</sup> Secondarily-formed particulate matter, *i.e.*, the particulate matter derived from gases such as NO<sub>x</sub> and SO<sub>2</sub>, is in the fine fraction of particulate matter (PM<sub>2.5</sub>).

<sup>55</sup> Imperial PM<sub>10</sub> Plan, Appendix A, "PM<sub>10</sub> Precursor Analysis for Imperial County," Table 1.

<sup>56</sup> The Imperial PM<sub>10</sub> Plan generally uses "sulfur oxides" or "SO<sub>x</sub>" in reference to SO<sub>2</sub> as a precursor to the formation of PM<sub>10</sub>. We use SO<sub>x</sub> and SO<sub>2</sub> interchangeably.

<sup>57</sup> We assume that the 1.3 µg/m<sup>3</sup> threshold cited by CARB refers to the recommended contribution threshold in the EPA's draft "PM<sub>2.5</sub> Precursor Demonstration Guidance," released for public review and comment on November 17, 2016. The final guidance, issued on May 30, 2019, establishes a recommended contribution threshold for the 24-hour PM<sub>2.5</sub> standard of 1.5 µg/m<sup>3</sup>, which represents about 4.3% of the standard.

<sup>58</sup> The estimated contribution of ammonia (2.1%) is rounded up from 2.05%.

concentrations and PM<sub>2.5</sub> concentrations in the area. The data generally show that elevated PM<sub>2.5</sub> concentrations correspond to PM<sub>10</sub> concentrations below the PM<sub>10</sub> NAAQS and that PM<sub>2.5</sub> contributes a small percentage of the PM<sub>10</sub> mass when PM<sub>10</sub> levels exceed the PM<sub>10</sub> NAAQS. This suggests that high PM<sub>10</sub> concentrations are driven by fugitive dust and that secondarily-formed particulate matter does not increase as a percentage of mass as PM<sub>10</sub> concentration exceed the NAAQS. The data also show that PM<sub>2.5</sub> represents about 11% of the total PM<sub>10</sub> mass when PM<sub>10</sub> concentrations approach the level of the PM<sub>10</sub> NAAQS.

We have reviewed the precursor analysis prepared by CARB and agree that precursors do not contribute significantly to elevated PM<sub>10</sub> concentrations in the Imperial Valley Planning Area. First, we generally recommend using 5 µg/m<sup>3</sup> as the threshold for identifying potentially significant contributions to elevated PM<sub>10</sub> concentrations.<sup>59</sup> The contribution of precursors to PM<sub>10</sub> concentrations is not significant using either CARB's 3.7% threshold or the 5 µg/m<sup>3</sup> threshold. As CARB notes, the highest average precursor contribution based on data for the five specific analysis days presented in Appendix A of the Imperial PM<sub>10</sub> Plan is less than 2.1%, and the highest average estimated precursor contribution is approximately 4.7 µg/m<sup>3</sup> (*i.e.*, for NH<sub>3</sub>).

Second, as described in section IV.A of this notice, exceedances of the PM<sub>10</sub> standard in Imperial County are caused by windblown dust that is generated during high wind events. When such days are removed from consideration in accordance with the EPA's Exceptional Events Rule, the area is attaining the PM<sub>10</sub> standard. In this context, we believe it is appropriate to evaluate the contribution of precursors on days that are close to the level of the standard rather than days on which elevated levels of PM<sub>10</sub> are likely associated with high wind exceptional events. CARB's analysis includes two such days. On October 21, 2007, the total PM<sub>10</sub> mass was 144 µg/m<sup>3</sup> and on July 18, 2009, the total PM<sub>10</sub> mass was 147.9 µg/m<sup>3</sup>. The estimated contribution of each precursor on each of these two dates ranges from 1.4 µg/m<sup>3</sup> to 4.1 µg/m<sup>3</sup>. All values are below the 5 µg/m<sup>3</sup> threshold established in the Addendum.

Thus, for the reasons stated above, we propose to find that PM<sub>10</sub> precursors do not significantly contribute to elevated PM<sub>10</sub> concentrations in the Imperial Valley Planning Area. With respect to

future conditions, we note that the emissions inventories prepared for the Imperial PM<sub>10</sub> Plan show a downward trend in the County for the PM<sub>10</sub> precursor emissions through the initial maintenance period (*i.e.*, through 2030),<sup>60</sup> and thus, we also find that PM<sub>10</sub> precursors will not significantly contribute to elevated PM<sub>10</sub> concentrations within the Imperial Valley Planning Area through the initial maintenance period.

#### b. Emissions Inventory

Section 172(c)(3) of the CAA requires states to submit a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant(s) within the nonattainment area. The EPA interprets the Act such that the emissions inventory requirement of section 172(c)(3) is satisfied by the inventory requirement of the maintenance plan.<sup>61</sup> In section IV.D.1 of this document, we are proposing to approve the 2016 attainment inventory submitted as part of the Imperial PM<sub>10</sub> Plan as satisfying the emissions inventory requirement under section 172(c)(3) for the Imperial Valley Planning Area for the PM<sub>10</sub> NAAQS.

#### c. Permits for New and Modified Major Stationary Sources

CAA sections 172(c)(5) and 189(a)(1)(A) require that states submit SIP revisions that establish certain requirements for new or modified major stationary sources in nonattainment areas, including provisions to ensure that new major sources or major modifications of existing sources of nonattainment pollutants incorporate the highest level of control, referred to as the lowest achievable emission rate, 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. The major source threshold for Serious PM<sub>10</sub> nonattainment areas is 70 tons per year of PM<sub>10</sub>.<sup>62</sup>

The process for reviewing permit applications and issuing permits for new or modified major 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 (NNSR). Areas that are designated as attainment or unclassifiable for one or

more NAAQS are required to submit SIP revisions that ensure that new major stationary sources or 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.<sup>63</sup>

The District is responsible for the regulation of stationary sources, and its rules govern air permits issued for such units. In 2017, the EPA approved ICAPCD's NNSR rule, Rule 207 ("New and Modified Stationary Source Review") as satisfying the statutory and regulatory requirements for a NNSR permit program for Serious PM<sub>10</sub> nonattainment areas as set forth in the applicable provisions of part D of title I of the Act (sections 172 and 173), and in 40 CFR 51.165 and 40 CFR 51.307.<sup>64</sup>

If we finalize the redesignation action proposed herein, the Imperial PM<sub>10</sub> nonattainment area will become an attainment area, and new or modified major sources in the area will be subject to the PSD permitting requirements rather than the NNSR requirements.

The District has a SIP-approved PSD program (Rule 904, "Prevention of Significant Deterioration (PSD) Permit Program") that will apply to PM<sub>10</sub> emissions from new major sources or major modifications upon redesignation of the area to attainment.<sup>65</sup> Thus, new PM<sub>10</sub> major sources and major modifications with significant PM<sub>10</sub> emissions at major sources will be required to obtain a PSD permit or address PM<sub>10</sub> emissions in their existing PSD permit.

#### d. Best Available Control Measures

Clean Air Act section 189(b)(1)(B) requires that Serious areas implement BACM for the control of PM<sub>10</sub> for all source categories that contribute significantly to nonattainment of the NAAQS.<sup>66</sup> The EPA has long interpreted this requirement to apply independent of attainment.<sup>67</sup> Consequently, the requirement for BACM level controls continues to apply,

<sup>63</sup> PSD requirements control the growth of new source emissions in areas designated as attainment or unclassifiable for a NAAQS.

<sup>64</sup> 82 FR 41895 (September 5, 2017).

<sup>65</sup> The EPA approved Rule 904 at 77 FR 73316 (December 10, 2012).

<sup>66</sup> Addendum, 42011.

<sup>67</sup> In the Addendum, the EPA provided its rationale for interpreting the CAA to require BACM be carried out independently from the analysis to determine the emissions reductions necessary to attain the NAAQS by the statutory attainment date. 59 FR 41998, 42011–42012.

<sup>60</sup> Imperial PM<sub>10</sub> Plan, Appendix H, tables H–2–H–5.

<sup>61</sup> General Preamble, 13564.

<sup>62</sup> CAA section 189(b)(3).

