number of amendments to the statutory requirements governing the Indian Housing Block Grant Program (IHBG) and Title VI Loan Guarantee programs. For more information on the IHBG and Title VI of NAHASDA, please see the background section of the Notice of Negotiated Rulemaking Committee Meeting published on February 22, 2010 at 75 FR 7579.

The NAHASDA Reauthorization Act amends section 106 of NAHASDA to provide that HUD shall initiate a negotiated rulemaking in order to implement aspects of NAHASDA that require rulemaking. On January 5, 2010 (75 FR 423), HUD published a **Federal Register** notice announcing the final list of members of the Native American Housing Assistance & Self-Determination Negotiated Rulemaking Committee.

II. Negotiated Rulemaking Committee Meeting

This document announces the sixth meeting of the Native American Housing Assistance & Self-Determination Negotiated Rulemaking Committee. The committee meeting will take place as described in the **DATES** and **ADDRESSES** sections of this document. The meeting will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may be allowed to make statements during the meeting, to the extent time permits, and to file written statements with the committee for its consideration. Written statements should be submitted to the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

Dated: June 18, 2010.

Rodger J. Boyd,

Deputy Assistant Secretary for Native American Programs.

[FR Doc. 2010–15364 Filed 6–23–10; 8:45 am]

BILLING CODE 4210–67–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2010–0336; FRL–9168–1]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM–10; Redesignation of the Coso Junction Planning Area to Attainment; Approval of PM–10 Maintenance Plan for the Coso Junction Planning Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State of California's request to redesignate to attainment the Coso Junction planning area (CJPA), which is currently designated moderate nonattainment for the particulate matter of ten microns or less (PM–10) national ambient air quality standard (NAAQS). EPA is also proposing to approve the PM–10 emissions inventory and the maintenance plan for the CJPA area, which includes control measures for Owens Lake, the primary cause of PM–10 nonattainment for the CJPA. The California Air Resources Board (CARB) has requested that EPA "parallel process" the redesignation submittal, maintenance plan, and related SIP submissions. Finally, EPA is proposing to find the contribution of motor vehicles to the area's PM–10 problem insignificant. If this insignificance finding is finalized, the area would not have to complete a regional emissions analysis for any transportation conformity determinations necessary in the CJPA.

DATES: Any comments must arrive by July 26, 2010.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2010–0336, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.
2. *E-mail: lo.doris@epa.gov.*
3. *Mail or Deliver:* Doris Lo (Air-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

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

FOR FURTHER INFORMATION CONTACT: Doris Lo, EPA Region IX, (415) 972–3959, *lo.doris@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. Background

The CJPA was originally part of the Searles Valley PM–10 nonattainment area which was designated nonattainment and classified as moderate by operation of law in 1990. *See* 56 FR 11101 (March 15, 1991) and 40 CFR 81.305. In 2002, EPA revised the boundaries of the Searles Valley area, dividing it into three separate nonattainment areas: The CJPA, Indian Wells and Trona. 67 FR 50805 (August 6, 2002). Our recent notices of proposed and final determination of attainment for the CJPA provide more background information on the designation and classification of the area. 75 FR 13710 (March 23, 2010) and 75 FR 27944 (May 19, 2010).

The CJPA is located in eastern California in the southern portion of Inyo County. It is an arid desert area that receives less than 5 inches of rain per year. The area is rural in nature and sparsely populated with only 0.5% of the population of Inyo County (2000 U.S. Census shows 102 people living in the area). The Great Basin Unified Air Pollution Control Agency (GBUAPCD or District) operates the one PM–10 monitoring site for the CJPA which is located in the Coso Junction rest area in the Rose Valley. The Rose Valley is flanked by the Sierra Nevada and Coso mountain ranges. The China Lake Naval Air Weapons Station (China Lake NAWS) covers most of the CJPA and is generally restricted from public access. Air pollution in the CJPA is dominated by windblown dust transported from Owens Lake which has been estimated to be as much as 1.55 million pounds per day and is overwhelming when compared to the daily emissions estimate of 1,478 pounds per day for all of the sources within the CJPA. "2010 PM10 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area," adopted May 17, 2010 (the 2010 Plan).

Owens Lake, which is also located in Inyo County and also under the jurisdiction of the GBUAPCD, is located in the Owens Valley Planning Area which is to the north and adjacent to the CJPA. In 1913, the Los Angeles Department of Water and Power (LADWP) completed an aqueduct system and began diverting the waters of the Owens River to the City of Los Angeles. By 1930, these diversions had drained Owens Lake almost completely dry. Strong winds over the dry, alkaline bed of Owens Lake have produced among the highest measured concentrations of PM–10 ever recorded and can have impacts as far as 150 miles away. See 64 FR 34173, June 25, 1999. The CJPA is anywhere from 10 to 30 miles from the southern end of Owens Lake.

The impact of Owens Lake dust on Coso Junction and other downwind sites was documented in a special purpose monitoring network that was operated from 1993 to 1996. The monitoring network measured Owens Lake dust impacts at five downwind sites and found exceedances of the standard as far as 50 miles from Owens Lake. The five downwind sites included Coso Junction, Navy 1, Pearsonville, Inyokern and Ridgecrest. Navy 1 and Pearsonville are no longer in operation and Inyokern and Ridgecrest are outside the CJPA. *See* the 2010 Plan.

The process for developing controls and a plan for the unique situation at Owens Lake area has been ongoing for decades. The GBUAPCD has developed the controls and plans for the Owens Valley Planning Area with many participants including the California Air Resources Board (CARB), LADWP, the City of Los Angeles, tribal governments, Federal land managers, the Navy, the State Lands Commission, and members of the public. These efforts resulted in a unique Board Order by the GBUAPCD which requires the City of Los Angeles, by certain timeframes, to implement dust control measures including shallow flooding, managed vegetation and application of gravel on designated areas of Owens Lake. 64 FR 34173, June 25, 1999. The original Board Order, which serves as the enforceable mechanism for the dust control measures, has been revised on several occasions and implementation of the dust control measures has led to a 90% decrease in emissions from Owens Lake and to significant improvement in the air quality in CJPA. 2010 Plan.

On May 19, 2010, EPA published a final determination that the CJPA has attained the PM–10 NAAQS and that the area's obligation to submit certain CAA requirements (*i.e.,* demonstration of attainment, demonstration of reasonable further progress, reasonably available control measures, and contingency measures) no longer applies for so long as the area continues to attain prior to final redesignation. Id.

On May 28, 2010, CARB submitted to EPA a request for parallel processing of the "2010 PM10 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area" (the 2010 Plan). The 2010 Plan addresses the PM–10 maintenance plan and the CAA redesignation requirements for the CJPA.

II. The State's Submittal

EPA has granted CARB's request that EPA "parallel process" [1] our review and proposed action on the 2010 Plan's maintenance plan and redesignation request for the CJPA. (*See* May 28, 2010 letter to Jared Blumenfeld, Regional Administrator, EPA Region 9, from James N. Goldstene, Executive Officer, CARB) EPA thus is parallel processing the 2010 Plan, including proposed SIP approvals of the maintenance plan, emissions inventory, and Owens Valley control measures, concurrently with the CARB's adoption process. 40 CFR part 51, appendix V.[2]

The Great Basin Unified Air Pollution Control District (GBUAPCD or District) adopted the 2010 Plan on May 17, 2010 and has forwarded it to CARB. CARB has scheduled a Board Hearing on June 24, 2010 where it will consider approval of the 2010 Plan. All public comments to CARB concerning their proposed action on the 2010 Plan are also due by that date.

