EPA is not proposing to approve this infrastructure SIP certification and repeal of the cement kilns rule to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this proposed approval does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: November 24, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–29091 Filed 12–10–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Docket #: EPA–R10–OAR–2014–0808; FRL–9919–88–Region 10]

Approval and Promulgation of Air Quality Implementation Plans; Washington; Redesignation to Attainment for the Tacoma-Pierce County Nonattainment Area and Approval of Associated Maintenance Plan for the 2006 24-Hour Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to redesignate to attainment the entire Tacoma-Pierce County nonattainment area (hereafter ''the Tacoma area'' or ''the area'') for the 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). The EPA is also proposing to approve as a revision to the Washington State Implementation Plan (SIP), the associated maintenance plan that provides for continued compliance of the 2006 24-hour $PM_{2.5}$ NAAQS. Additionally, the EPA is proposing to approve the 2017 and 2026 motor vehicle emissions budgets included in Washington's maintenance plan for $PM_{2.5}$ and nitrogen oxides (NO_X). In the course of proposing to approve redesignation of the Tacoma area, the EPA addresses a number of additional issues, including the effects of a January 4, 2013 decision by the United States Court of Appeals for the District of Columbia (D.C. Circuit or Court) to remand to the EPA two final rules implementing the 1997 $PM_{2.5}$ NAAQS.

DATES: Comments must be received on or before January 12, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2014–0808, by any of the following methods:

A. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

B. *Mail:* Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

C. *Email: R10-Public_Comments@epa.gov.*

D. *Hand Delivery:* EPA Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2014–0808. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256, *hunt.jeff@epa.gov,* or by using the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'' or ''our'' are used, it is intended to refer to the EPA.

Table of Contents

I. Background

The first air quality standards for $PM_{2.5}$ were established on July 16, 1997 (62 FR 38652, July 18, 1997). The EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$), based on a three-year average of annual mean $PM_{2.5}$ concentrations (the 1997 annual $PM_{2.5}$ standard). In the same rulemaking action, the EPA promulgated a 24-hour standard of 65 $\mu g/m^3$, based on a three-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006 (71 FR 61144), the EPA retained the annual average standard at 15 $\mu g/m^3$, but revised the 24-hour standard to 35 $\mu g/m^3$, based again on the three-year average of the 98th percentile of 24-hour

concentrations (the 2006 24-hour $PM_{2.5}$ standard or daily standard). On November 13, 2009 (74 FR 58688), the EPA published designations for the 2006 24-hour $PM_{2.5}$ NAAQS, which became effective on December 14, 2009. In that rulemaking action, the EPA designated the Tacoma area as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS (see 77 FR 58774 and 40 CFR 81.348).

On September 4, 2012 (77 FR 53772), the EPA determined that the Tacoma area had attained the 2006 24-hour $PM_{2.5}$ NAAQS. Pursuant to 40 CFR 51.1004(c), in effect at that time, the requirements for the Tacoma area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning SIPs related to the attainment of the 2006 24-hour $PM_{2.5}$ NAAQS are suspended until such time as: The area is redesignated to attainment, at which time the requirements no longer apply; or the EPA determines that the area has again violated the standard, at which time such plans are required to be submitted. On September 19, 2013 (78 FR 57503), the EPA finalized a subsequent determination of attainment considering the effect of the D.C. Circuit Court's January 4, 2013 decision to remand the implementation rule containing the provisions of 40 CFR 51.1004(c) on the area. *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (2013). A full description of the EPA's rationale for the determination of attainment is contained in the proposal for that action (78 FR 42095, July 18, 2013).

A determination of attainment does not relieve a state from submitting, and the EPA from approving, certain planning SIP revisions for the 2006 $PM_{2.5}$ NAAQS. On November 28, 2012, Washington submitted a 2008 baseline emissions inventory for direct $PM_{2.5}$ and precursors to the formation of $PM_{2.5}$ including nitrogen oxides (NO_X), volatile organic compounds (VOCs), ammonia (NH_3), and sulfur dioxide (SO_2) to meet the comprehensive emissions inventory requirement of Clean Air Act (CAA) section 172(c) for the 2006 24-hour $PM_{2.5}$ NAAQS. Also included in Washington's submittal were SIP strengthening rules to implement the recommendations of the Tacoma-Pierce County Clean Air Task Force, an advisory committee of community leaders, citizen representatives, public health advocates, and other affected parties, formed to develop $PM_{2.5}$ reduction strategies. These SIP strengthening rules were focused on controlling $PM_{2.5}$ emissions from residential wood combustion, which at that time comprised 74% of direct $PM_{2.5}$ emissions on winter days when 24-hour $PM_{2.5}$ NAAQS exceedances are most likely. The EPA approved the 2008 baseline emissions inventory and SIP strengthening rules on May 29, 2013 (78 FR 32131). On November 3, 2014, Ecology submitted a request to redesignate the Tacoma area from nonattainment to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The submittal included a maintenance plan as a SIP revision to ensure continued attainment of the standard over the next 10 years.

The EPA is also taking into account the recent decision in *NRDC* v. *EPA,* in which the D.C. Circuit remanded to EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008). 706 F.3d 428.

II. The EPA's Requirements

A. Criteria for Redesignation to Attainment

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

The EPA has provided guidance on redesignation in the ''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)(the ''General Preamble''), and has provided further guidance on processing redesignation requests in the following documents: (1) ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter the ''1992 Calcagni Memorandum''); (2) ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and (3) ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

B. Requirements of a Maintenance Plan

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after an area is redesignated to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as the EPA deems necessary to assure prompt correction of any future $PM_{2.5}$ violations.

The 1992 Calcagni Memorandum provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following provisions: (1) An attainment emissions inventory; (2) a maintenance demonstration showing maintenance for 10 years; (3) a commitment to maintain the existing monitoring network; (4) verification of continued attainment; and (5) a contingency plan to prevent or correct future violations of the NAAQS.

C. How have tribal governments been involved in this process?

Consistent with the EPA's tribal policy, the EPA offered government-to-government consultation to the Puyallup Tribe of Indians regarding the action in this notice because part of the Puyallup Indian Reservation is located in the Tacoma area. The Puyallup Indian Reservation is divided into tribal trust land and non-trust land. Under the *Puyallup Tribe of Indians Settlement Act of 1989,* 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. As shown in figure

3 of the EPA's technical support document designating the Tacoma area (then known as the Wapato Hills-Puyallup River Valley Nonattainment Area) to nonattainment, the vast proportion of the Puyallup Indian Reservation within the Tacoma area is under Washington's jurisdiction. The EPA, working in consultation and coordination with the Puyallup Tribe, has CAA authority over the small parcels of tribal trust lands in the Tacoma area. Air quality management on tribal trust lands is addressed pursuant to 40 CFR part 49, which includes the Federal Implementation Plans Under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington (70 FR 18074, April 8, 2005, the Federal Air Rules for Reservations) and the Review of New Sources and Modifications in Indian Country (76 FR 38748, July 1, 2011).

Under a cooperative agreement between the Puyallup Tribe of Indians and the Puget Sound Clean Air Agency (PSCAA), all emissions inventories, motor vehicle emission budgets, and technical analyses demonstrating current and future attainment included in the State's maintenance plan cover the entire Tacoma area, including both trust and non-trust land. As a member of the PSCAA Advisory Council, the Puyallup Indian Tribe is engaged in all decisions affecting the Tacoma area. As discussed later in this proposal, Ecology and PSCAA chose a conservative estimation methodology for calculating future year emissions budgets, not taking credit for any wood stove curtailment activities on tribal trust land. Therefore, any current or future emission reductions attributable to implementation of the Federal Air Rules for Reservations are supplemental and additional to emission reductions calculated for the area. As shown in Table 7 below, $PM_{2.5}$ levels at the Puyallup tribal monitor are consistently low. For these reasons, and based on discussions with the Puyallup Tribe of Indians, the EPA is proposing to redesignate to attainment all tribal trust land within the Tacoma area.