<sup>59</sup> Addendum, 42011.

even when the area has attained the standard.

The Imperial PM<sub>10</sub> plan addresses the BACM requirement by first, providing a detailed emissions inventory and determining which source categories of directly emitted PM<sub>10</sub> contribute significantly; second, by identifying the rules that apply to significantly contributing source categories and documenting that those rules require BACM level controls; and third, by documenting compliance with CAA best available control technology requirements by major sources of PM<sub>10</sub> that are located within the nonattainment area.

#### Identification of Significant Contributors

The Imperial PM<sub>10</sub> Plan's BACM demonstration includes an analysis that establishes which sources of directly emitted PM<sub>10</sub> contribute significantly to ambient levels of PM<sub>10</sub>. It does this by calculating the percent contribution of sources in Imperial County's average annual daily emissions inventory and then performing a sensitivity analysis to determine if reducing the contribution of windblown dust to the inventory would alter the conclusions of the analysis.<sup>68</sup> Because the 5 µg/m<sup>3</sup> significant contribution threshold equates to 3.25% of the PM<sub>10</sub> NAAQS, the District concludes that any source category that contributes more than 3.25% of the inventory would be significant and therefore subject to BACM.

Based on the Imperial County 2016 average annual daily PM<sub>10</sub> emissions inventory, the only source categories that contribute more than 3.25% of the total direct PM<sub>10</sub> emissions are entrained unpaved road dust from city and county roads (6.47%) and canal roads (10.82%), and windblown dust from open areas (70.37%) and non-pasture agricultural lands (3.79%).<sup>69</sup> If windblown dust is reduced by 25% (*i.e.*, to 75% of its average annual daily contribution), there are no changes to

significantly contributing categories. When windblown dust is reduced by 50%, the only change is that the PM<sub>10</sub> contribution from non-pasture agricultural lands drops below the significance threshold. If windblown dust is reduced by 75% (*i.e.*, to 25% of its average annual daily contribution), the contribution from tilling operations increases to 3.9%. If windblown dust is removed entirely, the source categories that exceed the 3.25% threshold are mineral processes (5.12%), tilling (6.8%), cattle operations (3.66%), and entrained unpaved road dust from city and county roads (25.65%) and canal roads (42.90%).

The District plotted PM<sub>10</sub> concentrations against wind speed for 2014 to 2016 monitoring data.<sup>70</sup> Each value that exceeds the PM<sub>10</sub> standard has been flagged by the District as an exceptional event. To evaluate the contribution of sources of non-windblown dust, the District analyzed January 15, 2016, which was a low-wind day that approached but did not exceed the standard. Although the average hourly wind speed was 4.28 miles per hour, an examination of the hourly wind speeds for that date show there were periods of elevated wind speed that indicate the date "could not reasonably be categorized as a 'no-wind' day."<sup>71</sup> Based on this analysis, ICAPCD concludes that "it is unlikely that a day with low winds and 0% windblown dust contributions would result in an exceedance of the PM<sub>10</sub> NAAQS at a monitor in Imperial County." Consequently, the District determined that mineral processes, cattle, and construction, which only exceed the 3.25% threshold on days where windblown dust is completely eliminated from the inventory, do not contribute significantly to exceedances of the NAAQS.

We find the District's analysis to be sound and, based on a conservative determination of the percent contribution of source categories when windblown dust is reduced by 75%, agree that the source categories that contribute significantly are tilling, entrained unpaved road dust, and windblown dust from open areas. We note that the BACM demonstration in the Imperial PM<sub>10</sub> Plan does not address PM<sub>10</sub> precursor emissions, but we find that the decision to exclude PM<sub>10</sub> precursors in this instance is acceptable in light of our proposed determination in section IV.B.2.a of this document that PM<sub>10</sub> precursors do not contribute significantly to elevated PM<sub>10</sub>

concentrations in the Imperial Valley Planning Area.

#### BACM Analysis for Significantly Contributing Source Categories

The Imperial PM<sub>10</sub> Plan provides documentation showing that the source categories that contribute significantly to exceedances of the PM<sub>10</sub> NAAQS in Imperial County are subject to the provisions of Regulation VIII, which form the core of the ICAPCD's control strategy for PM<sub>10</sub>. Specifically, the following rules apply to the significantly contributing source categories: Rule 800 ("General Requirements for Control of Fine Particulate Matter (PM<sub>10</sub>)"), Rule 804 ("Open Areas"), Rule 805 ("Paved and Unpaved Roads"), and Rule 806 ("Conservation Management Practices").<sup>72</sup> ICAPCD's Regulation VIII rules were originally adopted by the District in 2005. The EPA partially approved and partially disapproved these rules after identifying certain deficiencies in rules 800, 804, 805, and 806.<sup>73</sup> The District subsequently revised and strengthened the rules by addressing these deficiencies and on April 23, 2013, the EPA approved the revised rules and found that they established BACM-level controls for the categories they regulate.<sup>74</sup> Based on our prior approval of these rules and our conclusion that they cover all significant PM<sub>10</sub> source categories in the Imperial PM<sub>10</sub> nonattainment area, we propose to approve ICAPCD's demonstration as satisfying the requirement to ensure implementation of BACM under CAA section 189(b)(1)(B).

#### e. Control Requirements for Major Sources of PM<sub>10</sub> Precursors

CAA section 189(e) provides that control requirements for major stationary sources of direct PM<sub>10</sub> also apply to major stationary sources of PM precursors, except where the EPA determines that major stationary sources of such precursors do not contribute significantly to PM<sub>10</sub> levels that exceed the standard in the area. In general, a major stationary source in a PM<sub>10</sub> Serious area is a stationary source that

<sup>68</sup> The District notes that the language of the Addendum ("a source category will be presumed to contribute significantly to a violation of the 24-hour PM<sub>10</sub> NAAQS if its PM<sub>10</sub> Impact at the location of the expected violation would exceed 5 µg/m<sup>3</sup>") appears to require information that could only be obtained through comprehensive air dispersion modeling. Instead, the District uses "a more practical alternative approach that involves evaluating the fractional contribution of sources in Imperial County's average annual daily inventory and then performing a sensitivity analysis to determine if variations in the inventory would alter the conclusions of the analysis." Imperial PM<sub>10</sub> Plan, Appendix E, 3.

<sup>69</sup> Imperial PM<sub>10</sub> Plan, Appendix E, Table 3-1 summarizes the Plan's significant source sensitivity analysis.

<sup>70</sup> *Id.*, figures 3-1, 3-2, and 3-3.

<sup>71</sup> *Id.* at 8 and Figure 3-4.

<sup>72</sup> The provisions of Regulation VIII, including rules 800, 804, 805, and 806, are summarized in Chapter 3 of the Imperial PM<sub>10</sub> Plan. Rules 800 and 804 apply to windblown dust from open areas, Rule 805 applies to entrained and windblown dust from unpaved roads, and Rule 806 applies to windblown dust from non-pasture agricultural lands and tilling dust from agricultural operations.

<sup>73</sup> 75 FR 39366 (July 8, 2010). On September 11, 2018, the District again revised Rule 804. The EPA approved the revision on August 29, 2019 (84 FR 45418).

