

**State of California  
AIR RESOURCES BOARD**

**EXECUTIVE ORDER S-14-002**

**Relating to the Adoption and Submittal of the 2013 Amendment to the State  
Implementation Plan (SIP) for Particulate Matter in the  
Owens Valley Planning Area**

WHEREAS, on July 1, 1987, the U.S. Environmental Protection Agency (U.S. EPA) promulgated national ambient air quality standards (NAAQS) for particulate matter of ten microns or less (PM<sub>10</sub>) in aerometric diameter;

WHEREAS, the Legislature, in Health and Safety Code section 39602, has designated the State Air Resources Board (ARB or Board) as the air pollution control agency for all purposes set forth in federal law;

WHEREAS, ARB is responsible for the preparation of the SIP for attaining and maintaining NAAQS as required by the federal Clean Air Act (the "Act"; 42 U.S.C. section 7401 et seq.) and to this end is directed by Health and Safety Code section 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) necessary to comply with the Act;

WHEREAS, the Owens Valley Planning Area is located within the jurisdiction of the Great Basin Unified Air Pollution Control District (District);

WHEREAS, the District is authorized by Health and Safety Code sections 40001, 40702, and 41650, to adopt and enforce rules and regulations to achieve and maintain the NAAQS and to adopt attainment plans;

WHEREAS, the District is authorized by Health and Safety Code section 42316 to order the City of Los Angeles (City) to undertake reasonable PM<sub>10</sub> control measures relating to the City's activities in Owens Valley;

WHEREAS, section 39602 of the Health and Safety Code also provides that the SIP shall include only those provisions necessary to meet the requirements of the Act;

WHEREAS, section 41650 of the Health and Safety Code requires ARB to approve the nonattainment plan approved by a district as part of the SIP unless the Board finds, after a public hearing, that the plan does not meet the requirements of the Act;

WHEREAS, sections 39515 and 39516 of the Health and Safety Code provide that any duty may be delegated to the Board's Executive Officer as the Board deems appropriate;

WHEREAS, on August 7, 1987, U.S. EPA designated the Owens Valley Planning Area ("Owens Valley") nonattainment for the PM<sub>10</sub> NAAQS;

WHEREAS, on February 8, 1993, the U.S. EPA designated the Owens Valley as nonattainment, classification of "serious," for the PM<sub>10</sub> NAAQS;

WHEREAS, on July 2, 1997, the District adopted the Owens Valley Planning Area Demonstration of Attainment State Implementation Plan (1997 SIP) that forecasted attainment of the PM<sub>10</sub> NAAQS by December 31, 2001;

WHEREAS, on August 20, 1997, U.S. EPA determined that the Owens Valley PM<sub>10</sub> SIP had not been submitted by the February 8, 1997 deadline, thus starting sanction clocks;

WHEREAS, on December 29, 1997, the Los Angeles Department of Water and Power (City) appealed the control requirements in the 1997 SIP to ARB under the authority of Health & Safety Code Section 42316 after the City and the District attempted to reach agreement on the requirements but failed;

WHEREAS, on July 27, 1998, the District and City approved a Memorandum of Agreement (1998 MOU) to resolve disputes and terminate outstanding judicial and administrative appeals of Owens Lake control requirements;

WHEREAS, on November 16, 1998, to satisfy commitments included in the 1998 MOU, the District adopted the 1998 Revision to the 1997 SIP (1998 Plan) that forecasted attainment of the PM<sub>10</sub> NAAQS by December 31, 2006, and included commitments to reassess the attainment strategy in a SIP update in 2005;

WHEREAS, on September 3, 1999, U.S. EPA approved the 1998 Plan and rescinded Clean Air Act sanctions due to the failure to submit;

WHEREAS, on November 3, 2003, the District adopted the Owens Valley PM<sub>10</sub> Planning Area Demonstration of Attainment State Implementation Plan 2003 Revision (2003 Plan) that incorporated the results of comprehensive ongoing research into the causes and controls of windblown PM<sub>10</sub> from the dry lakebed and required an expansion of the areas designated for control and the annual reevaluation of controls commencing in 2005;

WHEREAS, on April 4, 2006, the District issued a final Supplemental Control Requirements Determination (2005 SCRQD) further expanding the lakebed area designated for control based on 2004-2004 monitoring data and the commitment contained in the 2003 Plan to annually reevaluate control effectiveness;