III. Proposed Redesignation of the CJPA to Attainment for the PM–10 Standard

Section 107(d)(3)(E) of the CAA sets forth the following criteria for redesignating an area from nonattainment to attainment:

(1) EPA determines that the area has attained the NAAQS.

(2) EPA has fully approved the applicable implementation plan under section 110(k) of the CAA.

[1] Parallel processing is used for expediting the review of a plan. Parallel processing allows a State to submit the plan prior to actual adoption by the State and provides an opportunity for the State to consider EPA comments prior to submittal of the final plan for final review and action.

[2] CARB's parallel processing request and SIP submittal includes the following documents: (1) May 28, 2010 letter to Jared Blumenfeld, Regional Administrator, U.S. EPA Region 9, from James N. Goldstene, Executive Officer, CARB, requesting parallel processing; (2) May 19, 2000 transmittal letter to James N. Goldstene, Executive Officer, CARB, from Theodore D. Schade, Air Pollution Control Officer, GBUAPCD; (3) Proof of Publication of Public Notice for "2010 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area" (2010 Plan) and the May 17, 2010 GBUAPCD Board Hearing; (4) Certification by the Clerk of the GBUAPCD Board regarding adoption of the 2010 Plan; (5) GBUAPCD Board Resolution of Adoption 2010–1 approving and adopting the 2010 Plan; (6) the California Environmental Quality Act Notice of Exemption for the 2010 Plan; (6) the Notice of Public Hearing for consideration of the adoption and approval of the 2010 Plan; and (7) The 2010 PM–10 Maintenance Plan and Redesignation Request for the Coso Junction Planning Area, May 17, 2010, GBUAPCD, with Appendices A–D. All of these documents are available for review in the docket for today's proposed rule.

(3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions.

(4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA.

(5) The State has met all applicable requirements for the area under section 110 and Part D of the CAA.

These requirements are discussed in more detail in a September 4, 1992 EPA Memorandum, "Procedures for Processing Request to Redesignate Areas to Attainment, John Calcagni, Director, Air Quality Management Division" (Calcagni memo). Below, we discuss how these requirements are met for the CJPA.

A. EPA Has Determined That the Area Has Attained the NAAQS

In our May 19, 2010 final determination of attainment, EPA determined that the CJPA attained the PM–10 standard, based on data available to date through 2010.[3] See 75 FR 13710 and 75 FR 27944. Since our May 19, 2010 determination of attainment, the GBUAPCD requested certification of the 2009 data (see letter to Jared Blumenfeld, Regional Administrator, EPA Region 9, from Theodore D. Schade, Air Pollution Control Officer, GBUAPCD). The GBUAPCD recently determined, however, that the monitoring site in Coso Junction has violated siting criteria since January 2010. Following the occurrence of two preliminary exceedances monitored in March 2010, District staff began to investigate the cause of the exceedances. On May 27, 2010, the GBUAPCD's monitoring staff met with the Coso Operating Company's Compliance Officer[4] to assess the situation at the Coso Junction monitoring site. During that meeting and site visit it was determined that the vegetation surrounding the monitor site had not been watered for several years and had died off. As a result, it was no longer providing sufficient ground cover, exposing friable soils that could be lofted by the wind to impact monitor readings. In addition, they found a deterioration in the condition of the unpaved access road to the station, which was located adjacent to the monitor and which had previously been covered with gravel. According to the Coso Operating Company, beginning in January 2010, a contractor working onsite to install an equipment trailer near the monitoring station drove along the access road several times each day in order to collect equipment from the trailer. The lack of vegetation and the contractor activity and increased vehicle trips that forced the gravel deeper into the ground combined to expose soils that could be lofted in close proximity to the monitor. The District staff therefore concluded that beginning in January, 2010, this resulted in the monitoring site's failure to meet EPA siting criteria for a PM–10 monitor. See June 2, 2010 GBUAPCD Memorandum, Subject: Coso Junction PM10 Monitoring Station Siting Review. The District promptly set to work with the Coso Operating Company to resolve the siting problems by re-vegetating the area and adding another layer of gravel to areas with vehicular travel. The Coso Operating Company has also restricted traffic on the unpaved access road adjacent to the monitor, limiting it to only the monitoring station operators and station support personnel as needed. Furthermore, the Company has moved the contractors' trailer, which had previously been parked close to the monitor, to a gravel parking lot approximately 100 meters east of the station. They are developing a plan to apply water to the soil surfaces near the monitor to re-vegetate the area and facilitate development of a ground surface crust that will help minimize localized PM–10 emissions. The GBUAPCD is committed to resolving the monitor siting problem, but believes that until the problem is resolved, the data collected since January 2010 should not be used for regulatory purposes. See June 2, 2010 GBUAPCD Memorandum, Subject: Coso Junction PM10 Monitoring Station Siting Review. The GBUAPCD has advised EPA that adequate application of water to the surrounding soils will begin on July 1, 2010 and that the District expects that, as a result of the efforts outlined above to limit contractor activities near the site and improve the conditions near the monitor, they will be able to rectify the siting problems so that they can once again start collecting valid data subsequently in July.

EPA agrees with the GBUAPCD's assessment of the monitoring site for the period since January 2010 and that the data collected during the first two quarters of 2010 should not be used for regulatory purposes.[5] None of the recorded values have been entered into the AQS database, and, instead, the District has entered codes for the first quarter 2010 data which indicate that the data are invalid due to temporary construction/repair activity in the area. See AQS raw data report for Coso Junction, June 4, 2010. 40 CFR part 58 establishes criteria and requirements for ambient air monitoring and appendix E sets forth the probe and monitoring path siting criteria for ambient air quality monitoring. 71 FR 61236 (October 17, 2006). These include both binding requirements and goals. Section 1(b) of appendix E, the Introduction, provides that "[t]he probe and monitoring path siting criteria discussed in this appendix must be followed to the maximum extent possible." Under the principles established in part 58, appendix E, EPA believes that it is not a reasonable monitoring practice to locate a PM–10 monitor, intended for purposes of characterizing large-scale pollution, so close to a dust source such as the case with the Coso Junction monitor since January 2010. The objective of the Coso Junction monitoring site is to capture transport from Owens Lake which is 15 to 20 miles to the north.

Section 3(a) of appendix E, Spacing from Minor Sources, addresses the siting of monitors, including PM–10 monitors. It states that close spacing between a monitor and a minor source may be proper if the purpose of that monitoring site is to investigate emissions from that source and other local sources. However, if, as is the case with the Coso Junction monitor here, the site is to be used to determine air quality over a larger area representative of many kilometers across, it should not be placed near local, minor sources, because the plume from the local minor source would inappropriately impact the air quality data collected at this site. It is plain that this occurred at the Coso Junction situation, where the monitor, since January 2010, has been operating in an unvegetated area with exposed soils and with unprecedented contractor activity and vehicle traffic traveling frequently on an unpaved access road adjacent to the monitoring site.

EPA will continue to work with the GBUACPD to ensure that the issues with

[3] As discussed in our May 19, 2010 determination of attainment, the GBUAPCD provided preliminary data for 2010 which indicated that there were 2 exceedances in March 2010, but expressed concern about the validity of the data and also noted that the status of these preliminary exceedances could change after the data validation process was concluded and relevant issues addressed. 75 FR 27944. As set forth in the discussion in this section, the GBUAPCD determined that these exceedances, along with the other data for the first quarter of 2010, were invalid due to problems at the monitoring site, and therefore should not be included in the AQS database.

[4] The Coso Operating Company is a power generating company and the owner of the property upon which the Coso Junction monitor is located.