<sup>74</sup> 78 FR 23677.

emits, or has the potential to emit, 70 tons per year of PM<sub>10</sub>. As described in more detail in section IV.B.2.a of this action, we are proposing to approve the demonstration the Imperial PM<sub>10</sub> plan that precursors do not contribute significantly to PM<sub>10</sub> levels that exceed the standard.

f. Compliance With Section 110(a)(2)

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As described above in Section IV.B., we conclude the California SIP meets the requirements of section 110(a)(2) applicable for purposes of this redesignation.

g. General and Transportation Conformity Requirements

Under section 176(c) of the CAA, states are required to revise their SIPs to establish criteria and procedures to ensure that federally supported or funded projects in nonattainment areas and formerly nonattainment areas subject to a maintenance plan (referred to as “maintenance areas”) conform to the air quality planning goals in the applicable SIP. Section 176(c) further provides that state conformity provisions must be consistent with federal conformity regulations that the CAA requires the EPA to promulgate. The 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 2005, Congress amended section 176(c) of the CAA. Under the amended conformity statutory provisions, states are no longer required to submit conformity SIPs for general conformity, and the conformity SIP requirements for transportation conformity have been reduced to include only those relating to consultation, enforcement and enforceability.<sup>75</sup>

In 1999, before the general conformity SIP requirement was eliminated by

Congress, we approved the District’s general conformity rule, Rule 925 (“General Conformity”) as a revision to the Imperial County portion of the California SIP.<sup>76</sup> We have not approved a transportation conformity SIP for the Imperial PM<sub>10</sub> nonattainment area. However, we consider it reasonable to interpret the conformity SIP requirements as not applying for purposes of a redesignation request under section 107(d) because the conformity SIP requirement continues to apply post-redesignation (because conformity applies in maintenance areas as well as nonattainment areas) and because the federal conformity rules (set forth in 40 CFR part 93, subparts A and B) apply where state rules have not been approved.<sup>77</sup>

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

In order to approve a redesignation to attainment, section 107(d)(3)(E)(iii) of the CAA requires the EPA to determine that the improvement in air quality is due to emissions reductions that are permanent and enforceable, and that the improvement results from the implementation of the applicable SIP and applicable federal air pollution control regulations and other permanent and enforceable regulations. 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 emissions reductions.<sup>78</sup>

The 2018 Imperial PM<sub>10</sub> Plan concludes that the improvement in PM<sub>10</sub> air quality in the Imperial Valley Planning Area is due to emissions reductions from implementation of the District’s Regulation VIII fugitive dust rules, adopted in 2005, based on data for years 2000 to 2016 that show a gradual decline in annual average PM<sub>10</sub> concentrations that cannot be explained by adverse economic conditions or unusually favorable meteorology. With respect to economic conditions, the data

presented in the 2018 Imperial PM<sub>10</sub> Plan show a gradual increase in population over the 2000 to 2016 period and a very gradual decline in harvested acres over that period suggesting little change in the agricultural sector of the economy during this time. With respect to meteorological conditions, the plan presents annual rainfall totals for Imperial County from 2000 through 2016 ranging from less than 1 inch to approximately 5 inches with rainfall totals during the 2014–2016 attainment period of approximately 2 inches each year.

First, we agree that the implementation of the District’s Regulation VIII fugitive dust rules has reduced PM<sub>10</sub> emissions within the Imperial Valley Planning Area. More specifically, we find that emissions of the largest contributors to ambient PM<sub>10</sub> concentrations (i.e., fugitive windblown dust and unpaved road dust) declined significantly after Regulation VIII was adopted in 2005. For instance, in 2005, PM<sub>10</sub> emissions from unpaved road dust and fugitive windblown dust totaled approximately 288 tons per day (tpd) in Imperial County. After implementation of Regulation VIII, emissions attributable to these categories declined by approximately 16 tpd, or about 6 percent by 2008. While the amount of fugitive windblown dust has remained relatively constant since 2008, unpaved road dust has continued to decline until, by 2017, it accounted for an additional 7 tpd reduction of PM<sub>10</sub>.<sup>79</sup> Overall, between 2005 and 2016, PM<sub>10</sub> emissions within Imperial County have declined from approximately 313 tpd to approximately 284 tpd in 2016. The most significant reductions from 2005 and 2016 occurred in the farming operations, unpaved road dust and fugitive windblown dust source categories, all of which are subject to one or more Regulation VIII rules.

Second, because we have approved the Regulation VIII fugitive dust rules, the associated emissions reductions are permanent and enforceable. Table 2 lists the District’s Regulation VIII rules with most recent adoption or amendment dates and most recent EPA approval dates.

<sup>76</sup> 64 FR 19916 (April 23, 1999).

<sup>77</sup> See *Wall v. EPA*, 265 F. 3d 426 (6th Cir. 2001), upholding this interpretation. Also see, for example, 60 FR 62748 (December 7, 1995).

<sup>78</sup> Calcagni memo, 4.

<sup>79</sup> These figures are based on data from CARB’s Emissions Inventory Database, California Emissions Projection and Analysis Model (CEPAM). A print out of the report is included in the docket for this action.

<sup>75</sup> CAA section 176(c)(4)(E).

TABLE 2—ICAPCD REGULATION VIII RULES AND RELATED EPA APPROVALS

Rule	Title	Most recent adoption or amendment date	EPA approval
800	General Requirements for Control of Fine Particulate Matter (PM-10).	October 16, 2012	78 FR 23677, April 22, 2013.
801	Construction and Earthmoving Activities	November 8, 2005	75 FR 39366, July 8, 2010.
802	Bulk Materials	November 8, 2005	75 FR 36366, July 8, 2010.
803	Carry-Out and Track-Out	November 8, 2005	75 FR 36366, July 8, 2010.
804	Open Areas	September 11, 2018	84 FR 45418, August 29, 2019.
805	Paved and Unpaved Roads	October 16, 2012	78 FR 23677, April 22, 2013.
806	Conservation Management Practices	October 16, 2012	78 FR 23677, April 23, 2013.

Third, based on the data on population growth, harvested acreage, and rainfall totals in the 2018 Imperial PM<sub>10</sub> Plan, we agree that the reduction in PM<sub>10</sub> emissions within Imperial County is due largely to the District’s Regulation VIII fugitive dust rules and is not due to adverse economic conditions or favorable meteorology. In this regard, we note that we are proposing herein to find that the area attained the standard during the 2014 to 2016 period. During that time, Imperial County saw a slight increase in population, relatively steady economic activity, and lower than average rainfall. Therefore, attainment of the PM<sub>10</sub> NAAQS in that period could not have been the result of adverse economic conditions or favorable meteorology. Moreover, the determination of attainment relies upon the implementation of Regulation VIII rules, without which high-wind-caused exceedances would not have been deemed to be exceptional events under the EPA’s Exceptional Events Rule.

Therefore, for the above reasons, we find that attainment of the PM<sub>10</sub> NAAQS in the Imperial Valley Planning Area is due to permanent and enforceable emissions reductions resulting from implementation of the applicable SIP, namely the District’s Regulation VIII fugitive dust rules. Consequently, we propose to 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 Section 175A*

Section 107(d)(3)(E)(iv) of the CAA requires that, in order to approve a redesignation to attainment, the EPA must fully approve a maintenance plan for the area as meeting the requirements of section 175A of the Act. Section 175A

sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the 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 maintenance plan must contain such contingency provisions as the EPA deems necessary to promptly correct any violation of the NAAQS that occurs after redesignation of the area. The Calcagni memo provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should include an attainment emissions inventory, maintenance demonstration, monitoring and verification of continued attainment, and a contingency plan. For the reasons provided below, we are proposing to approve the Imperial PM<sub>10</sub> Plan as meeting the requirements for maintenance plans under CAA section 175A.

1. Attainment Inventory

A maintenance plan for the PM<sub>10</sub> NAAQS should include an inventory of direct PM<sub>10</sub> emissions in the area to identify a level of emissions sufficient to attain the PM<sub>10</sub> NAAQS.<sup>80</sup> This inventory should be consistent with the EPA’s most recent guidance on emissions inventories for nonattainment areas available at the time and should represent emissions during the time period associated with the monitoring data showing attainment. The inventory

must also be comprehensive, including emissions from stationary point sources, area sources, and mobile sources and must be based on actual emissions during the appropriate season, if applicable. See CAA section 172(c)(3).

The specific PM<sub>10</sub> emissions inventory requirements are set forth in the Air Emissions Reporting Rule (40 CFR 51, subpart A). The EPA has provided additional guidance for developing PM<sub>10</sub> emissions inventories in “PM<sub>10</sub> Emissions Inventory Requirements,” EPA-454/R-94-033 (September 1994) and “Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations” (July 2017) (“EPA 2017 EI Guidance”).<sup>81</sup>

The Imperial PM<sub>10</sub> Plan provides an emissions inventory of actual emissions from all direct PM<sub>10</sub> sources within Imperial County on an average annual day in 2016. The District and CARB developed this inventory based on the methods and assumptions presented in detail in Appendix G (“Emission Inventory Documentation for the Imperial County PM<sub>10</sub> Nonattainment Maintenance Plan”) and Appendix H (“PM<sub>10</sub> and PM<sub>10</sub> Precursor Emission Inventories”). Appendix H also identifies the specific filterable and condensable components of the direct PM<sub>10</sub> emissions estimates. Table 3 below provides a summary of the 2016 direct PM<sub>10</sub> emissions inventory for Imperial County. As shown in Table 3, fugitive dust sources, particularly fugitive windblown dust and entrainment of dust from vehicle travel over unpaved roads, are the predominant sources of direct PM<sub>10</sub> emissions in the County.