III. Summary of Proposed Actions

The EPA is proposing to take several rulemaking actions related to the redesignation of the Tacoma area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA is proposing to find that the Tacoma area meets the requirements for redesignation of the 2006 24-hour $PM_{2.5}$ NAAQS under section 107(d)(3)(E) of the CAA. The EPA is thus proposing to change the legal designation of the entire Tacoma area from nonattainment to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA is also proposing to approve the associated maintenance plan for the Tacoma area as a revision to the Washington SIP, including motor vehicle emission budgets (MVEBs) for the 24-hour $PM_{2.5}$ NAAQS. The approval of the maintenance plans is one of the CAA criteria for redesignation of the Tacoma area to attainment. Washington's maintenance plan is designed to ensure continued attainment for 10 years after redesignation.

The EPA previously determined that the Tacoma area attained the 2006 24-hour $PM_{2.5}$ NAAQS (77 FR 53772), and the EPA is proposing to find that the area continues to attain the standard. Furthermore, the EPA previously approved under section 172(c)(3) of the CAA, the 2008 comprehensive emissions inventory for the Tacoma area as part of Washington's SIP for the 2006 24-hour $PM_{2.5}$ NAAQS (78 FR 32131, May 29, 2013). The EPA's analysis of the proposed actions is provided in section V of today's proposed rulemaking action.

IV. Effect of the January 4, 2013 D.C. Circuit Decision Regarding $PM_{2.5}$ Implementation Under Subpart 4

A. Background

As discussed above, on January 4, 2013, in *NRDC* v. *EPA,* 706 F.3d 428, the D.C. Circuit remanded to the EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule''). The Court found that the EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of Part D of Title I of the CAA (subpart 1), rather than the particulate-matter-specific provisions of subpart 4 of Part D of Title I (subpart 4).

Prior to the January 4, 2013 decision, states had worked towards meeting the air quality goals of the 2006 $PM_{2.5}$ NAAQS in accordance with the EPA regulations and guidance derived from subpart 1 of Part D of Title I of the CAA. The EPA took this history into account by setting a new deadline for any remaining submissions that may be required of moderate nonattainment areas as a result of the Court's decision regarding the applicability of subpart 4. On June 2, 2014, the EPA issued the $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule (79 FR 31566, Jun. 2, 2014) which identifies the classification under subpart 4 for areas currently designated nonattainment for the 1997 and/or 2006 $PM_{2.5}$ standards. The EPA's final rulemaking also sets deadlines for states to submit attainment-related and new source review (NSR) SIP elements required for these areas pursuant to subpart 4, and identifies the EPA guidance that is currently available regarding subpart 4 requirements. The final rule specifies December 31, 2014, as the deadline for the states to submit any additional attainment-related SIP elements that may be needed to meet the applicable requirements of subpart 4 for areas currently designated nonattainment for the 1997 and/or 2006 $PM_{2.5}$ NAAQS and to submit SIPs addressing the nonattainment NSR requirements in subpart 4. Therefore, for Washington, any additional attainment-related SIP-elements that may be needed for the Tacoma area to meet the requirements of subpart 4 were not due at the time that Washington submitted the November 3, 2014 redesignation request.

B. Proposal on This Issue

In this portion of the proposed redesignation, the EPA addresses the effect of the *NRDC* v. *EPA* ruling and the $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule on the proposed redesignation. As explained below, the EPA is proposing to determine that the Court's decision does not prevent the EPA from redesignating the Tacoma area to attainment. Even in light of the Court's decision, redesignation for this area is appropriate under the CAA and the EPA's longstanding interpretations of the CAA's provisions regarding redesignation. The EPA first explains its longstanding interpretation that requirements that are imposed, or that become due, after a complete redesignation request is submitted for an area that is attaining the standard, are not applicable for purposes of evaluating a redesignation request. Second, the EPA shows that, even applying the subpart 4 requirements to the Tacoma area redesignation request and disregarding the provisions of the remanded 1997 $PM_{2.5}$ implementation rule, the State's request for redesignation of this area still qualifies for approval. The EPA's discussion also takes into account the effect of the Court's ruling and the $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule on the area's maintenance plan, which the EPA views as approvable when subpart 4 requirements are considered.

1. Applicable Requirements for Purposes of Evaluating the Redesignation Request

With respect to the 1997 $PM_{2.5}$ Implementation Rule, the Court's ruling rejected the EPA's reasons for implementing the $PM_{2.5}$ NAAQS solely in accordance with the provisions of subpart 1, and remanded that matter to the EPA, so that it could address implementation of the 1997 $PM_{2.5}$ NAAQS under subpart 4 of Part D of the CAA, in addition to subpart 1. For the purposes of evaluating Washington's redesignation request for the area, to the extent that implementation under subpart 4 would impose additional requirements for areas designated nonattainment, the EPA believes that those requirements are not ''applicable'' for the purposes of CAA section 107(d)(3)(E), and thus the EPA is not required to consider subpart 4 requirements with respect to the Tacoma area redesignation. Under its longstanding interpretation of the CAA, the EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are ''applicable'' and which must be approved in order for the EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* 1992 Calcagni memorandum. *See also* ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael Shapiro, Acting Assistant Administrator, Air and Radiation, September 17, 1993 (Shapiro memorandum); Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club* v. *EPA,* 375 F.3d 537, 541 (7th Cir. 2004) (upholding the EPA's redesignation rulemaking applying this interpretation and expressly rejecting that the meaning of ''applicable'' under the statute is ''whatever should have been in the plan at the time of attainment rather than whatever actually was in the plan and already implemented or due at the time of attainment'').[1] In this case, at the time that Washington submitted its redesignation request, requirements under subpart 4 were not due.

The EPA's view that, for purposes of evaluating the Tacoma area redesignation, the subpart 4 requirements were not due at the time Washington submitted the redesignation request is in keeping with the EPA's interpretation of subpart 2 requirements for subpart 1 ozone areas redesignated subsequent to the D.C. Circuit's decision in *South Coast Air Quality Mgmt. Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). In *South Coast,* the Court found that the EPA was not permitted to implement the 1997 8-hour ozone standard solely under subpart 1, and held that the EPA was required under the statute to implement the standard under the ozone-specific requirements of subpart 2 as well. Subsequent to the *South Coast* decision, in evaluating and acting upon redesignation requests for the 1997 8-hour ozone standard that were submitted to the EPA for areas under subpart 1, the EPA applied its longstanding interpretation of the CAA that ''applicable requirements'', for purposes of evaluating a redesignation, are those that had been due at the time the redesignation request was submitted. *See, e.g.,* Proposed Redesignation of Manitowoc County and Door County Nonattainment Areas (75 FR 22047, 22050, April 27, 2010). In those actions, the EPA therefore did not consider subpart 2 requirements to be ''applicable'' for the purposes of evaluating whether the area should be redesignated under section 107(d)(3)(E).

The EPA's interpretation derives from the provisions of CAA Section 107(d)(3). Section 107(d)(3)(E)(v) states that, for an area to be redesignated, a state must meet ''all requirements 'applicable' to the area under section 110 and part D''. Section 107(d)(3)(E)(ii) provides that the EPA must have fully approved the ''applicable'' SIP for the area seeking redesignation. These two sections read together support the EPA's interpretation of ''applicable'' as only those requirements that came due prior to submission of a complete redesignation request. First, holding states to an ongoing obligation to adopt new CAA requirements that arose after a state submitted its redesignation request, in order to be redesignated, would make it problematic or impossible for the EPA to act on redesignation requests in accordance with the 18-month deadline Congress set for the EPA action in section 107(d)(3)(D). If ''applicable requirements'' were interpreted to be a continuing flow of requirements with no reasonable limitation, states, after submitting a redesignation request, would be forced continuously to make additional SIP submissions that in turn would require the EPA to undertake further notice-and-comment rulemaking actions to act on those submissions. This would create a regime of unceasing rulemaking that would delay action on the redesignation request beyond the 18-month timeframe provided by the Act for this purpose.