[5] The District advised EPA that among the invalid data monitored during this period was an additional exceedance monitored on May 9.

the monitoring site are resolved as soon as possible. The recent siting problem affects only data collected for the period after January, 2010, and does not have any impact on EPA's determination that the CJPA attained the PM–10 standard based on the two most recent, consecutive three-year periods with quality-assured data. (2006–2008 and 2007–2009). In view of the recent history of continuous attainment in the CJPA and the ongoing expansion of and implementation of controls discussed elsewhere, EPA finds nothing to contradict EPA's belief that the area has attained the PM–10 standard through 2009 and continues to attain to date. Therefore EPA believes that the section 107(d)(3)(E)(i) requirement for attainment has been met.[6]

B. The Area Has Met All Applicable Requirements for Purposes of Redesignation Under Section 110 and Part D of the CAA and the Area Has a Fully Approved Applicable Implementation Plan Under Section 110(K) of the CAA

Section 107(d)(3)(E), as interpreted by EPA, provides that the SIP for the area must be fully approved under section 110(k) of the CAA for all requirements that apply to the area for purposes of redesignation. Section 107(d)(3)(E)(ii) and (v).

EPA may rely on prior SIP approvals in approving a redesignation request. Calcagni Memo, p. 3, *Wall* v. *EPA* F.3d 416 (6th Cir. 2001), *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998), as well as any additional measure it may approve in conjunction with a redesignation action. See 68 FR 25426 (May 12, 2003), and citations therein.

The Calcagni memo states that a state must meet those requirements of section 110 and part D of the CAA that were applicable prior to the submittal of the redesignation request. CAA section 107(d)(3)(E)(v).

1. Basic SIP Requirements Under CAA 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 permit program; provisions for the implementation of part C requirement for Prevention of Significant Deterioration (PSD); provisions for the implementation of part D requirements for New Source Review (NSR) permit programs; provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

On numerous occasions over the past 35 years, CARB and the GBUAPCD have submitted and we have approved provisions addressing the basic CAA section 110 provisions. There are no outstanding or disapproved applicable section 110 SIP submittals with respect to the State and the GBUAPCD.[7] We propose to conclude that CARB and the GBUAPCD have met all SIP requirements for the CJPA applicable for purposes of redesignation under section 110 of the CAA (General SIP Requirements).

Moreover, we note that SIPs must be fully approved only with respect to applicable requirements for purposes of redesignation in accordance with CAA section 107(d)(3)(E)(ii). Thus, for example, CAA section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, we do not believe that these requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes that the other section 110 elements not connected with nonattainment plan area's attainment status are not applicable requirements for purposes of redesignation. The State will still be subject to these requirements after the CJPA is redesignated. The section 110 and part D requirements, which are linked to a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This policy is consistent with EPA's existing policy on applicability of the conformity SIP requirement for redesignations. *See* Reading, Pennsylvania propose and final rulemakings at 61 FR 53174–53176 (October 10, 1996), 62 FR 24816 (May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking at 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking at 60 FR 62748 (December 7, 1995). See also the discussion of this issue in the Cincinnati redesignation at 65 FR 37890 (June 19, 2000), and in the Pittsburgh redesignation at 66 FR 50399 (October 19, 2001). See also 73 FR 22307, 22312–22313 (April 25, 2008) (San Joaquin PM–10 proposed redesignation). EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation.

2. SIP Requirements Under Part D

Subparts 1 and 4 of part D, title 1 of the CAA contain air quality planning requirements for PM–10 nonattainment areas. Subpart 1 of part D, sections 172(c) and 176 contains general requirements for areas designated as nonattainment. Subpart 4 of part D contains specific planning and scheduling requirements for PM–10 nonattainment areas.

The subpart 1 requirements include, among other things, provisions for the reasonable available control measures (RACM), reasonable further progress (RFP), emissions inventories, contingency measures and conformity.

Subpart 4 of part D, section 189(a), (c) and (e) requirements apply specifically to moderate PM–10 nonattainment areas. These requirements include: (1) An approved permit program for construction of new and modified major stationary sources; (2) an attainment demonstration; (3) provisions for RACM; (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date; and (5) provisions to ensure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator has determined that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area.

In addition to these subpart 4 requirements, general planning requirements in subpart 1, section 172(c) and section 176 include requirements for emissions inventories,

[6] EPA notes that the 2010 Plan also includes air quality modeling to demonstrate that the CJPA is attaining the PM–10 NAAQS. See 2010 Plan, section 6 Air Quality Modeling and Attainment Demonstration and Appendix D. While we do not believe air quality modeling is required to substantiate attainment for this purpose, EPA has reviewed the modeling and believes that it is supportive of the attainment determination.

[7] The applicable California SIP for all nonattainment areas can be found at: *http://yosemite.epa.gov/r9/r9sips.nsf/Casips?readform&count=100&state=California.*

reasonably available control measures, contingency measures and conformity.

For the CJPA, we have determined that the requirements for an attainment demonstration 189(a)(1)(B), section 172(c) and section 189(a)(1)(c) RACM determination, a reasonable further progress demonstration under 189(c)(1) and section 172(c)(9) contingency measures no longer apply for so long as the area continues to attain the PM–10 standard in accordance with EPA's Clean Data Policy. 75 FR 27944. *See also* San Joaquin proposed and final determination of attainment 71 FR 40952, 40954–5 (July 19, 2006) and 71 FR 63641, 63643–7 (October 30, 2006). Moreover, in the context of evaluating the area's eligibility for redesignation, there is a separate and additional justification for finding that the requirements associated with attainment are not applicable for purposes of redesignation. Prior to and independently of the Clean Data Policy, and specifically in the context of redesignations, EPA interpreted attainment-linked requirements as not applicable for purposes of redesignation. In the General Preamble, "General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990," (General Preamble) 57 FR 13498, 13564 (April 16, 1992).

EPA stated that:

> [t]he section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans * * * provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas.

See also Calcagni memorandum at 6 ("The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard."). Thus, even if the requirements associated with attainment had not previously been suspended, they would not apply for purposes of evaluating whether an area that has attained the standard qualifies for redesignation. EPA has enunciated this position since the General Preamble was published more than eighteen 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 EPA's authority to interpret "applicable requirements" in the redesignation context. *See Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004).

After application of the Clean Data Policy, the remaining applicable Part D requirements for moderate PM–10 nonattainment areas include an emissions inventory under section 172(c)(3). In this notice, EPA is proposing to approve the attainment inventories submitted in the 2010 Plan as meeting the requirements for a section 172(c) emissions inventory. See discussion below in section D.1. In addition, EPA has previously approved numerous PM–10 measures into the CJPA SIP. See footnote 11, below, and Table 5 of the 2010 Plan.

With respect to the Part D requirements for a NSR permit program for construction of new and modified major stationary sources, EPA has previously approved new source review rules (Rules 209–A and 216) for the GBUACPD which cover the CJPA. *See* 47 FR 26380 (June 18, 1982) and 41 FR 53661 (December 8, 1976).

Final approval of the NSR program, however, is not a prerequisite to finalizing our proposed approval of the State's redesignation request. EPA has determined in past redesignations that a NSR program does not have to be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without part D NSR requirements in effect. The rationale for this position is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled "Part D NSR Requirements or Areas Requesting Redesignation to Attainment." See the more detailed explanations in the following redesignation rulemakings: Detroit, MI (60 FR 12467–12468, March 7, 1996); Cleveland-Akron-Lorrain, OH (61 FR 20458, 20469–20470, May 7, 1996); Louisville, KY (66 FR 53665, 53669, October 23, 2001); Grand Rapids, MI (61 FR 31831, 31836–31837, June 21, 1996); and San Joaquin Valley, CA (73 FR 22307, 22313, April 25, 2008 and 73 FR 66759, 66766–7, November 12, 2008).