<sup>80</sup> PM<sub>10</sub> precursor emissions should also be included depending upon the contribution of secondarily-formed particulate matter to high ambient PM<sub>10</sub> concentrations in the area. In this instance, an inventory of PM<sub>10</sub> precursor emissions would not be required based on our proposed

determination in section IV.B.2.a of this document that PM<sub>10</sub> precursors do not contribute significantly to elevated PM<sub>10</sub> concentrations in the Imperial Valley Planning Area. While not required, the Imperial PM<sub>10</sub> Plan includes an inventory of PM<sub>10</sub>

precursors in Appendix H (“PM<sub>10</sub> and PM<sub>10</sub> Precursor Emission Inventories”).

<sup>81</sup> The more recent guidance document is available at [https://www.epa.gov/sites/production/files/2017-07/documents/ei\\_guidance\\_may\\_2017\\_final\\_rev.pdf](https://www.epa.gov/sites/production/files/2017-07/documents/ei_guidance_may_2017_final_rev.pdf).

TABLE 3—IMPERIAL COUNTY PM<sub>10</sub> ATTAINMENT YEAR (2016) EMISSIONS INVENTORY  
[annual average, tpd]

Source category	Subcategory	PM <sub>10</sub> <sup>a</sup>
Stationary Point Sources .....	All .....	4.19
Areawide Sources .....	Farming Operations .....	8.48
	Construction and Demolition .....	3.02
	Paved Road Dust .....	1.16
	Unpaved Road Dust .....	51.88
	Fugitive Windblown Dust .....	212.52
	Other Areawide Sources .....	1.43
	Subtotal—Areawide Sources .....	278.48
Mobile Sources .....	All .....	1.50
Totals .....	All Stationary, Areawide, and Mobile Sources .....	284.17

**Source:** Imperial PM<sub>10</sub> Plan, Table 4–1 and Appendix H (“PM<sub>10</sub> and PM<sub>10</sub> Precursor Emission Inventories”).

<sup>a</sup>Emissions inventories are required to include direct PM<sub>10</sub> emissions, separately reported as PM<sub>10</sub> filterable and condensable emissions. 40 CFR 51.15(a)(1)(vii). Table H–1b of Appendix H of the Imperial PM<sub>10</sub> plan provides this information.

As discussed in Appendix G of the Imperial PM<sub>10</sub> Plan, direct PM<sub>10</sub> emissions estimates for stationary point sources reflect actual emissions reported to the District in 2012 by owners or operators of industrial point sources in the County and then adjusted to 2016 based on applicable growth surrogates. Areawide sources occur over a wide geographic area. Examples of these sources are consumer products, paved and unpaved road dust, fireplaces, farming operations, and prescribed burning. Emissions for these categories are estimated by both CARB and the ICAPCD using various models and methodologies. Emissions estimates for the fugitive dust source categories also reflect implementation of the District’s various Regulation VIII rules.

Emissions from on-road mobile sources, which include passenger vehicles, buses, and trucks, were estimated using outputs from CARB’s EMFAC2014 model.<sup>82</sup> These emissions were calculated by applying EMFAC2014 emissions factors to the transportation activity data provided by the Southern California Association of Governments (SCAG) from their 2016 adopted Regional Transportation Plan/Sustainable Communities Strategy (2016 RTP/SCS).<sup>83</sup> SCAG is the metropolitan planning organization representing Imperial County, along with five other counties in Southern California.

Emissions from off-road mobile sources, which include cargo handling

equipment, pleasure craft, recreational vehicles, and locomotives, were estimated using a suite of category-specific models or, where a new model was not available, the OFFROAD2007 model. Many of the newer models were developed to support recent regulations, including in-use offroad equipment.

The EPA considers the selection of 2016 for the attainment year inventory to be appropriate given that the design value for 2016, excluding exceedances caused by exceptional events, is consistent with attainment of the PM<sub>10</sub> NAAQS. Moreover, preparation of an annual average daily inventory, as opposed to a seasonal or episodic inventory, is appropriate given that elevated PM<sub>10</sub> concentrations in Imperial County do not exhibit a clear seasonal or episodic pattern. Also, we find that the county-wide basis for the inventory is appropriate in this instance even though the County is larger than the nonattainment area because the nonattainment area encompasses the vast majority of the population and vehicular activity within the County. Based on our review of the documentation provided with the plan, we find that the 2016 emissions inventory for direct PM<sub>10</sub> is based on reasonable assumptions and methodologies, and that the inventory is comprehensive, current and accurate. We therefore propose to approve the inventory of actual emissions in 2016 in the Imperial PM<sub>10</sub> Plan as meeting the requirements of CAA section 172(c)(3). We also find the 2016 inventory in the plan to be acceptable for use in demonstrating maintenance of the PM<sub>10</sub> NAAQS in the future.

## 2. PM<sub>10</sub> Maintenance Demonstration

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for maintenance of the NAAQS for a period of at least ten

years following redesignation. This can be shown either by demonstrating that future emissions of a pollutant and its precursors will not exceed the level of the attainment inventory or by conducting modeling that shows the future emissions will not cause a violation of the standard. In accordance with EPA guidance, the state should project emissions for the 10-year period following redesignation, for either purpose.<sup>84</sup> Projected emissions inventories for future years must account for, among other things, the ongoing effects of economic growth and adopted emissions control requirements, and the inventories are expected to be the best available representation of future emissions. The plan submission should include documentation explaining how the state calculated the emissions data for the base year and projected inventories.

The Imperial PM<sub>10</sub> Plan demonstrates that the Imperial Valley Planning Area will maintain the PM<sub>10</sub> NAAQS through 2030 by projecting the direct PM<sub>10</sub> emissions in the County for years 2018–2030 and by estimating the proportional change in the design concentration<sup>85</sup> based on the change in future emissions relative to the 2016 attainment inventory. The last year for which a maintenance plan demonstrates maintenance of the NAAQS is referred to as the horizon year, and for the Imperial PM<sub>10</sub> Plan, 2030 is the horizon year.

Projected inventories are derived by applying expected growth trends for each source category and are based on

<sup>84</sup> Calcagni memo, 9.

<sup>85</sup> In this context, the design concentration generally refers to the third or fourth highest 24-hour PM<sub>10</sub> concentration measured at the monitoring site measuring the highest concentrations over a three-year period, in this case, excluding exceedances caused by high wind exceptional events.

<sup>82</sup> EMFAC is short for Emission FACtor. The EPA approved EMFAC2014 for SIP development and transportation conformity purposes in California at 80 FR 77337 (December 14, 2015). EMFAC2014 was the most recently approved version of the EMFAC model that was available at the time of preparation of the Imperial PM<sub>10</sub> Plan. Recently, the EPA approved an updated version of the EMFAC model, EMFAC2017, for future SIP development and transportation conformity purposes in California. 84 FR 41717 (August 15, 2019).

<sup>83</sup> 2016 RTP/SCS was current as of April 2016.

data that reflect historical trends, current conditions, and recent economic and demographic forecasts with expected emissions reductions resulting from adopted control measures to the base year inventory. For the Imperial PM<sub>10</sub> Plan, emissions projections for 2018 through 2030 were generated by applying growth and control profiles to the 2016 attainment inventory. Growth forecasts for most point and areawide sources were developed either by CARB or by SCAG and provided to CARB through the South Coast Air Quality Management District. Mobile sources were forecast using total vehicle miles traveled projections provided by SCAG. Off-road sources were forecast using

various growth surrogates as shown in Table 5 of Appendix G of the plan. Appendix G of the plan documents the methods and assumptions used to develop the emissions projections upon which the maintenance demonstration relies, and Appendix H of the plan presents the detailed source-category-specific estimates for each of the analysis years.