Second, a fundamental premise for redesignating a nonattainment area to attainment is that the area has attained the relevant NAAQS due to emission reductions from existing controls. Thus, an area for which a redesignation request has been submitted would have already attained the NAAQS as a result of satisfying statutory requirements that came due prior to the submission of the request. Absent a showing that unadopted and unimplemented requirements are necessary for future maintenance, it is reasonable to view the requirements applicable for purposes of evaluating the redesignation request as including only those SIP requirements that have already come due. These are the requirements that led to attainment of the NAAQS. To require, for redesignation approval, that a state also satisfy additional SIP requirements coming due after the state submits its complete redesignation request, and while EPA is reviewing it, would compel the state to do more than is necessary to attain the NAAQS, without a showing that the additional requirements are necessary for maintenance.

In the context of this redesignation, the timing and nature of the Court's January 4, 2013 decision in *NRDC* v. *EPA* and the EPA's June 2, 2014 $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule compound the consequences of imposing requirements that come due after the redesignation request is submitted. Washington submitted its redesignation request on November 3, 2014, which is prior to the deadline by which the Tacoma area is required to meet the attainment plan and other requirements pursuant to subpart 4.

To evaluate Washington's fully-completed and pending redesignation request to comply now with requirements of subpart 4 for which the deadline to comply has not yet come, would be to give retroactive effect to such requirements and contravene the EPA's longstanding interpretation of applicable requirements for purposes of redesignation. The D.C. Circuit recognized the inequity of this type of retroactive impact in *Sierra Club* v.

[1] Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the CAA.

Whitman, 285 F.3d 63 (D.C. Cir. 2002),[2] where it upheld the District Court's ruling refusing to make retroactive the EPA's determination that the St. Louis area did not meet its attainment deadline. In that case, petitioners urged the Court to make the EPA's nonattainment determination effective as of the date that the statute required, rather than the later date on which the EPA actually made the determination. The Court rejected this view, stating that applying it ''would likely impose large costs on States, which would face fines and suits for not implementing air pollution prevention plans . . . even though they were not on notice at the time.'' *Id.* at 68. Similarly, it would be unreasonable to penalize the State of Washington by rejecting its redesignation request for an area that is already attaining the 2006 $PM_{2.5}$ standard and that met all applicable requirements known to be in effect at the time of the request. For the EPA now to reject the redesignation request solely because the State did not expressly address subpart 4 requirements which have not yet come due would inflict the same unfairness condemned by the Court in *Sierra Club* v. *Whitman*.

2. Subpart 4 Requirements and Washington's Redesignation Request

Even if the EPA interpreted the *NRDC* decision to mean that subpart 4 requirements were due and in effect when Washington submitted its redesignation request, the EPA proposes to determine that the Tacoma area still qualifies for redesignation to attainment. As explained below, the EPA believes that the redesignation request for the Tacoma area, though not expressed in terms of subpart 4 requirements, substantively meets the requirements of that subpart for purposes of redesignating the area to attainment.

With respect to evaluating the relevant substantive requirements of subpart 4 for purposes of redesignating the Tacoma area, the EPA notes that the section 172(c) general air quality planning requirements for areas designated as nonattainment are also applicable. Subpart 4 contains specific planning and scheduling requirements for PM_{10} [3] nonattainment areas, and consistent with the decision in *NRDC* v. *EPA,* these same statutory requirements also apply to $PM_{2.5}$ nonattainment areas. As noted, the General Preamble sets forth the EPA's longstanding general guidance that interprets the 1990 amendments to the CAA, and provides recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas (57 FR 13498, April 16, 1992). In the General Preamble, the EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific PM–10 requirements'' (57 FR 13538). The subpart 1 requirements include, among other things, provisions for attainment demonstrations, reasonably available control measures (RACM), reasonable further progress (RFP), emissions inventories, and contingency measures.

For the purposes of this redesignation, in order to identify any additional requirements which would apply under subpart 4, consistent with the EPA's $PM_{2.5}$ Subpart 4 Nonattainment Classification and Deadline Rule, we classified the Tacoma area as a ''moderate'' $PM_{2.5}$ nonattainment area. As the EPA explained in its June 2, 2014 final rule, section 188 of the CAA provides that all designated nonattainment areas under subpart 4 are initially classified by operation of law as ''moderate'' nonattainment areas, and remain moderate nonattainment areas unless and until the EPA reclassifies the area as a ''serious'' nonattainment area (79 FR 31567). Accordingly, the EPA believes that it is appropriate to limit the evaluation of the potential impact of subpart 4 requirements to those that would be applicable to moderate nonattainment areas. Sections 189(a) and (c) of subpart 4 apply to moderate nonattainment areas and include the following requirements: (1) An approved permit program for construction of new and modified major stationary sources (section 189(a)(1)(A)); (2) an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); and (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)).

The permit requirements of subpart 4, as contained in section 189(a)(1)(A), refer to and apply the subpart 1 permit provisions requirements of sections 172 and 173 to PM_{10}, without adding to them. Consequently, the EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in subpart 1.[4] In any event, in the context of redesignation, the EPA has long relied on the interpretation that a fully approved nonattainment new source review program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a prevention of significant deterioration (PSD) program after redesignation. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' *See also* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

With respect to the specific attainment planning requirements under subpart 4,[5] when the EPA evaluates a redesignation request under either subpart 1 and/or 4, any area that is attaining the $PM_{2.5}$ standard is viewed as having satisfied the attainment planning requirements for these subparts. For redesignations, the EPA has for many years interpreted attainment-linked requirements as not applicable for areas attaining the standard. In the General Preamble, the EPA stated that the requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point (57 FR 13564). The General Preamble also explained in discussing contingency measures that the 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.

The EPA similarly stated in its 1992 Calcagni memorandum that, ''The requirements for reasonable further

[2] *Sierra Club* v. *Whitman* was discussed and distinguished in a recent D.C. Circuit decision that addressed retroactivity in a quite different context, where, unlike the situation here, EPA sought to give its regulations retroactive effect. *National Petrochemical and Refiners Ass'n* v. *EPA*. 630 F.3d 145, 163 (D.C. Cir. 2010), rehearing denied 643 F.3d 958 (D.C. Cir. 2011), cert denied 132 S. Ct. 571 (2011).

[3] PM_{10} refers to particulates nominally 10 micrometers in diameter or smaller.

[4] The potential effect of section 189(e) on section 189(a)(1)(A) for purposes of evaluating this redesignation is discussed below.

[5] I.e., attainment demonstration, RFP, RACM, milestone requirements, contingency measures.

progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.''

It is evident that even if we were to consider the decision in *NRDC* v. *EPA* to mean that attainment-related requirements specific to subpart 4 should be imposed retroactively [6] or prior to December 31, 2014 and, thus, were due prior to Washington's redesignation request, those requirements do not apply to an area that is attaining the 2006 $PM_{2.5}$ standard for the purpose of evaluating a pending request to redesignate the area to attainment. The EPA has consistently enunciated this interpretation of applicable requirements under section 107(d)(3)(E) since the General Preamble was published more than twenty years ago. Courts have recognized the scope of the EPA's authority to interpret ''applicable requirements'' in the redesignation context. *See Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004).

