6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R03-OAR-2014-0525; FRL-9917-83-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Harrisburg-Lebanon-Carlisle-York Nonattainment Areas to Attainment for the 1997 Annual and the 2006 24-Hour Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Commonwealth of Pennsylvania's requests to redesignate to attainment the Harrisburg-Lebanon-Carlisle-York nonattainment areas (hereafter "the Areas") for the 1997 annual and 2006 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). This proposed approval is contingent upon the United States Court of Appeals for the District of Columbia (D.C. Circuit Court) granting EPA's motion to lift the stay of the Cross State Air Pollution Rule (CSAPR) that the D.C. Circuit Court issued on December 30, 2011. EPA is proposing to find that the attainment of the Areas is in part due to the emissions reductions resulting from the Clean Air Interstate Rule (CAIR) in Pennsylvania and in the states upwind of Pennsylvania. Thus, if the D.C. Circuit Court lifts the stay of CSAPR and grants EPA's motion to begin implementation of CSAPR on January 1, 2015, those emission reductions originally required under CAIR will be made permanent and enforceable through the implementation of CSAPR. In addition to the redesignation requests, EPA is also proposing to determine that the Areas continue to attain the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Furthermore, EPA is proposing to approve as revisions to the Pennsylvania State Implementation Plan (SIP), the associated maintenance plans to show maintenance of the 1997 annual and 2006 24-hour

$PM_{2.5}$ NAAQS through 2025 for the Areas. The maintenance plans include the 2017 and 2025 $PM_{2.5}$ and nitrogen oxides (NOx) mobile vehicle emissions budgets (MVEBs) for the Areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS which EPA is proposing to approve for transportation conformity purposes. EPA is also initiating the process to determine if these budgets are adequate for transportation conformity purposes. In addition, EPA is proposing to approve as revisions to the Pennsylvania SIP, the 2007 base year emissions inventory for the Areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. EPA's proposed approvals of the maintenance plans and MVEBs for the Areas are also contingent upon the lifting of the CSAPR stay by the D.C. Circuit Court.

DATES: Written comments must be received on or before [**insert date 30 days from date of publication**].

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2014-0525 by one of the following methods:

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

B. E-mail: fernandez.cristina@epa.gov.

C. Mail: EPA-R03-OAR-2014-0525, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. 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-R03-OAR-2014-0525. 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 whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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 whose disclosure 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 Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Background

The first air quality standards for $PM_{2.5}$ were established on July 18, 1997 (62 FR 38652). 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, EPA promulgated a 24-hour standard of 65 $\mu g/m^3$ based on a three-year average of the 98^{th} percentile of 24-hour concentrations.

On January 5, 2005 (70 FR 944, 1014), EPA published air quality area designations for the 1997 $PM_{2.5}$ NAAQS. In that rulemaking action, EPA designated the Harrisburg-Lebanon-Carlisle (Harrisburg) and York Areas as nonattainment for the 1997 annual $PM_{2.5}$ NAAQS. The Harrisburg Area is comprised of Cumberland, Dauphin and Lebanon Counties; and the York Area is comprised of York County in Pennsylvania. *See* 40 CFR 81.339.

On October 17, 2006 (71 FR 61144), EPA retained the annual average standard at 15 $\mu g/m^3$, but

revised the 24-hour standard to 35 μg/m^3 based again on the three-year average of the 98th percentile of the 24-hour concentrations (the 2006 24-hour $PM_{2.5}$ standard). On November 13, 2009 (74 FR 58688), EPA published designations for the 2006 24-hour $PM_{2.5}$ standard, which became effective on December 14, 2009. In that rulemaking action, EPA designated the Harrisburg-Lebanon-Carlisle-York (Harrisburg-York) Area as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS. *See* 40 CFR 81.339.

Today's proposed rulemaking actions address the redesignations to attainment for the 1997 annual $PM_{2.5}$ NAAQS for the Harrisburg and York Areas, and the 2006 24-hour $PM_{2.5}$ standards for the Harrisburg-York Area.