Table 4 presents a summary of the Imperial PM<sub>10</sub> Plan’s estimates of direct PM<sub>10</sub> emissions in an interim year (2025) and the horizon year (2030) along with the corresponding emissions estimates for the attainment year (2016). For the sake of simplicity, Table 4 shows emissions for just one of the

interim years (*i.e.*, 2025) between the attainment year and the horizon year, but the plan itself provides emissions estimates for each year from 2018 through 2030.<sup>86</sup> The emissions estimates in the plan predict a gradual change in emissions within the County over time with slight decreases in certain categories (*e.g.*, farming operations and unpaved road dust) nearly offsetting slight increases in certain other source categories (*e.g.*, construction and demolition and paved road dust). By 2030, overall direct PM<sub>10</sub> emissions are estimated to be approximately 2 tpd (0.6 percent) higher than in the 2016 attainment year.

TABLE 4—IMPERIAL COUNTY PM<sub>10</sub> EMISSIONS INVENTORY, 2016, 2025 AND 2030  
[annual average, tpd]

Source category	Subcategory	2016	2025	2030
Stationary Point Sources .....	All .....	4.19	5.46	6.22
Areawide Sources .....	Farming Operations .....	8.48	8.11	7.98
	Construction and Demolition .....	3.02	3.82	4.22
	Paved Road Dust .....	1.16	1.43	1.50
	Unpaved Road Dust .....	51.88	50.20	50.16
	Fugitive Windblown Dust .....	212.52	212.47	212.45
	Other Areawide Sources .....	1.43	1.36	1.33
	Subtotal—Areawide Sources .....	278.48	277.39	277.64
Mobile Sources .....	All .....	1.50	2.03	2.09
Totals .....	All Stationary, Areawide, and Mobile Sources	284.17	284.88	285.96

Source: Imperial PM<sub>10</sub> Plan, Appendix H, Table H–1a. Totals may not add up due to rounding.

For the Imperial PM<sub>10</sub> Plan, based on 2014–2016 ambient PM<sub>10</sub> concentration data (excluding exceedances from high wind exceptional events), the District identified a design concentration of 149 µg/m<sup>3</sup>, which is about 3.8% less than the level at which the PM<sub>10</sub> NAAQS is exceeded.<sup>87</sup> The Imperial PM<sub>10</sub> Plan concludes that maintenance is demonstrated through the horizon year because the projected increase in emissions through the horizon year (0.6%) is less than the margin between the design concentration and an exceedance of the PM<sub>10</sub> NAAQS (3.8%).

We note that over the initial maintenance period (*i.e.*, through 2030), the lake surface of the Salton Sea is expected to shrink, and that the future emissions projections in the Imperial PM<sub>10</sub> Plan used as the basis for the

maintenance demonstration do not include any emissions increases directly related to the increased exposure of previously submerged lakebed, known as playa, as the lake surface shrinks. However, the Imperial PM<sub>10</sub> Plan recognizes the potential for emissions increases from windblown dust from the exposed playa and describes the various efforts underway to evaluate and control this emerging source.<sup>88</sup> These efforts include the establishment in 2015 of the Salton Sea Task Force, which has developed a 10-year plan that endeavors to expedite wildlife habitat construction and to suppress dust from playa that will be exposed in the future. The Imperial Irrigation District’s Salton Sea Air Quality Mitigation Program, which applies in addition to other programs and requirements, represents another of

these efforts. It includes three components: A monitoring program and development of an emissions inventory; a dust control strategy that includes the development and testing of dust control measures; and the implementation of an annual proactive dust control plan that includes performance modeling. The District also notes that state law and water transfer permits include requirements to control PM<sub>10</sub> emissions from exposed lake bed, and that District Rule 804, which requires the control of fugitive dust from open areas, also applies to the playa.<sup>89</sup> Therefore, we find that the Imperial PM<sub>10</sub> Plan adequately addresses the potential for an increase in PM<sub>10</sub> emissions from newly exposed playa along the shores of the Salton Sea to interfere with maintenance of the PM<sub>10</sub> NAAQS

<sup>86</sup> Imperial PM<sub>10</sub> Plan, Table 4–2 and Table H–1a.

<sup>87</sup> With respect to the PM<sub>10</sub> NAAQS, an exceedance is defined as a daily value that is above the level of the 24-hour standard, 150 µg/m<sup>3</sup>, after rounding to the nearest 10 µg/m<sup>3</sup> (*i.e.*, values ending in five or greater are to be rounded up). Consequently, exceedances are daily values equal to or greater than 155 µg/m<sup>3</sup>. 40 CFR part 50, Appendix K, section 1.0.

<sup>88</sup> Imperial PM<sub>10</sub> Plan, Chapter 5, “Salton Sea Considerations”; Appendix I, “Salton Sea

Management Program Phase I: 10-Year Plan (March 2017)”; and Appendix J, “Salton Sea Air Quality Mitigation Program (July 2016).”

<sup>89</sup> District Rule 804, “Open Areas,” applies to any open area having 0.5 acres or more within urban areas, or 3.0 acres or more within rural areas that contain at least 1,000 square feet of disturbed surface area, excluding certain sites that are subject to other Regulation VIII rules. Under Rule 804, all persons who own or otherwise have jurisdiction over an open area must implement one or more of

BACM listed in the rule to achieve a stabilized surface and to limit visible dust emissions to no more than 20% opacity. One of the BACM listed in the rule was drafted specifically to allow the implementation of alternative BACM, with the approval of the ICAPCD and the EPA, to more effectively control dust from exposed playa at the Salton Sea (paragraph F.1.d. of the rule) than the standard BACM otherwise required under the rule.

through the initial maintenance period.<sup>90</sup>

Based on our review of the documentation provided with the Imperial PM<sub>10</sub> Plan, we find that the projected emissions inventories for direct PM<sub>10</sub> for years 2018 through 2030 are based on reasonable methods, growth factors, and assumptions, and are based on the most current and accurate information available to CARB and ICAPCD at the time the plan and its inventories were being developed. Given that the projections of direct PM<sub>10</sub> emissions show future emissions increases through 2030 that would be less than the margin between the design concentration and an exceedance of the standard, we find that Imperial PM<sub>10</sub> Plan provides an adequate basis to demonstrate maintenance of the PM<sub>10</sub> NAAQS within the Imperial Valley Planning Area through 2030.<sup>91</sup> Lastly, section 175A of the CAA requires that a maintenance plan provide for maintenance of the NAAQS in the area for at least ten years after redesignation. If we finalize this proposed approval of CARB's redesignation request and such approval becomes effective in 2020, the projected 2030 inventory in the Imperial PM<sub>10</sub> Plan demonstrates that the Imperial Valley Planning Area will maintain the PM<sub>10</sub> NAAQS for at least 10 years beyond redesignation.

### 3. Verification of Continued Attainment

Once an area has been redesignated, the state should continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area.<sup>92</sup> Data collected by the monitoring network are also needed to implement the contingency plan element of the maintenance plan. As discussed in section IV.A. of this document, CARB and the District monitor ambient concentrations of PM<sub>10</sub> at five monitoring sites within the Imperial PM<sub>10</sub> nonattainment area. In

<sup>90</sup> The Imperial PM<sub>10</sub> Plan includes contingency provisions that establish a process for evaluating and remedying increased emissions from newly-exposed plays if the ongoing efforts fail to adequately control the emissions such that the related emissions cause or contribute to exceedances at one of the five SLAMS PM<sub>10</sub> monitoring sites.

<sup>91</sup> We recognize that the increased exposure of plays as the Salton Sea continues to shrink will likely result in higher windblown PM<sub>10</sub> emissions than quantified in the Imperial PM<sub>10</sub> Plan, but we anticipate that, given the federal, state and local efforts to identify and remedy such emissions increases, any exceedances to which the emissions would contribute would be eligible as exceptional events under the Exceptional Events Rule because, among other reasons, the emissions would be reasonably controlled for the purposes of the Exceptional Events Rule.