Moreover, even outside the context of redesignations, the EPA has viewed the obligations to submit the attainment-related SIP planning requirements of subpart 4 as inapplicable for areas that the EPA determines are attaining the standard. The EPA's prior ''Clean Data Policy'' rulemakings for the PM_{10} NAAQS, also governed by the requirements of subpart 4, explain the EPA's reasoning. They describe the effects of a determination of attainment on the attainment-related SIP planning requirements of subpart 4. *See* ''Determination of Attainment for Coso Junction Nonattainment Area,'' (75 FR 27944, May 19, 2010). *See also* Coso Junction proposed PM_{10} redesignation, (75 FR 36023, 36027, June 24, 2010); Proposed and Final Determinations of Attainment for San Joaquin Nonattainment Area (71 FR 40952, 40954–55, July 19, 2006; and 71 FR 63641, 63643–47 October 30, 2006). In short, the EPA has also long concluded that to require states to meet superfluous SIP planning requirements is not necessary and not required by the CAA, so long as those areas continue to attain the relevant NAAQS.

In this notice the EPA proposes to determine that the area has attained the 2006 24-hour $PM_{2.5}$ standard. Under its longstanding interpretation, the EPA is also proposing to determine that the area meets the attainment-related plan requirements of subparts 1 and 4. Thus, the EPA is proposing to conclude that the requirements to submit an attainment demonstration under 189(a)(1)(B), a RACM determination under section 172(c)(1) and section 189(a)(1)(c), a RFP demonstration under 189(c)(1), and contingency measure requirements under section 172(c)(9) are satisfied for purposes of evaluating the redesignation request.

3. Maintenance Plan and Evaluation of Precursors

With regard to the redesignation of the Tacoma area, in evaluating the effect of the Court's remand of the EPA's implementation rule, which included presumptions against consideration of VOC and ammonia as $PM_{2.5}$ precursors, the EPA in this proposal is also considering the impact of the decision on the maintenance plan required under sections 175A and 107(d)(3)(E)(iv). To begin with, the EPA notes that the area has attained the 2006 $PM_{2.5}$ standard and that the State has shown that attainment of that standard is due to permanent and enforceable emission reductions.

The EPA proposes to determine that Washington's maintenance plan, in addition to direct $PM_{2.5}$ controls, shows continued maintenance of the standard by tracking the levels of the $PM_{2.5}$ precursors. The EPA believes that the only additional consideration related to the maintenance plan requirements that results from the *NRDC* decision is that of assessing the potential role of VOC and ammonia in demonstrating continued maintenance in this area. As explained below, based upon documentation provided by the State and supporting information, the EPA believes that the maintenance plan for the Tacoma area need not include any additional control measures for VOC or ammonia in order to provide for continued maintenance of the standard.

First, VOC emission levels in this area have historically been well-controlled under SIP requirements related to the former Seattle-Tacoma Puget Sound ozone nonattainment area. These requirements remain in place today and the area remain in attainment with more stringent ozone standards promulgated by the EPA in 1997 and 2008. Second, total ammonia emissions throughout the Tacoma area are very low, estimated to be 374 tons per year in 2011. *See* Table 6 below. This amount of ammonia emissions appears especially small in comparison to the total amounts of SO_2, NO_X, and direct $PM_{2.5}$ emissions from sources in the area. Third, as described below, VOC and ammonia emissions are expected to decline over the maintenance period, due primarily to fleet turnover with cleaner vehicles, and will therefore not interfere with or undermine the maintenance demonstration.

Washington's maintenance plan shows that emissions of direct $PM_{2.5}$, and NO_X are projected to decrease over the maintenance period by 100 tons per year (tpy) and 8,105 tpy, respectively, while SO_2 emissions are estimated to increase slightly by 5 tpy. See Tables 1–4 below. Note that Ecology chose to use conservative 10-year maximum values for estimating future (2017, 2026) point source emissions but used actual emissions for the 2011 base year, so the estimated 5 tpy increase in SO_2 emissions is likely a conservative overestimate and is not expected to impact maintenance of the standard. In addition, emissions inventories show that VOC and ammonia emissions are projected to decrease by 1,754 tpy and 49 tpy, respectively between 2011 and 2026. *See* Tables 5 and 6 below. Given that the Tacoma area is already attaining the 2006 $PM_{2.5}$ NAAQS even with the current level of emissions from sources in the area, the downward trend of emissions inventories would be consistent with continued attainment. Indeed, projected emissions reductions indicate that the area should continue to attain the NAAQS following the control strategies that Washington has already elected to pursue. For these reasons, the EPA believes that local emissions of all direct $PM_{2.5}$ and $PM_{2.5}$ precursors will not increase to the extent that they will cause monitored $PM_{2.5}$ levels to violate the 2006 $PM_{2.5}$ standard during the maintenance period.

[6] As EPA has explained above, we do not believe that the Court's January 4, 2013 decision should be interpreted so as to impose these requirements on the states retroactively. *Sierra Club* v. *Whitman, supra.*

TABLE 1—COMPARISON OF 2011, 2017, AND 2026 DIRECT $PM_{2.5}$ EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TACOMA AREA

Sector	Annual direct $PM_{2.5}$ (tpy)			
	2011	2017	2026	Net change
Point	240	364	347	107
Residential Wood Combustion	1,182	1,174	1,193	11
Other Nonpoint Sources (including dust)	528	556	649	121
On-road	359	229	150	−209
Nonroad	276	193	143	−133
Total	2,585	2,518	2,485	−100

TABLE 2—COMPARISON OF 2011, 2017, AND 2026 DIRECT $PM_{2.5}$ EMISSION TOTALS BY SOURCE SECTOR FOR THE TACOMA AREA IN POUNDS PER WINTER WEEKDAY

[Seasonal inventory most relevant to elevated particulate matter levels]

Sector	Winter weekday direct $PM_{2.5}$ (lbs/day)			
	2011	2017	2026	Net change
Point	1,313	1,995	1,903	590
Residential Wood Combustion	25,520	25,355	25,787	267
Other Nonpoint Sources (including dust)	3,048	3,149	3,842	794
On-road	2,497	1,642	1,149	−1,348
Nonroad	1,384	956	697	−687
Total	33,761	33,099	33,379	−382

TABLE 3—COMPARISON OF 2011, 2017, AND 2026 SO_2 EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TACOMA AREA

Sector	Annual SO_2 (tpy)			
	2011	2017	2026	Net change
Point	360	720	720	360
Residential Wood Combustion	19	20	22	3
Other Nonpoint Sources (including dust)	56	60	66	10
On-road	44	40	37	−7
Nonroad	754	301	392	−362
Total	1,234	1,143	1,239	5

TABLE 4—COMPARISON OF 2011, 2017, AND 2026 NO_X EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TACOMA AREA

Sector	Annual NO_X (tpy)			
	2011	2017	2026	Net change
Point	1,180	1,399	1,396	216
Residential Wood Combustion	132	135	141	9
Other Nonpoint Sources (including dust)	311	335	368	57
On-road	10,697	6,377	3,458	−7,239
Nonroad	3,511	2,794	2,363	−1,148
Total	15,833	11,041	7,728	−8,105

TABLE 5—COMPARISON OF 2011, 2017, AND 2026 VOC EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TACOMA AREA

Sector	Annual VOC (tpy)			
	2011	2017	2026	Net change
Point	454	1,315	1,409	955
Residential Wood Combustion	1,521	1,468	1,442	−79
Other Nonpoint Sources (including dust)	4,218	4,448	4,964	746
On-road	5,058	3,114	1,938	−3,120
Nonroad	1,462	1,157	1,206	−256
Total	12,711	11,502	10,957	−1,754

TABLE 6—COMPARISON OF 2011, 2017, AND 2026 AMMONIA EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE TACOMA AREA

Sector	Annual ammonia (tpy)			
	2011	2017	2026	Net change
Point	48	48	48	0
Residential Wood Combustion	70	69	72	2
Other Nonpoint Sources (including dust)	71	75	82	11
On-road	184	142	123	−61
Nonroad	0	0	0	0
Total	374	336	325	−49

The EPA believes that there is ample justification to conclude that the Tacoma area should be redesignated, taking into consideration projections of future direct $PM_{2.5}$ and $PM_{2.5}$ precursor emissions. After consideration of the DC Circuit's *NRDC* decision, and for the reasons set forth in this notice, the EPA proposes to approve Washington's maintenance plan and its request to redesignate the Tacoma area to attainment for the 2006 24-hour $PM_{2.5}$ standard.