The requirements of the PSD program will apply to PM–10 once the area has been redesignated. Thus, new major sources with significant PM–10 emissions and major modifications of PM–10 at major sources as defined under 40 CFR 52.21 will be required to obtain a PSD permit or include PM–10 emissions in their existing PSD permit. Currently, EPA is the PSD permitting authority in the CJPA under a Federal implementation plan. See 40 CFR 52.270(a)(3). However, the GBUAPCD can implement the Federal PSD program through a delegation agreement with EPA or, assuming that the GBUAPCD makes necessary modifications to its NSR rules and EPA approves the modifications, under a SIP-approved rule.

With respect to the conformity requirement, section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects "conform" to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. and the Federal Transit Act ("transportation conformity") as well as to other federally supported or funded projects ("general conformity"). State conformity revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the CAA required EPA to promulgate.

EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F. 3d 426 (6th Cir. 2001), upholding this interpretation. *See also,* 60 FR 62748 (December 7, 1995).

Finally, given the extensive documentation throughout the 2010 Plan and today's proposed rule that the primary cause of the PM–10 problem in the CJPA is windblown dust from Owens Lake, EPA is proposing to determine that major stationary sources of PM–10 precursors do not contribute significantly to PM–10 levels that exceed the standard in the CJPA. Thus, EPA proposes to determine that, if EPA finalizes today's proposal and finally approves the emissions inventory for CJPA, the State has met and EPA has fully approved all requirements applicable under section 110 and part D for the CJPA for purposes of redesignation. CAA Section 107(d)(3)(E)(v).

C. EPA Has Determined That the Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions

Section 107(d)(3)(E)(iii) requires EPA, in order to approve a redesignation to attainment, to determine that the improvement in air quality is due to emission reductions which are permanent and enforceable. Improvement should not be a result of temporary reductions (*e.g.,* economic

downturns or shutdowns) or unusually favorable meteorology. Calcagni memorandum, p. 4.

As discussed above in the "Background" section, the PM–10 problem in the CJPA is caused primarily by transport of windblown dust from the Owens Lake. Between 1985 and 2009, there have been 22 exceedances of the PM–10 standard, 18 of which were caused by windblown dust from the Owens Lake. The remaining 4 exceedances were caused by windblown dust from agricultural land (1 exceedance in 1990), wildfire smoke (1 exceedance in 2002) and an unpaved truck parking area (2 exceedances in 2007). 2010 Plan, section 3, pp. 4–8. Since 1985, the frequency of exceedances has decreased with the expected number of exceedances per year at in the CJPA ranging from zero to two (prior to 2004 there were many years with six to twelve expected exceedances per year). See 2010 Plan, Table 3.

SUMMARY OF 24-HOUR PM–10 MAXIMUM EXCEEDANCES (μG/M³) IN THE CJPA (1985 THROUGH 2009)*

Exceedance date	Conc. (μg/m³)	Primary cause of exceedance
4/25/1985	307	Owens Lake Dust.
4/2/1986	1175	Owens Lake Dust.
6/7/1986	157	Owens Lake Dust.
1/15/1987	196	Owens Lake Dust.
2/3/1989	227	Owens Lake Dust.
4/23/1990	866	Abandoned Ag Land Dust.
10/26/1993	254	Owens Lake Dust.
12/23/1993	188	Owens Lake Dust.
1/5/1994	388	Owens Lake Dust.
4/8/1995	692	Owens Lake Dust.
4/9/1995	567*	Owens Lake Dust.
4/21/1995	337	Owens Lake Dust.
4/27/1996	176*	Owens Lake Dust.
5/23/1996	309	Owens Lake Dust.
3/6/1998	246*	Owens Lake Dust.
3/18/1998	409	Owens Lake Dust.
7/25/2002	175	Wildland Fire Smoke.
2/2/2003	484	Owens Lake Dust.
12/28/2006	296	Owens Lake Dust.

SUMMARY OF 24-HOUR PM–10 MAXIMUM EXCEEDANCES (μG/M³) IN THE CJPA (1985 THROUGH 2009)*—Continued

Exceedance date	Conc. (μg/m³)	Primary cause of exceedance
6/5/2007	217	Coso Junction Parking Area Dust.
12/6/2007	283	Coso Junction Parking Area Dust.
12/22/2009	168	Owens Lake Dust.

* All values were recorded at the Coso Junction monitor site with the following exceptions: 4/9/1995 at Navy, 4/27/1996 at Pearsonville and 3/6/1998 at Navy. See 2010 Plan, Tables 1 and 2.

Control Measures for Owens Lake

As discussed above, the Owens Valley Planning Area is located to the north and adjacent to CJPA and is classified as a serious PM–10 nonattainment area. Attainment in the CJPA depends on controls on and emissions reductions from Owens Lake which is the primary source of emissions in the Owens Valley Planning area. The GBUAPCD has jurisdiction over air quality planning requirements for Inyo, Mono and Alpine Counties. The GBUAPCD has adopted the following plan and revisions for the Owens Valley Planning Area, in order to reduce the PM–10 emissions from Owens Lake:

- In 1998 the GBUAPCD adopted and CARB submitted the Owens Valley SIP requiring dust controls on 16.5 square miles of the Owens lakebed. (1998 Owens Valley SIP).
- In 2003 the GBUAPCD adopted and CARB submitted a SIP revision to expand dust controls to cover a total 29.8 square miles of the Owens lakebed. (2003 Owens Valley SIP revision).
- In 2008 the GBUAPCD adopted and CARB submitted a SIP revision to expand dust control requirements to apply to a total of 43.1 square miles of the Owens lakebed. (2008 Owens Valley SIP revision).

See 2010 Plan, section 5, pp. 11–12. EPA has approved the 1998 Owens Valley SIP (64 FR 48305, September 3, 1999), but has not acted on the State's proposed 2003 and 2008 Owens Valley SIP revisions. In the meantime, the GBUAPCD has implemented the 2003 Owens Valley SIP revision submission measures and has begun implementation of the 2008 Owens Valley SIP submission measures.

The GBUAPCD, which exercises joint jurisdiction over CJPA and Owens Valley, has shown that attainment and maintenance of the PM–10 standard in the CJPA relies in large part on the control measures in place for the Owens Valley Planning Area through 2008. Thus, the GBUAPCD has included in its maintenance plan submission for the CJPA area all of the control measures in the 1998 Owens Valley SIP, as well as the 2003 and 2008 SIP revisions for Owens Valley that the District and CARB have submitted to EPA. These control measures are contained in the CJPA 2010 Plan, Appendix C, GBUAPCD Board Order #080128–01, January 28, 2008/February 1, 2008 (Board Order).[8] [9] The 2010 Plan indicates that all of the controls required by the 1998 Owens Valley SIP and the District's 2003 Owens Valley SIP revision submission (*i.e.,* dust controls for 29.8 square miles of the Owens lakebed) have been successfully implemented and that the controls have led to a decline in the level of frequency of PM–10 exceedances of the 24-hour standard in the CJPA. 2010 Plan, section 5, p. 12 and Table 3.[10] The additional controls required by the 2008 SIP revision (for a total of 43.0 square miles of controls on Owens Lake) are scheduled for implementation by October 2010.