<sup>92</sup> Calcagni memo, 11.

section 4.2 ("Future Monitoring Network") of the Imperial PM<sub>10</sub> Plan, the District states that, in conjunction with CARB, it will assure the quality of the data using various quality assurance procedures and notes that, under federal regulations, the monitoring network is reviewed annually. ICAPCD also commits to continuing to assure PM<sub>10</sub> monitoring is conducted in accordance with 40 CFR part 58. We find that the Imperial PM<sub>10</sub> Plan contains adequate provisions for continued operation of an appropriate air quality monitoring network that will provide a basis to verify the attainment status of the area.

The EPA also recommends that the state verify continued attainment through methods in addition to the ambient air monitoring program, *e.g.*, through periodic review of the factors used in developing the attainment inventory to show no significant change.<sup>93</sup> In the Imperial PM<sub>10</sub> Plan, the District commits to periodic review of the inputs and assumptions used for the emissions inventory on an annual basis and, if the District finds that these inputs have changed significantly, to request that CARB update the existing inventory and take other appropriate measures.<sup>94</sup> We find that the District's commitments to verify continued attainment of the PM<sub>10</sub> NAAQS through continued ambient air monitoring and annual review of the inputs and assumptions used for the emission inventory in the Imperial PM<sub>10</sub> plan are acceptable.

### 4. Contingency Provisions

Section 175A(d) of the CAA requires that maintenance plans include contingency provisions, as the 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.<sup>95</sup> These contingency provisions are distinguished from those generally required for nonattainment areas under CAA section 172(c)(9) in that they are not required to be fully-

<sup>93</sup> *Id.*

<sup>94</sup> Imperial PM<sub>10</sub> Plan, 4–10 and 4–11.

<sup>95</sup> No PM<sub>10</sub> controls contained in the SIP would be relaxed or suspended upon redesignation. All such controls would continue to be implemented during the maintenance period. Consequently, the Imperial PM<sub>10</sub> Plan meets the requirement in CAA section 175A(d) for contingency provisions to require implementation of 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 to attainment.

adopted measures that will take effect without further action by the state for the maintenance plan to be approved. However, the contingency plan is considered to be an enforceable part of the SIP and it should ensure that the contingency measures are adopted expeditiously once the requirement for contingency measures has been triggered. 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 the specific indicators or triggers that will be used to determine when the contingency measures need to be implemented.

The District has adopted a contingency plan to address future PM<sub>10</sub> exceedances occurring after redesignation of the area to attainment. The contingency plan is contained in Section 4.4 of the Imperial PM<sub>10</sub> Plan.

As noted by the District in the Imperial PM<sub>10</sub> Plan, contingency provisions are typically implemented when air quality deteriorates beyond a specified level, such as a certain number of exceedances of the standard or a violation of the standard. In this case, the contingency provisions will be triggered when the number of exceedances at a monitor, averaged over three years, is greater than 1.05. However, because PM<sub>10</sub> exceedances in Imperial County are largely driven by high wind dust events that may be eligible for consideration under the Exceptional Events Rule,<sup>96</sup> the contingency plan includes a screening process that allows the District and CARB, subject to EPA review, to exclude exceedances from the trigger calculation if the agencies show that the exceedances meet certain criteria indicating they are likely eligible for treatment as an exceptional event.<sup>97</sup> The purpose of the screening process is to differentiate between exceedances that are not within the District or State

<sup>96</sup> As described in section IV.A. of this action, we have concurred with 91 exceedance days that the State flagged and documented as caused by high wind exceptional events.

<sup>97</sup> The criteria include: (1) exceedances at multiple monitors in specified areas; (2) wind speeds in excess of 25 miles per hour consistent with increasing hourly PM<sub>10</sub> concentrations; (3) reduced visibility (less than 10 miles) consistent with increasing hourly PM<sub>10</sub> concentrations; (4) issuance of advisories or warnings consistent with increasing hourly PM<sub>10</sub> concentrations; and (5) no dust complaints involving anthropogenic sources located upwind of an exceeding monitor. If any of these five criteria are not met, or if other available data contradict the assessment, additional information and analyses will be provided to the EPA as described on pages 4–12 and 4–13 of the Imperial PM<sub>10</sub> Plan.

control (*i.e.*, exceedances that occur despite the implementation of reasonable measures), and exceedances that are within the District's or State's control and should be included in the trigger calculation. It is important to note that, should the District or State exclude an exceedance from the contingency trigger calculation using this process, it would not constitute the EPA's concurrence that the exceedance was caused by an exceptional event. The exceedance will therefore continue to be included in design value calculations for the Imperial Valley Planning Area unless CARB, following opportunity for public comment, submits a request for the EPA to concur on the exceedance as an exceptional event pursuant to 40 CFR 50.14, and the EPA reviews the submittal and formally concurs.

Under the contingency trigger screening process, within 60 days of the end of each calendar quarter, the District will complete the following: Provide a list of exceedances that occurred during that previous quarter to CARB, identify those exceedances that meet the criteria specified in the contingency measure screening process, flag the relevant data, and provide an initial description in AQS. The State then has 60 days to review the information, during which time it may request additional information from the District to supplement the District's analysis. Following CARB's review, CARB will transmit the information to the EPA, including information for those exceedances the District believes should be excluded from the contingency plan trigger calculation.

The Imperial PM<sub>10</sub> Plan anticipates that, within 60 days of receipt, the EPA will review the submitted information, notify the District if the submitted information is insufficient to support exclusion from the contingency plan trigger calculation, include such exceedances in calculating the trigger for the contingency plan, and notify the District if the contingency plan has been triggered. The EPA intends to notify the District, within 60 days of receipt, whether submitted information is sufficient or insufficient to support the exclusion of a given exceedance from the contingency plan trigger calculation and to take the other actions described in the plan. If the submitted information is not sufficient, the EPA will include the exceedance in the calculation to determine if the contingency plan has been triggered. If the State or District subsequently provide additional information sufficient to support the conclusion that the exceedance meets the criteria for exclusion from the trigger

calculation, the EPA will notify the District that the calculation will be adjusted.

Under the contingency plan, if the EPA determines that contingency provisions have been triggered (*i.e.*, the number of exceedances at any single monitor, averaged over three years, is greater than 1.05 excluding those exceedances identified through the screening process), ICAPCD commits to the following steps:

(1) Within six months of EPA notification, ICAPCD will complete an analysis of the exceedances and the available contingency measures. During this time, the District will determine the possible cause of the exceedances and will consult with community and local industry members to determine if any voluntary or incentive measures could be implemented to reduce the magnitude of or eliminate the source of emissions.

If voluntary and incentive-based measures do not adequately address the problem, the ICAPCD will evaluate its Regulation VIII fugitive dust rules, or other rules as appropriate, to determine where such rules could be improved or expanded to achieve additional emissions reductions. The measures that ICAPCD would consider and analyze include but are not limited to those listed in Table 4–6 in the Plan.

(2) Within 12 months of completing its analysis, the District will adopt and implement the new contingency measures.

Based on our review of the Imperial PM<sub>10</sub> Plan, as summarized above, we propose to find that the contingency provisions of the Imperial PM<sub>10</sub> Plan clearly identify specific contingency measures, contain a triggering mechanism to determine when contingency measures are needed, contain a description of the process of recommending and implementing contingency measures, and contain specific and appropriate timelines for action. We also propose to find that the contingency trigger screening process, including the associated EPA review, is reasonably designed to distinguish between exceedances that are the type that have been deemed exceptional events in the past and exceedances for which new or tightened control measures might be effective. Our assessment indicates that the screening process is an appropriate element of the contingency plan for the Imperial Valley Planning Area because of the frequency of exceedances related to high wind dust events in this area. Thus, we propose to conclude that the contingency plan in the Imperial PM<sub>10</sub> Plan is adequate to ensure prompt

correction of any violation of the PM<sub>10</sub> NAAQS that occurs after redesignation, as required by section 175A(d) of the CAA.

#### 5. Motor Vehicle Emissions Budgets for Transportation Conformity

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) Cause or contribute to violations of a NAAQS, (2) worsen the severity of an existing violation, or (3) delay timely attainment of any NAAQS or any interim milestone.

Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the EPA's transportation conformity rule, codified at 40 CFR part 93, subpart A. Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, the EPA, FHWA, and FTA to demonstrate that an area's regional transportation plans and transportation improvement programs conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets ("budgets") contained in submitted or approved control strategy plans or maintenance plans.