V. The EPA's Analysis of Washington's Submittal

The EPA is proposing to redesignate the Tacoma area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS and to approve into the Washington SIP the associated maintenance plan. The EPA's proposed approval of the redesignation request and maintenance plan is based upon the EPA's determination that the area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS and that all other redesignation criteria have been met for the area. The following is a description of how Washington's November 3, 2014 submittal satisfies the requirements of section 107(d)(3)(E) of the CAA for the 2006 24-hour $PM_{2.5}$ standard.

A. Redesignation Request

1. Attainment

On September 4, 2012, the EPA published a final rulemaking that the Tacoma area attained the 2006 $PM_{2.5}$ NAAQS based upon quality-assured and certified ambient air quality monitoring data for the period of 2009–2011 (77 FR 53772). On September 19, 2013, the EPA published another final rulemaking, in order to approve motor vehicle emission budgets, with the determination that the area continued to attain the standard based upon quality-assured and certified ambient air quality monitoring data for the period of 2010–2012 (78 FR 57503). The basis and effect of these determinations of attainment for the 2006 $PM_{2.5}$ NAAQS were discussed in the notices of the proposed (77 FR 39657 and 78 FR 42905) and final (77 FR 53772 and 78 FR 57503) rulemakings.

The EPA has reviewed the ambient air quality $PM_{2.5}$ monitoring data in the Tacoma area, consistent with the requirements at 40 CFR part 50, and recorded in the EPA's Air Quality System (AQS), quality assured, quality-controlled, and state certified data for the monitoring periods 2011–2013 and preliminary data for 2014. The air quality data show that the Tacoma area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. The area's 24-hour $PM_{2.5}$ design values[7] are provided in Table 7.

TABLE 7—TACOMA AREA DESIGN VALUES[8]

Monitor	2007–2009	2008–2010	2009–2011	2010–2012	2011–2013
Tacoma—South L Street	46	38	35	28	32
Tacoma Tideflats–Alexander Avenue	27	22	22	21	24
Puyallup—128th Street (South Hill)	27	22	22	21	23
Puyallup—66th Avenue (Puyallup Tribe)	NA	21	21	21	23

[7] As defined in 40 CFR part 50, Appendix N, section (1)(c).

[8] The Tacoma—South L Street monitor, the original violating monitor for designation as nonattainment, is the only Federal Reference Method (FRM) monitor. Other state or tribal nonregulatory monitoring information for the Tacoma area is provided for informational purposes only.

The EPA's review of the monitoring data for 2011–2013 supports the previous determinations that the area has attained the 2006 24-hour $PM_{2.5}$ NAAQS, and that the area continues to attain the standard. Preliminary 2014 data, as shown in Figure 9 of Washington's submittal, is also consistent with attainment. With respect to the maintenance plan, Washington has committed to continue monitoring ambient $PM_{2.5}$ concentrations in accordance with 40 CFR part 58. Thus, the EPA is proposing to determine that the Tacoma area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS.

2. The Area Has Met All Applicable Requirements Under Section 110 and Subpart 1 of the CAA and Has a Fully Approved SIP Under Section 110(k)

In accordance with section 107(d)(3)(E)(v), the SIP revision for the 2006 24-hour $PM_{2.5}$ NAAQS for the Tacoma area must be fully approved under section 110(k) and all the requirements applicable to the area under section 110 of the CAA (general SIP requirements) and part D of Title I of the CAA (SIP requirements for nonattainment areas) must be met.

a. Section 110 General SIP Requirements

Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. 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 requirements (Prevention of Significant Deterioration);
- Provisions for the implementation of Part D requirements for New Source Review permit programs;
- Provisions for air pollution modeling; and
- Provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. However, section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. The 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, the EPA does not believe that these requirements are applicable requirements for purposes of redesignation.

In addition, the EPA believes that the other section 110(a)(2) elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Tacoma area will still be subject to these requirements after it is redesignated. The EPA concludes that the section 110(a)(2) and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request, and that section 110(a)(2) elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. This approach is consistent with the EPA's existing policy on applicability of conformity (*i.e.,* for redesignations) and oxygenated fuels requirement. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). *See also,* the discussion on this issue in the Cincinnati, Ohio redesignation (65 FR at 37890, June 19, 2000), and in the Pittsburgh-Beaver Valley, Pennsylvania redesignation (66 FR at 53099, October 19, 2001).

The EPA has reviewed the Washington SIP and has concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for purposes of redesignation. The EPA has previously approved provisions of Washington's SIP addressing section 110(a)(2) requirements (77 FR 30902, May 24, 2012 and 79 FR 42683, July 23, 2014), including proposed approval of provisions addressing $PM_{2.5}$ (79 FR 62368, October 17, 2014). These requirements are, however, statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Tacoma area. Therefore, the EPA believes that these SIP elements are not applicable requirements for purposes of review of the State's $PM_{2.5}$ redesignation request.

b. Title I, Part D, Subpart 1 Applicable SIP Requirements

Subpart 1 of part D of Title I of the CAA sets forth the basic nonattainment requirements applicable to all nonattainment areas. All areas that were designated nonattainment for the 1997 and 2006 $PM_{2.5}$ NAAQS were designated under this subpart of the CAA, and the requirements applicable to them are contained in sections 172 and 176. The EPA's analysis of the particulate-matter-specific provisions of Subpart 4 of part D of Title I is discussed earlier in this notice.

The General Preamble for Implementation of Title I discusses the evaluation of these requirements in the context of the EPA's consideration of a redesignation request. The General Preamble sets forth the EPA's view of applicable requirements for purposes of evaluating redesignation requests when an area is attaining the standard (*See* 57 FR 13498).

As mentioned previously, on September 4, 2012, the EPA made a determination that the Tacoma area had attained the 2006 24-hour $PM_{2.5}$ NAAQS (77 FR 53772). This determination of attainment was based upon quality assured and certified ambient air quality monitoring data for the period of 2009–2011 showing that the area had attained the standard. In a separate rulemaking action, dated September 19, 2013, the EPA made another determination of attainment for the Tacoma area for the 2006 24-hour $PM_{2.5}$ NAAQS for the 2010–2012 monitoring period, in order to approve motor vehicle emission budgets (78 FR 57503).

As previously explained, upon determination by the EPA that the area had attained the 2006 24-hour $PM_{2.5}$ NAAQS, the requirement for Washington to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning requirements related to the attainment of the 2006 24-hour $PM_{2.5}$ NAAQS were suspended until the area is redesignated to attainment for the standard or the EPA determines that the area has again violated the standard, at which time such suspended planning requirements are required to be submitted. Thus, because attainment has been reached for the area for the 2006 24-hour $PM_{2.5}$ NAAQS and the area continues to attain the standard, no additional measures are needed to

provide for attainment. Therefore, the requirements of section 172(c)(1), 172(c)(2), 172(c)(6), and 172(c)(9) are no longer considered to be applicable for purposes of redesignation of the area.