On August 25, 2008 (73 FR 49949) and on September 25, 2009 (74 FR 48863), EPA determined that the Harrisburg and the York Areas, respectively, had clean data and monitored attainment for the 1997 annual $PM_{2.5}$ NAAQS. On March 29, 2012 (77 FR 18922), EPA determined that the Harrisburg-York Area had clean data and monitored attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. Pursuant to 40 CFR 51.1004(c) and based on these determinations, the requirements for the Areas to submit attainment demonstrations and associated reasonably available control measures (RACM), reasonable further progress (RFP) plans, contingency measures, and other planning SIP revisions related to the attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS are suspended until such time as: the Area is redesignated to attainment for the standard, at which time the section 51.1004(c) requirements no longer apply; or EPA determines that the Area has again violated the standard, at which time such plans are required to be

submitted. On July 29, 2011 (76 FR 45424), EPA also determined that the Harrisburg and York Areas had attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010. EPA's review of the most recent certified monitoring data for the Areas show that the Areas continue to attain the standard.

On April 22, 2014, the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), formally submitted requests to redesignate the Harrisburg and York Areas from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. PADEP also formally submitted on April 22, 2014, a request to redesignate the Harrisburg-York Area from nonattainment to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. Concurrently, PADEP submitted maintenance plans for the Areas as SIP revisions to ensure continued attainment throughout the Areas over the next 10 years. The maintenance plans include the 2017 and 2025 $PM_{2.5}$ and NOx MVEBs for the Areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS which EPA is proposing to approve for transportation conformity purposes. PADEP also submitted a 2007 comprehensive emissions inventory for the 1997 annual and the 2006 $PM_{2.5}$ NAAQS for $PM_{2.5}$, NOx, sulfur dioxide (SO_2), volatile organic compounds (VOCs), and ammonia (NH_3). EPA is proposing to approve as SIP revisions the maintenance plans for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is also proposing to approve as SIP revisions the 2007 emissions inventory for both standards to meet the emissions inventory requirement of section 172(c)(3) of the CAA. EPA's proposed approvals are contingent upon the D.C. Circuit Court granting EPA's motion to lift the stay of CSAPR.

II. 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) EPA determines that the area has attained the applicable NAAQS; (2) EPA has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) 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) 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 of the CAA. Each of these requirements are discussed in Section V. of today's proposed rulemaking action.

EPA provided guidance on redesignations in the "SIPs; General Preamble for the Implementation of Title I of the CAA 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 referred to as the "1992 Calcagni Memorandum"); (2) "SIP Actions Submitted in Response to 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 of the CAA, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after approval of a redesignation of an area 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 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.

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and maintenance plans for nonattainment areas and for areas seeking redesignation to attainment for a given NAAQS. These emission control strategy SIP revisions (e.g., RFP and attainment demonstration SIP revisions) and maintenance plans create MVEBs based on onroad mobile source emissions for the relevant criteria pollutants and/or their precursors, where appropriate, to address pollution from onroad transportation sources. The MVEBs are the portions of the total allowable emissions that are allocated to onroad vehicle use that, together with emissions from all other sources in the area, will provide attainment, RFP, or maintenance, as applicable. The budget serves as a ceiling on emissions from an area's planned transportation system. Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment is established for the last year of the maintenance plan.

The maintenance plans for the Cumberland, Dauphin, Lebanon, and York Counties in Pennsylvania, includes the 2017 and 2025 $PM_{2.5}$ and NOx MVEBs for transportation conformity purposes. The transportation conformity determinations for the Areas are further discussed in Section V.C. of today's proposed rulemaking actions and technical support documents (TSDs) dated September 3, 2014, available on line at www.regulations.gov, Docket ID No. EPA-OAR-R03-2014-0525.