Prior to the adoption of the 1998 Owens Valley PM–10 SIP, the peak 24-hour PM–10 concentration levels recorded in the CJPA were as high as 1175 micrograms per cubic meter (μg/m³) with many years recording levels over 300 μg/m³, and there were several years where the expected number of exceedances were as high as 6 or 12 days. See 2010 Plan, Table 3 and Summary of 24-hour PM–10 Maximum Exceedances table above. Following the adoption of the 1998 Owens Valley SIP and the 2003 Owens Valley SIP

[8] Adopted on February 1, 2008, the GBUAPCD Board Order #080128–01 provides for the enforcement and implementation of 43.0 square miles of BACM level controls on the Owens Lake bed found in the 1998 Owens Valley SIP and subsequent SIP revisions. Board Order #080128–01 specifies the timing, implementation, placement, and management of lake bed controls such as shallow flooding, managed vegetation, gravel blanketing, and "moat and row" controls. Also, Board Order #080128–01 provides for contingency procedures for supplemental controls, maintenance of existing controls, and a "performance monitoring plan."

[9] We note that there is a slight difference between the discussion in the 2010 Plan (p. 12) and the Board Order (paragraph 5) for the total square miles controlled. Page 12 of the 2010 Plan states the total is 43.1 square miles while the Board Order states the total is 43.0 square miles. Since the Board Order is the enforceable mechanism, we believe the enforceable controls are for 43.0 square miles.

[10] Table 3 of the 2010 Plan shows a decline in level and frequency of the 24-hour PM–10 standard. Table 3 also provides information on the annual PM–10 standard, however, EPA revoked this standard on October 17, 2006, effective on December 18, 2006 (71 FR 61144).

revision, which have led to implementation of 29.8 square miles of dust controls on Owens Lake by the end of 2006, the peak 24-hour PM–10 levels and expected number of exceedances have declined. *Id.* Figure 4 of the 2010 plan also documents the dramatic decrease in emissions in Owens Valley. EPA believes that the data in Table 3 and Figure 4 of the 2010 plan show there is a direct air quality benefit in the CJPA from the dust controls implemented for Owens Lake.

Control Measures in the CJPA

As mentioned above, 4 of the 22 PM–10 exceedances in the CJPA between 1985 and 2009 were caused by sources other than Owens Lake emission including windblown dust from an agricultural field, smoke from a wildfire and windblown dust from an unpaved truck parking area. 2010 Plan, section 3, p. 4. These types of exceedances are not generally a problem in the CJPA and are not expected to recur. The agricultural land just north of the monitor site was stabilized by natural vegetation cover in 1991 after the land was fallowed. Since that time no agricultural activities have taken place in the CJPA. Dust from the unpaved truck parking area, located adjacent to the PM–10 monitor site was mitigated by covering it with gravel in 2008 and then asphalt pavement in 2009. 2010 Plan, section 1. The 2010 Plan also provides a summary of the District rules and regulations that apply to sources of PM–10 within the CJPA. 2010 Plan, Table 5. While the focus of attaining and maintaining the PM–10 standard in the CJPA is on the controls for Owens Lake, these measures, many of which have been SIP-approved, will also benefit air quality.[11] Those measures that EPA has already approved into the CJPA SIP contribute to attainment and maintenance of the PM–10 NAAQS.

EPA Proposal for Approval of GBUAPCD Board Order Maintenance Plan Control

EPA is proposing to approve the GBUAPCD Board Order #080128–01, January 28, 2008/February 1, 2008, which is included as Appendix C of the 2010 Plan. As discussed above, this Board Order is the enforceable mechanism by which the GBUAPCD can require the City of Los Angeles to implement, in phases, a total of 43 square miles of dust control measures for Owens Lake. The successful implementation of 29.8 square miles of controls by December 2006 has resulted in significantly improved air quality in the CJPA. 2010 Plan, Table 3, Figure 4, section 5. Thus, EPA believes that the improvement in PM–10 air quality for the CJPA is the result of permanent and enforceable reductions in emissions from Owens Lake, and that this improvement will continue if our proposal is finalized. Because of the clear correlation between the reductions in emissions from Owens Lake and declining PM–10 exceedances in the CJPA, EPA believes that the improvement in air quality is not the result of temporary reductions (e.g., economic downturns or shutdowns) or unusually favorable meteorology. Thus, EPA proposes to determine that the improvement in air quality in CJPA is due to permanent and enforceable emissions reductions 107(d)(3)(E)(iii).

D. EPA Has Fully Approved a Maintenance Plan for the Area Under Section 175A of the CAA

Section 175A of the CAA provides the requirements for maintenance plans that must be fully approved under section 107(d)(3)(E) for purposes of redesignation to attainment. The provisons to be included in a maintenance plan are further addressed in the Calcagni memo. They include:

(1) An attainment emissions inventory to identify the level of emissions in the area sufficient to attain the NAAQS;

(2) A demonstration of maintenance of the NAAQS for 10 years after redesignation;

(3) Verification of continued attainment through operation of an appropriate air quality monitoring network; and

(4) Contingency provisions that EPA deems necessary to assure that the State will promptly correct any violation of the NAAQS that occurs after redesignation of the area. We discuss below how these requirements are met for the SJVAB.

1. An Attainment Emissions Inventory To Identify the Level of Emissions in the Area Sufficient To Attain the NAAQS

Section 172(c)(3) of the CAA requires plan submittals to include a comprehensive, accurate, and current inventory of actual emissions from all sources in the nonattainment area. In demonstrating maintenance in accordance with CAA section 175A and the Calcagni memo, the State should provide an attainment emissions inventory to identify the level of emissions in the area sufficient to attain the NAAQS. Where the State has made an adequate demonstration that air quality has improved as a result of the SIP, the attainment inventory will generally be an inventory of actual emissions at the time the area attained the standard. EPA's primary guidance in evaluating these inventories is the document entitled, "PM–10 Emissions Inventory Requirements," EPA, OAQPS, EPA–454/R–94–033 (September 1994) which can be found at: *http://www.epa.gov/ttn/chief/eidocs/pm10eir.pdf.*

The 2010 Plan provides an estimated daily PM–10 emissions inventory for 2008 through 2025. The year 2008 was chosen as the attainment year because it is one of the attainment years in the most recent three-year periods (2006–2008, 2007–2009) in which compliance with the PM–10 NAAQS was monitored. The 2010 Plan projects the emissions attainment inventory to remain constant from 2008 through 2025, at an estimated 1,478 pounds per day. See 2010 Plan, section 4, pp. 9–10. In contrast, as noted in the Background discussion in section I above, the emissions generated within the CJPA are less than 0.1% of the emissions caused by windblown dust from the Owens Lake area, which were estimated to be 1.55 million pounds per day for the CJPA design day (January 5, 2007). *Id.*

DAILY PM–10 EMISSIONS FOR 2008 THROUGH 2025 FOR PM–10 SOURCES IN THE CJPA

	Pounds per day
Stationary Sources:	
—California Lightweight Pumice	167
—China Lake Naval Air Weapons Station	84

[11] There are thirteen measures listed in Table 5 of the 2010 Plan including New Source Review and permitting rules and rules to control fugitive dust and controlled burning. We have approved nine of these rules into the SIP: Rule 209–A, 47 FR 26380, June 18, 1982; Rule 216, 41 FR 53661, December 8, 1976; Rule 400, 42 FR 28883, June 6, 1977; Rule 401, 42 FR 28883, June 6, 1977; Rule 408, 46 FR 8471, January 27, 1981; Rule 409, 42 FR 28883, June 6, 1977; Rule 410, 42 FR 28883, June 6, 1977; and, Regulation XIII (Rules 1301–1311), 64 FR 19916, April 23, 1999.

DAILY PM–10 EMISSIONS FOR 2008 THROUGH 2025 FOR PM–10 SOURCES IN THE CJPA—Continued

	Pounds per day
—Coso Operating Company	953
—Halliburton Services	20
—Twin Mountain Rock	58
—Total Stationary	1282
Area Sources:	
—Unpaved Roads	83
—Paved Roads	101
—Total Area Sources	184
Mobile Sources:	
—On-Road Motor Vehicles	12
Total PM–10 for CJPA	1478
Source: 2010 Plan, Table 4.	