However, determinations of attainment do not relieve states from submitting and the EPA from approving certain planning requirements for the 2006 $PM_{2.5}$ NAAQS. On November 28, 2012, Washington submitted a 2008 baseline emissions inventory for direct $PM_{2.5}$ and precursors to the formation of $PM_{2.5}$ including NO_X, SO_2,VOCs, and ammonia to meet the comprehensive emissions inventory requirement of CAA section 172(c)(3) for the 2006 24-hour $PM_{2.5}$ NAAQS. Also included in Washington's submittal were SIP strengthening rules to implement the recommendations of the Tacoma-Pierce County Clean Air Task Force, an advisory committee of community leaders, citizen representatives, public health advocates, and other affected parties, formed to develop $PM_{2.5}$ reduction strategies. These SIP strengthening rules were permanent and enforceable measures focused on controlling $PM_{2.5}$ emissions from residential wood combustion, which in 2008 comprised 74% of direct $PM_{2.5}$ emissions on winter days when 24-hour $PM_{2.5}$ NAAQS exceedances are most likely. The EPA approved the 2008 baseline emissions inventory and SIP strengthening rules on May 29, 2013 (78 FR 32131).

Section 172(c)(4) of the CAA requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The EPA has determined that, since PSD requirements will apply after redesignation [9], areas being redesignated need not comply with the requirement that a nonattainment NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D New Source Review (NSR). A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.''

Section 172(c)(7) of the CAA requires the SIP to meet the applicable provisions of section 110(a)(2). As noted previously, we believe the Washington SIP meets the requirements of section 110(a)(2) that are applicable for purposes of redesignation.

As a result of the EPA's determination of attainment of the area for the 2006 24-hour $PM_{2.5}$ NAAQS the only remaining requirement under section 172 to be considered for the $PM_{2.5}$ standard is the comprehensive emissions inventory required under section 172(c)(3). Section 172(c)(3) of the CAA requires submission of a comprehensive, accurate, and current inventory of actual emissions. For purposes of the $PM_{2.5}$ NAAQS, this emissions inventory should address not only direct emissions of $PM_{2.5}$, but also emissions of all precursors with the potential to participate in $PM_{2.5}$ formation, *i.e.,* SO_2, NO_X, VOC, and ammonia. As previously discussed, the EPA determined that Washington met the section 172(c)(3) comprehensive emissions inventory requirement in a final rulemaking on May 29, 2013 (78 FR 32131).

Section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' In conjunction with its request to redesignate the Tacoma area to attainment status, Washington submitted a SIP revision to provide for maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS for at least 10 years after redesignation, through 2026. Washington is requesting that the EPA approve this SIP revision as meeting the requirement of CAA section 175A. Once approved, the maintenance plan for the Tacoma area will ensure that the SIP for Washington meets the requirements of the CAA regarding maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA's analysis of the maintenance plan is provided in section V.B. of this rulemaking action.

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 that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement and enforceability which the EPA promulgated pursuant to its authority under the CAA. The EPA interprets the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under CAA 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) and Tampa, Florida discussion (60 FR 62748, December 7, 1995).

Thus, for purposes of redesignating the Tacoma area to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS, the EPA is proposing to determine that Washington has met all the applicable SIP requirements under part D of Title I of the CAA.

c. The Tacoma Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

For purposes of redesignation to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS, the EPA has fully approved all applicable requirements of Washington's SIP for the Tacoma area in accordance with section 110(k) of the CAA.

3. Permanent and Enforceable Reductions in Emissions

In many parts of the nation, $PM_{2.5}$ nonattainment is often a result of secondary formation of precursors into particulate matter from point or mobile sources. As shown in Tables 3 through 6, most of these precursor emissions are projected to decline significantly due to federal engine and fuel requirements for cars, trucks, ships, trains, and nonroad equipment. These estimated precursor reductions will aid in continued attainment of the 24-hour $PM_{2.5}$ NAAQS. However, the Tacoma area, like some other areas in the Pacific Northwest, is somewhat unique for a large urban area in that elevated 24-hour particulate matter levels are heavily dominated by direct $PM_{2.5}$ emissions from local residential wood combustion. As shown previously in Table 2, residential wood combustion currently accounts for 76% of direct $PM_{2.5}$ emissions on a typical winter day, the season most relevant to $PM_{2.5}$ exceedances. Other sources of direct $PM_{2.5}$ are much smaller, including 7% for onroad vehicles, 6% for dust, 4% for major point sources, and 4% for nonroad vehicles and engines. As discussed in Washington's SIP submission, elevated $PM_{2.5}$ levels are particularly acute during wintertime meteorological inversion events when a shallow pool of cold air is trapped at

[9] The PSD program in Washington, including tribal land, is regulated under a Federal Implementation Plan.

ground level, allowing little to no mixing with the upper atmosphere. On these days, monitored 24-hour $PM_{2.5}$ concentrations increase as do emissions from residential wood combustion.

In response to these episodic inversion events, Washington established a mandatory wood stove (solid fuel burning device) curtailment program dating back to the late 1980s and early 1990s to address coarse particulate matter (PM_{10}) nonattainment. The curtailment program rapidly brought most wood smoke dominated PM_{10} areas, including Tacoma, into attainment by the mid-1990s (see 60 FR 54599, October 25, 1995). The curtailment program was so successful that Washington had no $PM_{2.5}$ nonattainment areas when the EPA established the 24-hour $PM_{2.5}$ NAAQS of 65 μg/m³ in 1997. It was not until 2006, when the EPA tightened the 24-hour $PM_{2.5}$ NAAQS to 35 μg/m³ that Washington again experienced wood smoke dominated nonattainment problems. In response, Washington enacted a series of statutory and regulatory changes in 2007, 2008, and 2012 to update the curtailment program. The EPA most recently approved the updates to the curtailment program enforced by the local Puget Sound Clean Air Agency (PSCAA) on May 29, 2013 (78 FR 32131) and to the statewide Ecology curtailment regulations on May 9, 2014 (79 FR 26628).[10]

For an area at risk of nonattainment like Tacoma, when forecasted meteorological conditions are predicted to cause $PM_{2.5}$ levels to reach or exceed 30 μg/m³, measured on a twenty-four hour average, PSCAA or Ecology can declare a first stage of impaired air quality. Use of an uncertified solid fuel burning device is prohibited during a first stage of impaired air quality, with limited exceptions.[11] PSCAA or Ecology can declare a second stage of impaired air quality when: (1.) A first stage of impaired air quality has been in force and has not been sufficient to reduce the increasing $PM_{2.5}$ trend; (2.) $PM_{2.5}$ levels are monitored at an ambient level of 25 μg/m³ measured on a twenty-four hour average; and (3.) forecasted meteorological conditions are not expected to allow $PM_{2.5}$ levels to decline below 25 μg/m³ for a period of 24 hours or more. PSCAA or Ecology can also proceed directly to a second stage of impaired air quality without first calling a first stage if conditions are particularly severe. *See* Revised Code of Washington 70.94.473. Use of any solid fuel burning device, certified or uncertified, is prohibited during the second stage of impaired air quality, with limited exceptions.

Despite challenging meteorological conditions in both 2011 and 2013, as discussed in the weight of evidence analysis contained in Washington's redesignation request, the Tacoma area continues to remain in attainment. Data analyses conducted by Washington that adjusts for year-to-year meteorological variation shows that $PM_{2.5}$ levels on the highest winter days have come down over 10 μg/m³ since 2009. Based on our review of Washington's weight of evidence analysis, the EPA is proposing to determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from Washington's curtailment program and other permanent and enforceable reductions, such as federal air pollutant control regulations.