III. Summary of Proposed Actions

EPA is proposing to take several rulemaking actions related to the redesignations of the Areas to

attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Provided that the D.C. Circuit Court grants EPA's motion to lift the December 30, 2011 stay of CSAPR and tolls CSAPR's compliance deadlines in order to begin Phase 1 of CSAPR on January 1, 2015, EPA is proposing to find that the Areas meet the requirements for redesignation for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve Pennsylvania's requests to change the legal definition for the Harrisburg and York Areas from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS, and the Harrisburg-York Area for the 2006 24-hour $PM_{2.5}$ NAAQS.

EPA is also proposing to approve the associated maintenance plans for the Areas as revisions to the Pennsylvania SIP for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, including the 2017 and 2025 $PM_{2.5}$ and NOx MVEBs for the Areas. The approval of the maintenance plans is one of the CAA criteria for redesignation of the Areas to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Pennsylvania's maintenance plans are designed to ensure continued attainment in the Areas for 10 years after redesignation for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS.

EPA previously determined that the Harrisburg and York Areas have attained the 1997 annual $PM_{2.5}$ NAAQS. Therefore, EPA is proposing to find that the Harrisburg and York Areas continue to attain the 1997 annual $PM_{2.5}$ NAAQS. *See* 76 FR 45424, July 29, 2011. EPA also previously determined that the Harrisburg-York Area had clean data showing monitored attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. *See* 77 FR 18922, March 29, 2012. Therefore,

EPA is proposing to find that the Harrisburg-York Area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is also proposing to approve the 2007 comprehensive emissions inventory that includes $PM_{2.5}$, SO_2, NOx, VOC, and NH_3 for the Areas as revisions to the Pennsylvania SIP for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS in order to meet the requirements of section 172(c)(3) of the CAA. EPA's analysis of the proposed actions is provided in Section V. of today's proposed rulemaking action.

EPA's proposed rulemaking actions are contingent upon the D.C. Circuit Court granting EPA's motion to lift the stay of CSAPR. If the D.C. Circuit Court does not lift the stay of CSAPR, EPA will reevaluate the basis for approval of these proposed redesignations and repropose actions if necessary before issuing the final rule.

IV. Effects of Recent Court Decisions on Proposed Actions

A. Effects of EME Homer City Decision

1. Background

In 2008, the D.C. Circuit Court initially vacated CAIR, *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit Court's remand, EPA promulgated CSAPR, to address interstate transport of emissions and resulting secondary air pollutants and to replace CAIR.[1] CSAPR requires substantial reductions of SO_2 and NOx

[1] CAIR addressed the 1997 $PM_{2.5}$ annual NAAQS and the 1997 8-hour ozone NAAQS. CSAPR addresses contributions from upwind states to downwind nonattainment and maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS

emissions from electric generating units (EGUs) in 28 states in the Eastern United States. Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR's cap-and-trade programs would have superseded the CAIR cap-and-trade programs. Numerous parties filed petitions for review of CSAPR, and on December 30, 2011, the D.C. Circuit Court issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. *EME Homer City Generation, L.P. v. EPA*, No. 11-1302 (D.C. Cir. Dec. 30, 2011), Order at 2.

On August 21, 2012, the D.C. Circuit Court issued its ruling, vacating and remanding CSAPR to EPA and once again ordering continued implementation of CAIR. *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit Court subsequently denied EPA's petition for rehearing en banc. *EME Homer City Generation, L.P. v. EPA*, No. 11-1302, 2013 WL 656247 (D.C. Cir. Jan. 24, 2013), at *1. EPA and other parties then petitioned the Supreme Court for a writ of certiorari, and the Supreme Court granted the petitions on June 24, 2013. *EPA v. EME Homer City Generation, L.P.*, 133 S. Ct. 2857 (2013).