The 2010 Plan's inventory for sources within the CJPA is subdivided into three subcategories: Stationary sources; area sources; and mobile sources. *Id.* In the CJPA, the majority of daily PM–10 emissions are estimated to come from stationary sources. Five sources account for 1,282 pounds or 86.7% of estimated total daily PM–10 emissions. The largest stationary source contributor is Coso Operating Company, a geothermal, wind and solar energy company, with an estimated 953 pounds per day of PM–10 emissions. These emissions estimates are derived from GBUAPCD source permits and include unpaved road and haul road PM–10 emissions for these sources. *Id.*

The plan estimates daily area source emissions for unpaved and paved roads at 184 pounds per day (12.4% of total).

CJPA on-road mobile source emissions are estimated to be 12 pounds per day (0.8% of total) and are based on CARB's 2008 PM–10 emission estimates for Inyo County. CJPA estimates were derived from Inyo County estimates by pro-rating the amount of traffic (5.1%) in the CJPA. 2010 Plan, section 4, p. 10.

GBUAPCD projects that PM–10 emissions will not grow from 2008 to 2025 because of the CJPA's continued sparse population and lack of population growth, and relative stability of the area's industrial activities. The CJPA has only 0.5% of Inyo County's population and, according to U.S. Census Bureau figures, Inyo County population declined from 18,281 in 1990 to 17,945 in 2000, and further declined to 17,136 in 2008, a population decrease of 4.5% over this 18-year period. 2010 Plan, section 4, p. 9–10.

In conclusion, EPA believes that the selection of 2008 as the attainment year inventory and 2025 for the maintenance year inventory is appropriate since the area was determined to have attained by 2008, and that given the sparse population, the lack of population growth and the lack of changes to industrial operations for the area, a constant inventory of 1,478 pounds per day from 2008 through 2025 is also appropriate for the CJPA. We have reviewed the 2010 Plan's estimated attainment year emission inventory and determined that it is current, accurate and comprehensive, and meets EPA guidance and the CAA. Therefore we are proposing to approve the 2008 inventory, which also serves as the maintenance plan's attainment year inventory, under section 172(c) of the CAA.

2. A Demonstration of Maintenance of the NAAQS for 10 Years After Redesignation

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

As discussed above, the emissions reductions from Owens Lake provided the path to attainment for the CJPA and is also the paramount source of emissions that must be addressed in ensuring maintenance for the area. The emissions estimates and projections for the Owens Lake and the Owens Valley area have decreased significantly since 2000 and are expected to continue to decrease until 2011 and then remain constant through 2025. 2010 Plan, section 5, pp. 11–13 and Figure 4. Figure 4 of the 2010 Plan shows actual and forecasted emissions from Owens Lake and from all sources in the Owens Valley area. Since 2000, the actual emissions have decreased by 90% as a result of dust control measures and the forecasts show emission from Owens Lake and the Owens Valley Area either staying constant or decreasing from 2007 through 2026. EPA believes the forecasted decreases in emissions in 2010 from Owens Lake are consistent with the additional control measures (discussed above) that are scheduled for implementation.

In addition, we believe that, while not nearly as significant as the emissions reductions from Owens Lake, as discussed in the Inventory section above the total daily emissions of PM–10 from sources within CJPA will remain constant at 1,478 pounds per day from 2008 through 2025. 2010 Plan, section 4. Sources within the CJPA are also subject to SIP-approved measures. See footnote 11.

Based on our review of the information presented in the 2010 Plan, we believe that the State has shown that attainment of the PM–10 standard will be maintained in the CJPA for at least ten years after redesignation.

3. Verification of Continued Attainment Through Operation of an Appropriate Air Quality Monitoring Network

In demonstrating maintenance, continued attainment of the NAAQS can be verified through operation of an appropriate air quality monitoring network. The Calcagni memo states that the maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification.

The GBUAPCD has committed to continue daily monitoring of PM–10 at the Coso Junction monitoring site and is authorized to do so under the California Health and Safety Code section 40001. 2010 Plan, section 5.1, p. 13 and section 10, p. 23. The Coso Junction monitor is part of an EPA-approved air quality monitoring network. See December 1, 2009 letter to Ted Schade, Air Pollution Control Officer, GBUAPCD, from Joseph Lapka, Acting Manager, Air Quality Analysis Section, EPA Region 9. As noted above, EPA and the District have

recently learned that changed conditions in the area adjacent to the Coso Junction monitor have resulted in the monitor not meeting EPA siting criteria since January 2010. As a result, data from the monitor during this period are not representative of the area for which the monitor is designed, and cannot be relied upon for regulatory purposes. GBUAPCD has already taken steps to correct the problems identified, which are linked to the operations of a nearby contractor. These include plans and actions to promote regrowth of vegetation in the area surrounding the monitor, and development of a competent crustal surface to reduce emissions. The GBUAPCD has already rerouted and restricted traffic from an unpaved access road near the monitor, and has directed the contractor to remove its equipment trailer from a location near the monitor. Additional gravel placement on the access road and areas on which vehicles will travel and the application of water will also reduce dust emissions near the monitor. The GBUAPCD is committed to resolving the siting issues and expects that the monitor will be collecting valid data for the area after July 1, 2010. Thus EPA believes that all these circumstances demonstrate that the District's commitment to continued verification through operation of its monitor is credible and sufficient.

4. Contingency Provisions That EPA Deems Necessary To Promptly Correct Any Violation of the NAAQS That Occurs After Redesignation of the Area

Contingency provisions are required for maintenance plans under section 175A of the CAA. These contingency measures are distinguished from those generally required for nonattainment areas under section 172(c)(9) in that they are not required to be fully adopted measures that will take effect without further action by the state in order for the maintenance plan to be approved. The Calcagni memo states that the contingency provisions of the maintenance plan should identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. The memo also states that the contingency provisions should identify indicators or triggers which will be used to determine when the contingency measures need to be implemented. While the memo suggests inventory or monitoring indicators, it states that contingency provisions will be evaluated on a case-by-case basis.

As discussed in section C above, EPA is proposing to approve the GBUAPCD Board Order #080128–01 for Owens Lake dust controls as part of the maintenance plan for the CJPA. The Board Order is the enforceable mechanism by which the GBUAPCD requires the City of Los Angeles to implement, in phases, a total of 43 square miles of dust control measures for Owens Lake. EPA believes that the successful implementation of 29.8 square miles of controls by December 2006 has let to significantly improved air quality in the CJPA and in fact has resulted in attainment of the PM–10 standard in the CJPA, beginning in 2008. Thus, EPA also believes that additional dust controls beyond the 29.8 square miles of control, and implemented after attainment, can serve as contingency measures for the CJPA. The additional controls included in the 2008 Board Order which EPA is today proposing to approve, include application of another 13.2 square miles of dust controls to Owens Lake by October 31, 2010. 2010 Plan, section 5. Since the primary source of PM–10 emissions is from Owens Lake, EPA is proposing to approve the 13.2 square miles of dust controls for Owens Lake as meeting the requirement for 175A maintenance plan contingency measures for the CJPA. These dust controls for an additional 13.2 square miles of Owens Lake are already adopted controls and do not require a trigger for implementation.