B. Maintenance Plan

On November 3, 2014, Ecology submitted a maintenance plan for the 2006 24-hour $PM_{2.5}$ NAAQS, as required by section 175A of the CAA. The maintenance plan includes all emissions inventories, motor vehicle emission budgets, and technical analyses demonstrating current and future attainment for the entire Tacoma area, including tribal trust and non-trust lands. The EPA's analysis for proposing approval of the maintenance plan is provided in this section.

1. Attainment Emissions Inventory

An attainment inventory is comprised of the emissions during the time period associated with the monitoring data showing attainment. Ecology determined that the appropriate attainment inventory year for the maintenance plan is 2011, one of the years in the period during which the Tacoma area monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS. The 2011 inventory included in the maintenance plan contains primary $PM_{2.5}$ emissions (including condensables), SO_2, NO_X, VOCs, and ammonia. In its redesignation request and maintenance plan for the 2006 24-hour $PM_{2.5}$ standard, Ecology described the methods used for developing the inventory. The EPA reviewed the procedures used to develop the 2011 attainment year inventory and found them to be reasonable and approvable.

2. Maintenance Demonstration

Section 175A of the CAA requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area ''for at least 10 years after the redesignation.'' The EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. *See* 1992 Calcagni Memorandum, pages 9–10.

For a demonstration of maintenance, emissions inventories are required to be projected to future dates to assess the influence of future growth and controls; however, the demonstration need not be based on modeling. *See Wall* v. *EPA, supra; Sierra Club* v. *EPA, supra. See also* 66 FR 53099–53100 and 68 FR 25430–32. Ecology developed projected inventories to show that the Tacoma area will remain in attainment through the year 2026. *See* Tables 1 through 6. These projected inventories, covering an interim year of 2017 and a maintenance plan end year of 2026, show that future emissions of NO_X, VOCs, ammonia, and direct $PM_{2.5}$ will remain at or below the 2011 attainment-level emissions for the 2006 24-hour $PM_{2.5}$ NAAQS. Sulfur dioxide levels are projected to increase slightly (5 tpy) between 2011 and 2026; however, this projected increase above the 2011 inventory is partially due to Washington's conservative estimation methodology using historical 10-year maximum emission levels in projecting the future point source inventory. Considering the relatively minor influence of secondary formation in the Tacoma airshed, the EPA does not believe the 5 tpy increase in SO_2 projected in the future year inventories would significantly impact maintenance of the $PM_{2.5}$ NAAQS should these conservative estimates (*i.e.* likely overestimating future emissions) prove correct.

Similarly, Ecology uses a conservative estimation methodology throughout the projected inventories, opting to forego taking credit for future emission reductions that are not known with relative certainty. For example, Washington did not incorporate into the 2017 and 2026 emissions inventories reductions that could come about from

[10] The Puyallup Tribe of Indians operates the curtailment program on tribal trust lands within the Tacoma area. Technical assistance and management of the Tacoma airshed is coordinated under a cooperative agreement. See *Cooperative Agreement between the Puget Sound Air Pollution Control Agency and the Puyallup Tribe of Indians Regarding Implementation of the Puyallup Tribe Air Quality Program* included in the docket for this action. The Puyallup Tribe of Indians also participates in the PSCAA Advisory Council.

[11] During both a first and second stage of impaired air quality, the curtailment programs allow a limited exemption for buildings with no adequate source of heat other than a solid fuel burning device, if certain qualification criteria are met.

the more stringent federal emissions standards in the proposed New Source Performance Standards for Residential Wood Heaters (79 FR 6330, February 3, 2014). Given the dominance of residential wood smoke in the $PM_{2.5}$ emissions inventory, finalization of this EPA rule could have a large impact on reducing future emissions. Washington's projections also do not incorporate $PM_{2.5}$ reductions from likely increased participation in PSCAA's voluntary change-out program in anticipation of the ban on uncertified wood stoves in the Tacoma area after September 2015. Lastly, because the wood stove curtailment program is only in effect during a handful of days when inversion conditions exist, these reductions are also not captured in the annual or ''typical winter day'' inventories shown in Tables 1 and 2. The EPA has reviewed the documentation provided by Washington for developing the 2017 and 2026 emissions inventories for the Tacoma area. Based on our review, the EPA is proposing to determine that the inventories are reasonable and approvable. The EPA is also proposing to determine that the projected emissions inventories show that the Tacoma area will continue to maintain the 2006 24-hour $PM_{2.5}$ standard during the maintenance period.

3. Monitoring Network

There are three $PM_{2.5}$ monitors in the Tacoma area. Washington's maintenance plan includes a commitment to continue to operate its EPA-approved monitoring network, as necessary to demonstrate ongoing compliance with the 2006 24-hour $PM_{2.5}$ NAAQS. Ecology will consult with the EPA prior to making any necessary changes to the $PM_{2.5}$ monitoring network and will continue to quality assure the monitoring data in accordance with the requirements of 40 CFR part 58.

4. Verification of Continued Attainment

Washington will acquire ambient monitoring and source emission data to track attainment and maintenance. Washington will also track the progress of the maintenance demonstration by periodically updating the emissions inventory as required by the Annual Air Emissions Reporting Requirements Rule (AERR), or as required by federal regulation during the maintenance plan period. This includes developing annual inventories for major point sources and a comprehensive periodic inventory covering all source categories every three years. Tracking will include the evaluation of annual and periodic evaluations for any significant emission increases above the 2011 attainment year levels.

5. Contingency Measures

The contingency plan provisions are designed to prevent or promptly correct a violation of the 2006 24-hour $PM_{2.5}$ NAAQS that occurs in the area after redesignation. Section 175A of the CAA requires that a maintenance plan include such contingency measures as the EPA deems necessary to ensure that Washington will promptly correct a violation of the 2006 24-hour $PM_{2.5}$ NAAQS that occurs in the area after redesignation. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Washington's maintenance plan outlines the procedures for the adoption and implementation of contingency measures to further reduce emissions should a violation occur. Washington's contingency measures include a warning level response and an action level response. An initial warning level response is triggered for the 2006 24-hour $PM_{2.5}$ NAAQS when the 98th percentile 24-hour $PM_{2.5}$ concentration for a single calendar year reaches 35.5 $\mu g/m^3$ or greater within the area. An action level response will be prompted by any one of the following: (1) A two year average of the 98th percentile reaches 35.5 $\mu g/m^3$ or greater within the area; or (2) a violation of the standard occurs in the area (*i.e.* a three-year average of the 98th percentile reaches 35.5 $\mu g/m^3$ or greater).

In order to select appropriate corrective measures for warning or action level triggers, PSCAA will conduct a study to determine the cause of exceeding the trigger levels and the control measures necessary to mitigate the problem. The study will evaluate whether the trend, if any, is likely to continue and if so, the control measures necessary to reverse the trend taking into consideration ease and timing for implementation as well as economic and social considerations. Based on the results of the analysis, contingency measures will be selected. However, if a new measure is already promulgated and scheduled to be implemented at the federal or state level at such time after the exceedance, and that measure or control is determined to be sufficient to address the upward trend in air quality, additional local measures may be unnecessary. PSCAA will submit to the EPA an analysis to demonstrate the proposed measures are adequate to return the area to attainment.

Should a warning level response be triggered, measures that can be implemented in a short time will be selected in order to be in place within 18 months from the determination of a warning level event based on quality assured data. Should an action level response be triggered, implementation of necessary control measures will take place as expeditiously as possible, but in no event later than 18 months after PSCAA makes a determination, based on quality-assured ambient data, that an action level trigger has been exceeded. Adoption of additional control measures is subject to necessary administrative and legal processes.

Washington has identified the following potential contingency measures for the maintenance plan.

