

plan and provides a summary of our evaluation of the plan. Our detailed evaluation of the Plan can be found in the TSD that accompanies this proposal. See "Technical Support Document Proposing Approval of the PM-10 State Implementation Plan for the Clark County Serious PM-10 Nonattainment Area Annual and 24-Hour PM-10 Standards," December 19, 2002. A copy of EPA's TSD can be downloaded from our website or obtained by calling or writing the contact person listed above.

II. Background to Today's Proposals

A. PM-10 Air Quality in the Las Vegas Area

The Las Vegas Valley Nonattainment Area, which coincides with Hydrographic Basin 212, is roughly 1,500 square miles in size and encompasses the City of Las Vegas, the City of North Las Vegas, the City of Henderson and the unincorporated areas of Clark County. The population of the area is approximately 1.15 million people and is expected to grow to 1.59 million by 2006.

The area violates both the annual³ and 24-hour PM-10 standards. In 1990, the area was designated nonattainment for PM-10 and classified as moderate. In 1993, because of continuing violations of both PM-10 standards, the area was reclassified to serious and required to provide for the implementation of BACM by February 8, 1997. 58 FR 3334 (January 8, 1993).

The principal contributors to elevated PM-10 levels in the Las Vegas area are fugitive dust sources such as disturbed vacant lots, construction sites, unpaved roads and paved road dust. Fugitive dust is particulate matter suspended in the air either by mechanical disturbance of the surface material or by wind action blowing across surfaces.

B. Previous Actions on Clark County PM-10 Plans

Clark County prepared and submitted a serious area PM-10 plan in 1997 that EPA proposed to disapprove, along with previously submitted plans. 65 FR 37324, June 14, 2000. On December 5, 2000, prior to EPA taking final action on its proposed disapproval, the State of Nevada withdrew the moderate and serious area plans for Clark County. On

January 5, 2001, EPA proceeded with a finding of nonsubmittal, effective as of December 20, 2000, which began the 18-month time clock for mandatory application of sanctions and 2-year time clock for promulgation of a federal implementation plan (FIP). 66 FR 1046. On June 19, 2001, the Clark County Board of Commissioners adopted a new serious area PM-10 plan titled "PM-10 State Implementation Plan for Clark County" ("Plan"), which was submitted to EPA on July 25, 2001. On January 31, 2002, EPA made a completeness finding on the Plan. We have also determined that the conformity budgets in the plan are adequate. 67 FR 1461, January 11, 2002. Our adequacy determination was effective on January 28, 2002.

III. The CAA's Planning Requirements for Serious PM-10 Nonattainment Areas

The Las Vegas area is a PM-10 nonattainment area that has been reclassified to serious because it failed to attain by the moderate area attainment date of December 31, 1994. Such an area must submit, within 18 months of the reclassification, revisions to its implementation plan that address the CAA requirements for serious PM-10 nonattainment areas. CAA section 189(b)(2). These requirements are:

(a) Assurances that the BACM, including best available control technology (BACT) for stationary sources, for the control of PM-10 shall be implemented no later than 4 years after the area is reclassified (CAA section 189(b)(1)(B));⁴

(b) Assurances that BACT on major stationary sources of PM-10 precursors shall be implemented no later than 4 years after the area is reclassified except where EPA has determined that such sources do not contribute significantly to exceedences of the PM-10 standards (CAA section 189(e));

(c) A demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 2001 or where the State is seeking an extension of the attainment date under section 188(e), a

demonstration that attainment by December 31, 2001 is impracticable and that the plan provides for attainment by the most expeditious alternative date practicable (CAA sections 188(c)(2) and 189(b)(1)(A));

(d) Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by the applicable attainment date (CAA sections 172(c)(2) and 189(c)); and

(e) A comprehensive, accurate, and current inventory of actual emissions from all sources of PM-10 (CAA section 172(c)(3)).

Serious area PM-10 plans must also include contingency measures to be implemented if the area fails to make RFP or attain by its attainment deadline. These contingency measures are to take effect without further action by the State or the Administrator. CAA section 172(c)(9).

Furthermore, serious area PM-10 plans must meet the general requirements applicable to all SIPs including reasonable notice and public hearing under section 110(l), necessary assurances that the implementing agencies have adequate personnel, funding and authority under section 110(a)(2)(E)(i) and 40 CFR 51.280, and a description of enforcement methods as required by 40 CFR 51.111.

We have issued a General Preamble⁵ and Addendum to the General Preamble⁶ describing our preliminary views on how the Agency intends to review SIPs submitted to meet the CAA's requirements for PM-10 plans. The General Preamble mainly addresses the requirements for moderate areas and the Addendum, the requirements for serious areas.

BACM Requirement

The CAA does not define what level of control constitutes a BACM-level of control. In guidance, we have defined it to be, among other things, the maximum degree of emission reduction achievable from a source or source category which is determined on a case-by-case basis, considering energy, economic and environmental impacts. Addendum at 42010. This level of control is

³ However, in a June 2002 letter, the Clark County Department of Air Quality Management (DAQM) provides an analysis of PM-10 microscale sites that demonstrates attainment of the annual standard as forecasted in the Clark County Plan as of December 31, 2001. While EPA is proposing to approve the Plan's attainment demonstration for the annual standard under CAA section 189, our action does not include an official finding of attainment of the annual standard per CAA section 188.

⁴ When a moderate area is reclassified to serious, the requirement to implement RACM in section 189(a)(1)(C) remains and is augmented by the requirement to implement BACM. Thus, a serious area PM-10 plan must, in addition to BACM, provide for the implementation of RACM as expeditiously as practicable to the extent that the RACM requirement has not been satisfied in the area's moderate area plan. However, to the extent that a serious nonattainment area plan provides for BACM, we interpret the BACM requirement as generally subsuming the RACM requirement (*i.e.* if we determine that the measures are indeed the "best available," we have necessarily concluded that they are "reasonably available").

⁵ "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

⁶ "State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).