EPA has long approved contingency provisions that rely on reductions from measures that are already in place but are over and above those relied on for attainment and RFP under CAA section 172(c)(9). See, *e.g.,* 62 FR 15844 (April 3, 1997); 62 FR 66279 (December 18, 1997); 66 FR 30811 (June 8, 2001); 66 FR 586 and 66 FR 634 (January 3, 2001). See discussion in our final PM–2.5 implementation rule. 72 FR 20586, 20642–20643 (April 25, 2007). This interpretation has also been upheld in *LEAN* v. *EPA,* 382 F.3d 575 (5th Cir. 2004), where the court in that case set forth its reasoning for accepting excess reductions from already adopted measures as contingency measures.

Our interpretation that excess emission reductions can appropriately serve as section 172(c)(9) contingency measures is equally applicable to section 175A(d) contingency measures. EPA has approved maintenance plans under section 175A that included contingency provisions relying on measures to be implemented prior to any post-redesignation NAAQS violation. *See* 60 FR 27028, 27029 (May 22, 1995); 73 FR 66759, 66,769 (November 12, 2008).

The Board Order also includes contingency measures for the Owens Valley Planning Area that are intended to address the CAA section 172(c)(9) contingency measure requirement for nonattainment area plans. The process for developing these contingency measures for Owens Lake is triggered by a determination by the GBUAPCD Air Pollution Control Officer (APCO) as described in paragraphs 10 through 13 of the Board Order. As paragraph 10 explains, these are annual determinations made by the GBUAPCD APCO beginning in 2011. Paragraph 11 of the Board Order provides criteria and procedures for determining the need for contingency measures and supplemental control measures. Paragraph 13 ensures that the GBUAPCD can require the City of Los Angeles to take added reasonable measures not specifically addressed within paragraphs 10 or 12. EPA believes these procedures for additional measures at Owens Lake, which EPA is today proposing to approve, will also help to ensure continued attainment in the CJPA.

Although local emissions within CJPA play a very minor role in maintenance of the PM–10 standard in CJPA, EPA notes that in addition to the 175A maintenance plan contingency measures directed at Owens Valley that we are proposing to approve, the GBUAPCD has also made a commitment to address local emissions in CJPA. GBUAPCD commits to investigate the cause of any such exceedance within 60 days from the end of the calendar quarter in which the exceedance occurs, and to address and correct exceedances found to be caused by local sources within 18 months of identifying the cause of the exceedance. See 2010 Plan, sections 5.1 and 10 and June 10, 2010 letter to Deborah Jordan, Director, Air Division, EPA Region 9, from Theodore D. Schade, Air Pollution Control Officer, GBUAPCD. EPA believes this commitment will also help to ensure maintenance in the CJPA.

Finally, GBUAPCD is not proposing to remove or cease implementing any approved SIP measures. Thus, for the reasons set forth above, EPA is proposing to approve the contingency measures under section 175A(d).

In light of the discussion set forth above, EPA is proposing to approve the maintenance plan for CJPA as meeting the requirements of CAA section 175A.

E. Transportation Conformity and Motor Vehicle Emissions Budgets

Under section 176(c) of the CAA, transportation plans, programs and projects in the nonattainment or maintenance areas that are funded or approved under title 23 U.S.C. and the

Federal Transit Laws (49 U.S.C. chapter 53) must conform to the applicable SIP. In short, a transportation plan and program are deemed to conform to the applicable SIP if the emissions resulting from the implementation of that transportation plan and program are less than or equal to the motor vehicle emissions budget (MVEB) established in the SIP for the attainment year, maintenance year and other analysis years. See, generally, 40 CFR part 93.

Section 93.109(m) of EPA's regulations implementing the transportation conformity requirement (40 CFR part 93) states that an area is not required to satisfy a regional emissions analysis for a pollutant if EPA finds that motor vehicle emissions of that pollutant are an insignificant contributor to the area's air quality problem. To make this demonstration, the SIP would have to show that it would be unreasonable to expect that the area would experience enough motor vehicle emissions growth in that pollutant/precursor for a NAAQS violation to occur. Factors to consider in such a demonstration include the following: the percentage of motor vehicle emissions in the context of the total SIP inventory; the current state of air quality as determined by monitoring data for that NAAQS; the absence of SIP motor vehicle control measures; and historical trends and future projections of the growth of motor vehicle emissions.

Today, we are proposing to find that motor vehicle-related PM–10 emissions (*i.e.,* tailpipe emissions, brake and tire wear emissions, and re-entrained dust emissions from paved and unpaved roads) are insignificant contributors to the CJPA's PM–10 nonattainment problem, based on our consideration of the factors identified in EPA's transportation conformity regulations and on the unique circumstances of the PM–10 CJPA.

As discussed in section 4 of the 2010 Plan, at 196 pounds per day, the total on-road-related PM–10 emissions from motor vehicles are 13.3% of the 1,478 pounds per day attainment inventory for the CJPA. However, as explained elsewhere in this notice, air pollution in the CJPA is dominated by windblown dust transported from Owens Lake, which has been estimated to be as much as 1.55 million pounds per day. The contribution of Owens Lake to the CJPA is overwhelming when compared to the daily emissions estimate of 1,478 pounds per day for all of the sources within the CJPA, and is even more overwhelming when compared to the on-road PM–10 emissions of 196 lbs/day. In comparison with the lowest projected annual PM–10 emissions levels for the Owens Valley, 8,000 tons per year, CJPA motor vehicle related PM–10 emissions are insignificant at 196 pounds per day (35.8 tons per year), which means that on-road motor vehicle emissions represent just 0.4% of the inventory when emissions from Owens Valley are considered.[12] EPA further notes that the four exceedances attributed to CJPA sources were caused by windblown dust from fallow agricultural land, wildfire smoke and an unpaved truck parking area. See 2010 Plan, section 3, pp. 4–9. As discussed above and in the 2010 Plan, exceedances due to these sources are not expected to recur because the agricultural land has been re-vegetated and the truck parking lot has been paved.

While EPA indicated in its Transportation Conformity final rule that mobile source emissions of approximately 10% or less may be considered insignificant, EPA further noted that ten percent should be viewed as a general guideline only, and that mobile source emissions that are above 10% of total emissions could still be found to be insignificant, depending on the circumstances. Given the unique circumstances of the CJPA, EPA believes that the motor vehicle emissions contribution to the CJPA is insignificant.

In addition to the overwhelming contribution of Owens Valley to the CJPA PM–10 problem, EPA considered the control measures adopted for Owens Valley as one of the relevant factual circumstances. The GBUAPCD exercises joint jurisdiction over Owens Valley and the CJPA and therefore has authority to adopt and implement controls in both areas. Pursuant to this authority, the GBUAPCD has in fact adopted and implemented control measures to address the PM–10 contribution to the CJPA from Owens Valley. See section C above for a detailed discussion of these control measures.

Finally, EPA notes that in 1999 (See 64 FR 34173 and 64 FR 48305), EPA found that the motor vehicle emissions contribution in Owens Valley itself was insignificant. This earlier finding for Owens Valley supports the proposed finding for the CJPA—if motor vehicles are not a significant contributor to the PM–10 emissions problem in Owens Valley itself, where the primary source of PM–10 emissions is located, then it is reasonable to conclude that motor vehicle emissions are also not a significant contributor to the PM–10 emissions problem in neighboring CJPA.

In the context of these unique factual circumstances, EPA is proposing to find that motor vehicle emissions are an insignificant contributor to the PM–10 problem in the CJPA. Consideration of the other factors specified in EPA's regulations supports this proposed finding and is described below.

Current Air Quality as Determined by PM–10 Monitoring Data

Current air quality as determined by PM–10 monitoring data show that the CJPA attains the PM–10 standard. As discussed in section A above, for PM–10 in the CJPA, EPA has reviewed the ambient air quality data and determined that the CJPA has attained the PM–10 standard through 2009 and continues to attain to date. See 75 FR 13710 and 75 FR 27944.