- Measures to address emissions from residential wood combustion (*e.g.* emissions from fireplaces under the existing authority granted in Revised Code of Washington 70.94.477). Residential wood combustion represents the largest emissions inventory source category at 76% of direct $PM_{2.5}$ emissions.
- Additional measures to address other $PM_{2.5}$ sources identified in the emissions inventory such as onroad vehicles, nonroad vehicles and engines, industrial sources, and dust. These source categories represent 7%, 4%, 4%, and 6%, respectively, of the current emissions inventory.

6. The EPA's Evaluation of VOC and Ammonia Precursors in Washington's Maintenance Plan

With regard to the redesignation of the Tacoma area in evaluating the effect of the Court's remand of the EPA's 1997 $PM_{2.5}$ Implementation Rule, which included presumptions against consideration of VOC and ammonia as $PM_{2.5}$ precursors, the EPA in this proposed rulemaking action is also considering the impact of the decision on the maintenance plan required under sections 175A and 107(d)(3)(E)(iv). To begin with, the EPA notes that the area has attained the 2006 24-hour $PM_{2.5}$ NAAQS and that Washington has shown that attainment of the standard is due to permanent and enforceable emission reductions.

The EPA proposes to determine that the Washington maintenance plan shows continued maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS by tracking the levels of direct $PM_{2.5}$ and associated precursors which brought about attainment of the standard in the

Tacoma area. The EPA, therefore, believes that the only additional consideration related to the maintenance plan requirements that results from the *NRDC* decision is that of assessing the potential role of VOC and ammonia in demonstrating continued maintenance in this area. Based upon emission inventory documentation provided by Washington and supporting information, the EPA believes that the maintenance plan for the Tacoma area need not include any additional local control measures for VOC or ammonia in order to provide for continued maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS.

First, VOC emission levels in the Tacoma area have historically been well-controlled under SIP requirements related to ozone and other pollutants. Second, total ammonia emissions throughout the Tacoma area are low, especially in comparison to the total amounts of SO_2, NO_X, and direct $PM_{2.5}$ emissions from sources in the area. Emissions inventories for 2017 and 2026 show that VOC and ammonia emissions are projected to decrease by 1,754 tpy and 49 tpy, respectively, between 2011 and 2026. See Tables 5 and 6. Given that the Tacoma area is already attaining the 2006 24-hour $PM_{2.5}$ NAAQS even with the current level of emissions from sources in the area, the downward trend of emissions inventories would be consistent with continued attainment. Thus, the EPA believes that there is ample justification to conclude that the Tacoma area should be redesignated, even taking into consideration the emissions of other precursors potentially relevant to $PM_{2.5}$. After consideration of the D.C. Circuit's *NRDC* decision, and for the reasons set forth in this rulemaking action, the EPA proposes to approve Washington's maintenance plan and request to redesignate the Tacoma area to attainment for the 2006 24-hour $PM_{2.5}$ standard.

C. Motor Vehicle Emissions Budgets

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to ''conform to'' the goals of SIPs. This means that such actions will not cause or contribute to violations of a NAAQS, worsen the severity of an existing violation, or delay timely attainment of any NAAQS or any interim milestone. Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the transportation conformity rule (40 CFR part 93, subpart A). Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with state air quality and transportation agencies, the EPA, and the FHWA and FTA to demonstrate that their long range transportation plans and transportation improvement programs (TIP) conform to applicable SIPs. This is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the MVEBs contained in the SIP.

On November 3, 2014, Washington submitted a SIP revision that contains the $PM_{2.5}$ and NO_X on-road mobile source budgets. In a separate and concurrent process, the EPA is conducting a process to find adequate the MVEBs which are associated with the Washington maintenance plan for the Tacoma area. Concurrently with the EPA's proposal to approve the SIP, a notice will be posted on the EPA's Web site at *http://www.epa.gov/otaq/state resources/transconf/currsips.htm* for the purpose of opening a 30-day public comment period on the adequacy of the MVEBs in the maintenance plan for the Tacoma area. That notice will inform the public of the availability of the Washington SIP revision on Ecology's Web site. Interested members of the public can access Washington's November 3, 2014 SIP revision on line at *www.regulations.gov,* Docket No. EPA–R10–OAR–2014–0808. Following the EPA's public comment period, responses to any comments received will be addressed. The EPA has reviewed the MVEBs and found them consistent with the maintenance plan and that the budgets meet the criteria for adequacy and approval. Additional information pertaining to the review of the MVEBs can be found in the technical support document (TSD) in this docket titled *Adequacy Findings for the Motor Vehicle Emissions Budgets in the Maintenance Plan for the Tacoma, WA Fine Particulate Matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) Nonattainment Area.*

VI. Proposed Actions

The EPA is proposing to redesignate the Tacoma area, including tribal trust and non-trust lands, from nonattainment to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS.[12] The EPA has evaluated the technical analyses, emissions inventories, and motor vehicle emission budgets covering the entire nonattainment area. We have determined that the Tacoma area meets the criteria set forth in section 107(d)(3)(E) of the CAA. The EPA believes that the monitoring data demonstrate that the Tacoma area is attaining and will continue to attain the 2006 24-hour $PM_{2.5}$ NAAQS. The EPA is also proposing to approve the associated maintenance plan for the Tacoma area as a revision to the Washington SIP because it meets the requirements of CAA section 175A. For transportation conformity purposes, the EPA is also proposing to approve MVEBs for the Tacoma area. Final approval of the redesignation request would change the official designation of the Tacoma area for the 2006 24-hour $PM_{2.5}$ NAAQS found at 40 CFR part 81, from nonattainment to attainment, and would incorporate into the Washington SIP the associated maintenance plan ensuring continued attainment of the 2006 24-hour $PM_{2.5}$ NAAQS in the area for the next 10 years, until 2026. This proposed action was reached after offering consultation to the Puyallup Tribe of Indians. The EPA did not receive a request for consultation. The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the 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 that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is 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.*);

[12] Control measures on tribal trust land will continue to be regulated pursuant to 40 CFR part 49, which includes the Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington (70 FR 18074, April 8, 2005) and Review of New Sources and Modifications in Indian Country (76 FR 38748, July 1, 2011).

• does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);

• does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• is not subject to the 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

• does not provide the 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).

The SIP is not approved to apply on any Indian reservation land in Washington except for as specifically noted below and is also not approved to apply in any other area in Washington where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country where the SIP does not apply, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law. Washington's SIP is approved to apply to non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989,* 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area. Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated September 8, 2014. The EPA did not receive a request for consultation.

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

Dated: November 14, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2014–28150 Filed 12–10–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002 [FRL–9920–31–Region–5]]

National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA), Region 5 is issuing a Notice of Intent to Delete the Belvidere Municipal Landfill Superfund Site (Site) located in Belvidere, Illinois from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Illinois, through the Illinois Environmental Protection Agency (IEPA), have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by January 12, 2015.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1983–0002, by one of the following methods:

• *http://www.regulations.gov:* Follow on-line instructions for submitting comments.

• *Email:* Thomas Smith, Remedial Project Manager, at *smith.thomasl@epa.gov* or Janet Pope, Community Involvement Coordinator, at *pope.janet@epa.gov.*

• *Fax:* Gladys Beard at (312) 886–4071.

• *Mail:* Thomas Smith, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 W. Jackson, Chicago, IL 60604, (312) 886–6540 or Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 W. Jackson, Chicago, IL 60604, (312) 353–0628 or 1–800–621–8431.

• *Hand delivery:* Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 W. Jackson Boulevard, Chicago, IL 60604. 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–SFUND–1983–0002. 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 email. 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 email comment directly to EPA without going through *http://www.regulations.gov,* your email 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.

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 the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

• U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, Phone: (312) 353–1063, Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding Federal holidays.

• Ida Public Library, 320 N. State St., Belvidere, IL 61008, Phone: (815) 544–3838, Hours: Monday through