WHEREAS, on May 3, 2006, the City appealed the 2005 SCR D control requirements to ARB and on May 4, 2006, petitioned the Inyo County Superior Court for a writ of mandamus to have the 2005 SCR D revoked;

WHEREAS, on December 4, 2006, the City and the District approved a Settlement Agreement (2006 Settlement Agreement) that substituted an alternative map of lakebed areas to be controlled for the maps contained in the 2003 SIP and the 2005 SCR D, adopted a process for determining the need for additional lakebed areas to be controlled in the future, committed to revise the 2003 SIP to include these provisions, and terminated outstanding judicial and administrative appeals of Owens Lake control requirements;

WHEREAS, on June 6, 2007, the U.S. EPA published a finding that the Owens Valley did not attain the PM<sub>10</sub> NAAQS by December 31, 2006, and required the District to develop a plan pursuant to Section 189(d) of the Act within one year requiring a five percent reduction in PM<sub>10</sub> emissions annually;

WHEREAS, on January 28, 2008, the District Board adopted the 2008 Owens Valley PM<sub>10</sub> Planning Area Demonstration of Attainment State Implementation Plan (2008 SIP) that implemented the provisions of the 2006 Settlement Agreement and provided for a 5 percent annual reduction of PM<sub>10</sub> emissions until attaining the NAAQS;

WHEREAS, on June 11, 2008, the 2008 SIP was approved by ARB and submitted to U.S. EPA as a revision to the California SIP;

WHEREAS, during pre-construction archeological surveys, significant cultural and archeological resources were found in one of the areas (Phase 7a) designated for control in the 2008 SIP that required the City to undertake additional unexpected investigations, extend the environmental review process and schedule, and remove approximately 350 acres from control to protect these resources;

WHEREAS, in 2008, the District began a series of studies to ascertain the origin of the Keeler Dunes, a nearly 1,000-acre deposit of sand lying outside the regulatory shoreline of Owens Lake, that was the cause of up to ten exceedances each year of the PM<sub>10</sub> NAAQS at the Keeler monitoring station during high wind events;

WHEREAS, the District and the City approved a Settlement Agreement (2013 Settlement Agreement) on or about August 19, 2013, that committed to an extension of the deadline for completion of the Phase 7a area dust controls to December 31, 2015; removal of 328 acres from Phase 7a from dust control requirements pending completion of archeological investigations; approval of two additional Best Available Control Measures for use by the City in dust control

implementation; and the granting to the City of a release from liability for the control of dust emissions from Keeler, Swansee, and Olancha Dunes provided that the City contribute \$10 million to a Keeler Dunes dust mitigation project managed by the District and that the District incorporate the provisions of the 2013 Settlement Agreement into the 2008 SIP;

WHEREAS, on September 15, 2013, the District Board conducted a public hearing after 30-day public notice and approved the Revision to the 2008 Owens Valley PM<sub>10</sub> Planning Area Demonstration of Attainment State Implementation Plan (2008 SIP) Modifying the Requirements Related to PM<sub>10</sub> Emissions from the Keeler Dunes and Extending the Date of Compliance for Phase 7a Best Available Control Measures (2013 Amendment);

WHEREAS, federal law set forth in section 110(l) of the Act and title 40, section 51.102 of the Code of Federal Regulations (CFR), requires that one or more public hearings, preceded by at least 30 days notice and opportunity for review, must be conducted prior to the adoption and submittal to the U.S. EPA of any SIP revision;

WHEREAS, the District submitted the 2013 Amendment to the PM<sub>10</sub> SIP to ARB as a proposed SIP revision on September 25, 2013, along with proof of public notice publication in accordance with State and federal law;

NOW, THEREFORE, IT IS ORDERED that the Executive Officer hereby adopts the 2013 Amendment to the 2008 PM<sub>10</sub> SIP for the Owens Valley Planning Area as a revision to the California SIP;

IT IS FURTHER ORDERED that ARB hereby submits to the U.S. EPA the 2013 Amendment to the 2008 PM<sub>10</sub> SIP for the Owens Valley Planning Area, and requests that U.S. EPA approve this plan as a revision to the California SIP.

IT IS FURTHER ORDERED that ARB certifies pursuant to 40 C.F.R. Section 51.102 that the 2013 Amendment to the 2008 PM<sub>10</sub> SIP being submitted as a SIP revision was adopted after notice and public hearing as required by 40 C.F.R. Section 51.102.

Executed this 5<sup>th</sup> day of May, 2014, at Sacramento, California.

  
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Richard W. Corey  
Executive Officer