Budgets are generally established for specific years and specific pollutants or precursors. PM<sub>10</sub> maintenance plan submittals should identify budgets for transportation-related PM<sub>10</sub> emissions in the last year of the maintenance period.<sup>98</sup> Budgets may also be specified for additional years during the maintenance period.

<sup>98</sup> Transportation-related emissions of VOC or NO<sub>x</sub> must also be specified in PM<sub>10</sub> areas if the EPA or the state find that transportation-related emissions of one or both of these precursors within the nonattainment area are a significant contributor to the PM<sub>10</sub> nonattainment problem and has so notified the MPO and the U.S. Department of Transportation (DOT), or the applicable SIP revision or SIP revision submittal establishes an approved or adequate budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy. 40 CFR 93.102(b)(2)(iii). Neither of these conditions apply to the Imperial PM<sub>10</sub> nonattainment area.

For budgets in a maintenance plan to be approvable, they must meet, at a minimum, the EPA’s adequacy criteria (40 CFR 93.118(e)(4)). To meet these requirements, the budgets must be consistent, when considered with emissions from all other sources, with maintenance of the NAAQS and reflect all the motor vehicle control measures relied upon for the maintenance demonstration.

The EPA’s process for determining adequacy of a budget consists of three basic steps: (1) Notifying the public of a SIP submittal; (2) providing the public the opportunity to comment on the budget during a public comment period; and (3) making a finding of adequacy or inadequacy. The process for determining the adequacy of a submitted budget is codified at 40 CFR

93.118(f). The EPA can notify the public by either posting an announcement that the EPA has received SIP budgets on the EPA’s adequacy website (40 CFR 93.118(f)(1)), or via a **Federal Register** notice of proposed rulemaking when the EPA reviews the adequacy of an maintenance plan budget simultaneously with its review and action on the SIP submittal itself (40 CFR 93.118(f)(2)).

The Imperial PM<sub>10</sub> Plan includes budgets for direct PM<sub>10</sub> for the attainment year (2016) and the last year of the maintenance plan (2030). The applicable source categories included in the budgets include vehicle emissions (including exhaust, brake wear, and tire wear), and entrained dust from vehicle travel over paved and unpaved roads. With respect to unpaved road dust, the

budgets include only those emissions generated by vehicle travel over city- and county-owned unpaved roads, not canal roads, farm roads or those owned by the U.S. Bureau of Land Management or the U.S. Forest Service. In addition, the budgets apply to the entire County, including the portion of the County that lies outside of the PM<sub>10</sub> nonattainment area.<sup>99</sup> As noted previously, an estimated 95% of the vehicle activity within the County occurs within the PM<sub>10</sub> nonattainment area, and thus, the budgets reasonably correspond to the nonattainment area even though they are county-wide values. The 2016 and 2030 annual average day conformity budgets for PM<sub>10</sub> are provided in Table 5.

TABLE 5—TRANSPORTATION CONFORMITY BUDGETS FOR THE PM<sub>10</sub> NAAQS IN IMPERIAL COUNTY  
[PM<sub>10</sub> tpd, annual average, county-wide]

Source	2016	2030
Tire Wear, Brake Wear and Exhaust .....	0.4	0.5
Paved Road Dust .....	1.2	1.5
Unpaved City-County Road Dust .....	18.4	16.8
Total .....	20.0	18.8
Motor Vehicle Emission Budget <sup>a</sup> .....	20	19

<sup>a</sup>Rounded up to the nearest integer.  
**Source:** Imperial PM<sub>10</sub> Plan, Table 4–5.

CARB developed the on-road mobile portion of the emissions inventory for the maintenance plan using California’s on-road mobile source emission projection model, EMFAC2014, and vehicle activity data provided by SCAG from its 2016 RTP/SCS. The EMFAC2014 model calculated tire wear, brake wear, and exhaust emissions. Paved road dust emissions were estimated using AP–42 with California-specific silt loading data.<sup>100</sup> The unpaved road dust emissions were estimated using CARB’s methodology 7.10, updated in 2012 for non-farm roads.

As discussed in the March 10, 2006 final Transportation Conformity rulemaking, the conformity rule does not include an exception for PM<sub>10</sub> for paved and unpaved road dust emissions to be determined significant, like the exception for such emissions in PM<sub>2.5</sub> analyses in 40 CFR 93.102(b)(3). The EPA intends for road dust emissions to

be included in all conformity analyses of direct PM<sub>10</sub> emissions because fugitive dust from roadways and other sources dominate PM<sub>10</sub> emissions inventories. The budgets in the Imperial PM<sub>10</sub> Plan, therefore, include paved and unpaved road emissions.

Regional PM<sub>10</sub> emissions analyses for transportation conformity determinations in PM<sub>10</sub> nonattainment and maintenance areas must account for highway and transit project construction-related fugitive PM<sub>10</sub> emissions if the control strategy or maintenance plan identifies such emissions as a contributor to the nonattainment problem, but are not required to do so if such emissions are not identified as a contributor to the nonattainment problem.<sup>101</sup> <sup>102</sup> Emissions estimates developed for the Imperial PM<sub>10</sub> Plan show that fugitive PM<sub>10</sub> emissions from highway and transit project construction represent approximately 0.2% and 0.3% of the

total annual-average daily PM<sub>10</sub> emissions in 2016 and 2030, respectively.<sup>103</sup> Based on these emissions estimates, the Imperial PM<sub>10</sub> Plan concludes that fugitive PM<sub>10</sub> emissions from highway and transit project construction are not a contributor to the nonattainment problem and thus need not be accounted for in regional emissions analyses for transportation conformity determinations made for the Imperial PM<sub>10</sub> nonattainment area. Consequently, the budgets in the Imperial PM<sub>10</sub> Plan do not reflect highway or transit project construction-related fugitive dust.

We evaluated the budgets against our adequacy criteria in 40 CFR 93.118(e)(4) and (5) as part of our review of the budget’s approvability and expect to complete the adequacy review of the budgets concurrent with our final action on the Imperial PM<sub>10</sub> Plan. The EPA is not required under its transportation conformity rule to find budgets

<sup>99</sup>The Imperial PM<sub>10</sub> plan (at 4–6) indicates that the budgets are derived from PM<sub>10</sub> emissions estimates and projections within the PM<sub>10</sub> nonattainment area rather than the entire County. However, we understand that the budgets reflect county-wide emissions estimates and projections. The county-wide basis for the budgets does not, however, affect the geographic area for which

transportation conformity determinations must be made with respect to PM<sub>10</sub>. The applicable geographic area for such determinations remains the Imperial Valley Planning Area portion of Imperial County.

<sup>100</sup> AP–42 is an EPA document that includes a compilation of emission factors.

<sup>101</sup> 40 CFR 93.122(e).

<sup>102</sup> Fugitive PM<sub>10</sub> emissions associated with road and transit construction are not required to be included in conformity unless the state identifies construction-related fugitive dust as a contributor to the nonattainment problem per 93.122(e).

<sup>103</sup> Imperial PM<sub>10</sub> Plan, Table 4–4.

adequate prior to proposing approval of them.<sup>104</sup> Today, the EPA is announcing that the adequacy process for these budgets begins, and the public has 30 days to comment on their adequacy, per the transportation conformity rule at 40 CFR 93.118(f)(2)(i) and (ii).

As documented in the separate memorandum included in the docket for this rulemaking, we preliminarily conclude that the budgets in the Imperial PM<sub>10</sub> Plan meet each adequacy criterion.<sup>105</sup> While adequacy and approval are two separate actions, reviewing the budgets in terms of the adequacy criteria informs the EPA's decision to propose to approve the budgets. We have completed our detailed review of the Imperial PM<sub>10</sub> Plan and are proposing herein to approve the maintenance plan including the demonstration of maintenance of the PM<sub>10</sub> NAAQS in the area through year 2030. We have also reviewed the budgets in the Imperial PM<sub>10</sub> Plan and found that they are consistent with the maintenance demonstration for which we are proposing approval, are clearly identified and precisely quantified, are based on control measures that have already been adopted and implemented, and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 40 CFR 93.118(e)(4) and (5). Moreover, we agree with the conclusion in the Imperial PM<sub>10</sub> Plan that highway and transit project construction-related PM<sub>10</sub> emissions are not a contributor to the nonattainment problem in the Imperial PM<sub>10</sub> nonattainment area and need not be accounted for in regional emissions analyses for transportation conformity determinations for this area. For these reasons, the EPA proposes to approve the 2016 and 2030 motor vehicle emissions budgets in the Imperial PM<sub>10</sub> Plan. At the point when we either finalize the adequacy process or approve the budgets as proposed (whichever occurs first; note that they could also occur concurrently per 40 CFR 93.118(f)(2)(iii)), the budgets must be used by the SCAG (*i.e.*, the MPO for this area) for transportation conformity determinations for the Imperial PM<sub>10</sub> nonattainment area.