Absence of SIP Motor Vehicle Control Measures

There are no local PM–10 motor vehicle control measures for the CJPA. With the exception of GBUAPCD Rule 401—Fugitive Dust, that may apply to area sources such as unpaved roads, there are no specific CJPA only PM–10 motor vehicle control measures. Of course, national and state-wide motor vehicle emission controls may apply, but they are not GBUAPCD adopted and CJPA specific motor vehicle control measures. Furthermore, these state-wide and national emission control measures would contribute to reductions in motor vehicle related PM–10 emissions in the CJPA.

Historical Trends and Future Projections of the Growth of Motor Vehicle Related PM–10 Emissions

Finally, historical trends and future projections of the growth of motor vehicle related PM–10 emissions suggest that motor vehicle related PM–10 emissions are not likely to increase, and therefore not likely to cause or contribute to violations of the PM–10 standard. The CJPA is within a sparsely populated area of Inyo County, California. An estimated 102 people live in two communities of Pearsonville and Homewood Canyon. These two communities are located at the southern end of the CJPA, approximately 25 miles apart and separated by the China Lake NAWS. Commuters from these communities most likely travel south out of the CJPA to Ridgecrest, a small

[12] Depending on the year, the emissions from the Owens Valley area are estimated to be anywhere from approximately 8,000 to 47,000 tons per year (past actual estimates are anywhere from 10,000 to 86,000 tons per year). *See* 2010 Plan, Figure 4. The CJPA PM–10 emissions of 269.74 tons per year (converted from the 1,478 pounds per day estimate found in the 2010 Plan, Table 4) are approximately 3% when compared to the lowest estimate emissions level (8,000 tons per year) for the Owens Valley area.

community of approximately 27,600 people.[13] According to US Census figures, in the period 1990 to 2008, Inyo County population did not increase, but dropped 4.5%. (See 2010 Plan, Section 4.4, pages 10–11.) Within the CJPA, almost all of the land, 98.5%, is controlled by the federal government: the Department of Defense through the China Lake NAWS controls 63%; the Department of the Interior through the Bureau of Land Management (BLM) and the Forest Service controls 32.6% and 2.9%, respectively, with just over twelve percent (12.2%) of BLM land designated as wilderness.[14] All of these entities restrict access, development, or both within the lands they control. In summary, given a sparse population, historically declining or no population growth, the absence of any significant commutershed in the CJPA, limited land ownership, and restricted access or development, PM–10 related motor vehicle emissions are not expected to increase in the CJPA to the point where a violation would occur.

EPA Proposal for Transportation Conformity and MVEBs in the CJPA

Given the factors discussed above, we are proposing to find that motor vehicle-related PM–10 emissions are insignificant contributors to the CJPA's PM–10 nonattainment problem and that it would be unreasonable to expect that motor vehicle related PM–10 emissions would grow enough within the CJPA to threaten the PM–10 standard. If this proposal is finalized, a regional emissions analysis would not be required for PM–10 in any future conformity determination in the CJPA.

Given that the CJPA is an isolated rural area, if EPA takes final action finding the motor vehicle emissions PM–10 contribution is insignificant, a conformity determination would be necessary only in the case where a transportation project needs federal funding or approval. Even with an insignificance finding, such a conformity determination would need to include a hot-spot analysis, if the project is one of the types found in 40 CFR 93.123(b).

IV. Proposed Actions

Based on our review of the 2010 Plan submitted by the State, air quality monitoring data, and other relevant materials, EPA believes the State has addressed all the necessary requirements for the redesignation of the CJPA to attainment, pursuant to CAA sections 107(d)(3)(E) and 175A. Assuming that California adopts the maintenance plan and associated controls as they are currently drafted, EPA is therefore proposing to redesignate the CJPA to attainment for the PM–10 NAAQS. EPA also proposes to approve the maintenance plan for CJPA which includes the GBUAPCD Board Order #080128–01 as a SIP revision. As discussed above the Board Order includes all of the control measures in the 1998 Owens Valley SIP, and the 2003 and 2008 SIP revisions for Owens Valley. EPA is also proposing to approve the emissions inventory submitted with the maintenance plan as meeting the requirements of section 172(c)(3). If the State substantially revises the submitted control measures or maintenance plan from the versions proposed by the State and reviewed here, this will result in the need for additional proposed rulemaking on the maintenance plan and redesignation. Finally, EPA is proposing to find the contribution of motor vehicles to the area's PM–10 problem insignificant, and if this insignificance finding is finalized, the area would not have to complete a regional emissions analysis for any transportation conformity determinations necessary in the CJPA.

V. Statutory and Executive Order Reviews

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

- Are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

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

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

[13] U.S. Census Bureau, 2006–2008 American Community Survey.

[14] Data source is *http://www.nationalatlas.gov; http://nationalatlas.gov/mld/fedlandp.html;* shape file from Federal Lands of the United States map.

Dated: June 18, 2010.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2010–15453 Filed 6–23–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[EPA–HQ–OAR–2007–0294; FRL–9167–4]

RIN 2060–AP79

Advance Notice of Proposed Rulemaking on Lead Emissions From Piston-Engine Aircraft Using Leaded Aviation Gasoline; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: EPA is announcing a 60-day extension of the public comment period for the Advance Notice of Proposed Rulemaking on Lead Emissions From Piston-Engine Aircraft Using Leaded Aviation Gasoline (hereinafter referred to as the ANPR). EPA published this ANPR, which included a request for comment, in the **Federal Register** on April 28, 2010. The public comment period was to end on June 28, 2010 (60 days after its publication in the **Federal Register**). This document extends the comment period an additional 60 days until August 27, 2010. This extension of the comment period is provided to allow the public additional time to provide comment on the ANPR.

DATES: The comment period for the ANPR published April 28, 2010 (75 FR 22440) is extended. Written comments must be received on or before August 27, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0294, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include two copies.
- *Hand Delivery:* EPA Docket Center (Air Docket), U.S. Environmental Protection Agency, EPA West Building, 1301 Constitution Avenue, NW., Room: 3334 Mail Code: 2822T, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2007–0294. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, please refer to the **SUPPLEMENTARY INFORMATION** section of the advance notice of proposed rulemaking document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

How can I get copies of this document, the advance notice of proposed rulemaking, and other related information?

The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2007–0294. The EPA has also developed a Web site for aviation, including the ANPR, at: *http://www.epa.gov/otaq/aviation.htm.* Please refer to the ANPR for detailed information on accessing information related to this notice.

FOR FURTHER INFORMATION CONTACT: Marion Hoyer, Assessment and Standards Division, Office of Transportation and Air Quality, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4513; fax number: (734) 214–4821; e-mail address: *hoyer.marion@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: In the ANPR, EPA described and invited comment from all interested parties on the data available for evaluating lead emissions, ambient concentrations and potential exposure to lead from the use of leaded aviation gasoline (avgas) in piston-engine powered aircraft. The ANPR is one of the steps EPA has taken in response to a petition submitted by Friends of the Earth (FOE) requesting that EPA find endangerment from and regulate lead emitted by piston-engine aircraft, or if insufficient information exists, to commence a study. In addition to describing and inviting comment on the current data, the ANPR also describes considerations regarding emission engine standards and requests comment on approaches for transitioning the piston-engine fleet to unleaded avgas.

Extension of Comment Period: EPA received requests for an extension of the ANPR comment period that are available in the docket for this rule (EPA–HQ–OAR–2007–0294). After considering the requests, EPA has determined that a 60-day extension of the comment period would provide the public adequate time to provide meaningful comment on the ANPR. Accordingly, the public comment period for the ANPR is extended until August 27, 2010. EPA does not anticipate any further extension of the comment period at this time.