The transportation conformity rule allows us to limit the approval of

budgets, and CARB requested that we limit the duration of our approval of the budgets in the Imperial PM<sub>10</sub> Plan to the period before the effective date of the EPA's adequacy finding for any subsequently submitted budgets.<sup>106</sup> <sup>107</sup> However, we will consider the State's request to limit an approval of its budgets only if the request includes the following elements:<sup>108</sup>

- An acknowledgement and explanation as to why the budgets under consideration have become outdated or deficient;
- A commitment to update the budgets as part of a comprehensive SIP update; and
- A request that the EPA limit the duration of its approval to the time when new budgets have been found to be adequate for transportation conformity purposes.

Because CARB's request does not address these elements, we cannot at this time propose to limit the duration of our approval of the submitted budgets. In order to limit the approval, we would need the information described above in order to determine whether such limitation is reasonable and appropriate in this case. If CARB provides the necessary information, we intend to review it and take appropriate action. If we propose to limit the duration of our approval of the budgets in the Imperial PM<sub>10</sub> Plan, we will provide the public an opportunity to comment. The duration of the approval of the budgets, however, would not be limited until we complete such a rulemaking.

## 6. Conclusion

Based on the review presented above of the various elements of the maintenance plan portion of the Imperial PM<sub>10</sub> Plan, we are proposing to approve the Imperial PM<sub>10</sub> Plan as a revision to the California SIP. In doing so, we find that the Imperial PM<sub>10</sub> Plan, submitted by CARB by letter dated February 6, 2019, satisfies the requirements of section 175A of the Act. If finalized as proposed, our approval of the Imperial PM<sub>10</sub> Plan will satisfy the criterion for redesignation under CAA section 107(d)(3)(E)(iv).

## V. Proposed Actions and Request for Public Comment

Under CAA section 110(k)(3), and for the reasons set forth above, the EPA is proposing to approve the Imperial PM<sub>10</sub> Plan submitted by CARB by letter dated February 6, 2019, as a revision to the California SIP. In so doing, the EPA is proposing to approve the BACM demonstration and attainment inventory included as part of the Imperial PM<sub>10</sub> Plan as meeting the requirements of CAA sections 189(b)(1)(B) and 172(c)(3), respectively. We are proposing to approve the maintenance demonstration and contingency provisions as meeting 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 for 2016 and 2030 (shown in Table 5 above) for transportation conformity purposes because we find they meet all applicable criteria for such budgets including the adequacy criteria under 40 CFR 93.118(e).

In addition, under CAA section 107(d)(3)(D), we are proposing to approve the state's request to redesignate the Imperial PM<sub>10</sub> nonattainment area to attainment for the PM<sub>10</sub> NAAQS. We are doing so based on our conclusion that the area has met, or will meet as part of this action, all the criteria for redesignation under CAA section 107(d)(3)(E). More specifically, we propose to find the following: That the Imperial PM<sub>10</sub> nonattainment area has attained the PM<sub>10</sub> standard based on the most recent three-year period (2016–2018) of quality-assured, certified, and complete PM<sub>10</sub> data; that relevant portions of the California SIP are, or will be as part of this action, fully approved; that the improvement in air quality is due to permanent and enforceable reductions in emissions; that California has met all requirements applicable to the Imperial PM<sub>10</sub> nonattainment area with respect to section 110 and part D of the CAA if we finalize our approvals of the BACM demonstration and the attainment inventory in the Imperial PM<sub>10</sub> Plan, as proposed herein; and that the Imperial PM<sub>10</sub> nonattainment area will have a fully approved maintenance plan meeting the requirements of CAA section 175A if we finalize our approval of it, also as proposed herein.

In connection with the above proposed approvals and determinations, and as authorized under CAA section 189(e), we are proposing to determine that PM<sub>10</sub> precursors do not contribute significantly to PM<sub>10</sub> exceedances in the Imperial PM<sub>10</sub> nonattainment area based

<sup>104</sup> Under the transportation conformity rule, the EPA may review the adequacy of submitted budgets simultaneously with the EPA's approval or disapproval of the submitted control strategy or maintenance plan. 40 CFR 93.118(f)(2).

<sup>105</sup> Memorandum dated November 13, 2019, from Karina O'Connor (EPA), to Rulemaking Docket ID EPA–R09–OAR–2019–0654, Subject: "Adequacy Documentation for Plan Motor Vehicle Emissions Budgets in October 2018 Imperial PM<sub>10</sub> Plan."

<sup>106</sup> 40 CFR 93.118(e)(1).

<sup>107</sup> Letter dated February 6, 2019, from Richard W. Corey, Executive Officer, California Air Resources Board, to Michael Stoker, Regional Administrator, EPA, Region IX.

<sup>108</sup> 67 FR 69141 (November 15, 2002), limiting our prior approval of budgets in certain California SIPs.

on the information included in Appendix A of the Imperial PM<sub>10</sub> Plan.

We are soliciting comments on these proposed actions. We will accept comments from the public on this proposal for 30 days following publication of this proposal in the **Federal Register** and will consider these comments before taking final action.

## VI. 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 geographic 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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely propose to approve a State plan and redesignation request as meeting federal requirements and do not impose additional requirements beyond those imposed 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 Clean Air Act; and
- Do not provide the 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, the State plan for which the EPA is proposing approval does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule, as it relates to the maintenance plan, does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). However, the proposed redesignation would apply to Indian country within the nonattainment area. In those areas of Indian country, the proposed redesignation action will not result in the relaxation of measures and programs currently in place to protect air quality and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The EPA has invited the Torres Martinez Desert Cahuilla Indians and the Quechan Tribe of the Fort Yuma Indian Reservation, who have lands within the Imperial PM<sub>10</sub> nonattainment area, to consult on today's proposed action.

### List of Subjects

#### 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

#### 40 CFR Part 81

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

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: March 26, 2020.

**John Buserud,**

*Regional Administrator, Region IX.*

[FR Doc. 2020-06818 Filed 4-1-20; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

[MB Docket Nos. 20-35, 17-105; FCC 20-19; FRS 16586]

### Records of Cable Operator Interests in Video Programming; Modernization of Media Regulation Initiative

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on whether to eliminate or modify the Commission's rules requiring that cable operators maintain records in their online public inspection files regarding the nature and extent of their attributable interests in video programming services, as well as information regarding cable operators' carriage of such vertically integrated video programming services on cable systems in which they have an attributable interest.

**DATES:** Comments due on or before May 4, 2020; reply comments due on or before May 18, 2020.

**FOR FURTHER INFORMATION CONTACT:** Chad Guo, *Chad.Guo@fcc.gov*, or 202-418-0652.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), FCC 20-19, in MB Docket Nos. 20-35, 17-105, adopted and released on March 2, 2020. The complete text of this document is available electronically via the search function on the FCC's Electronic Document Management System (EDOCS) web page at [https://apps.fcc.gov/edocs\\_public/](https://apps.fcc.gov/edocs_public/) ([https://apps.fcc.gov/edocs\\_public/](https://apps.fcc.gov/edocs_public/)). The complete document is available for inspection and copying in the FCC Reference Information Center, 445 12th Street SW, Room CY-A257, Washington, DC 20554 (for hours of operation, see <https://www.fcc.gov/general/fcc-reference-information-center>). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) (mail to: [fcc504@fcc.gov](mailto:fcc504@fcc.gov)) or call the FCC's