On April 29, 2014, the Supreme Court vacated and reversed the D.C. Circuit Court's decision regarding CSAPR, and remanded that decision to the D.C. Circuit Court to resolve remaining issues in accordance with its ruling. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). Though CSAPR remains presently stayed by the D.C. Circuit Court, EPA has moved to have that stay lifted in light of the Supreme Court decision. *EME Homer City Generation, L.P. v. EPA*, Case No. 11-1302, Document No. 1499505 (D.C. Cir. filed June 26, 2014). In its

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as well as the ozone and $PM_{2.5}$ NAAQS addressed by CAIR.

motion, EPA asks the D.C. Circuit Court to toll CSAPR's compliance deadlines by three years, so that the Phase 1 emissions budgets apply in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond).

2. Proposal on This Issue

EPA promulgated CAIR on May 12, 2005 (70 FR 25162), creating regional cap-and-trade programs to reduce SO_2 and NO_X emissions. CAIR applies to 27 eastern states, including Pennsylvania, and the District of Columbia. EPA approved Pennsylvania's SIP on December 10, 2009 (74 FR 65446) that addressed the requirements of CAIR for the purpose of reducing SO_2 and NO_x emissions and Pennsylvania's SIP redesignation requests list CAIR as a control measure. CAIR was thus in place and getting emission reductions in Pennsylvania and in states upwind of Pennsylvania when the Areas began monitoring attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. The quality-assured, certified monitoring data used to demonstrate attainment of the Harrisburg and York Areas for the 1997 annual $PM_{2.5}$ NAAQS by the April 5, 2010 attainment deadline was impacted by CAIR. The Harrisburg-York Area that has monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS was also impacted by CAIR.

Under the tolled compliance deadline schedule proposed by EPA in its motion to lift the CSAPR stay, CAIR would sunset at the end of 2014 and be replaced by CSAPR beginning January 1, 2015. Provided that the stay is lifted and EPA's tolled compliance deadlines are put in place, the emission reductions associated with CAIR that helped the Areas achieve attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS would be permanent and enforceable for purposes

of redesignation under section 107(d)(3)(E)(iii) of the CAA, because CSAPR requires similar or greater emission reductions from relevant upwind areas starting in 2015 and beyond.

B. Effect of the January 4, 2013 D.C. Circuit Court Decision Regarding $PM_{2.5}$ Implementation under Subpart 4 of Part D of Title I of the CAA

1. Background

On January 4, 2013, in *NRDC v. EPA*, the D.C. Circuit Court 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 $PM_{2.5}$" final rule (73 FR 28321, May 16, 2008) (collectively, "1997 $PM_{2.5}$ Implementation Rule"). 706 F.3d 428 (D.C. Cir. 2013). The D.C. Circuit Court found that EPA erred in implementing the 1997 annual $PM_{2.5}$ 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, the states had worked towards meeting the air quality goals of the 1997 and 2006 $PM_{2.5}$ NAAQS in accordance with EPA regulations and guidance derived from subpart 1 of Part D of Title I of the CAA. In response to the D.C. Circuit Court's remand, EPA took this history into account by setting a new deadline for any remaining submissions that may be required for moderate nonattainment areas as a result of the D.C. Circuit Court's decision regarding the applicability of subpart 4 of Part D of Title I of the CAA.

On June 2, 2014 (79 FR 31566), EPA issued a final rule, "Identification of Nonattainment Classification and Deadlines for Submission of SIP Provisions for the 1997 and 2006 $PM_{2.5}$

NAAQS" (the $PM_{2.5}$ Subpart 4 Classification and Deadline Rule), which identifies the classification under subpart 4 for areas currently designated nonattainment for the 1997 annual and/or 2006 24-hour $PM_{2.5}$ standards. The final rule sets a deadline for states to submit attainment plans and meet other subpart 4 requirements. The final rules specifies December 31, 2014 as the deadline for 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 $PM_{2.5}$ and/or 2006 $PM_{2.5}$ NAAQS and to submit SIPs addressing the nonattainment new source review (NSR) requirements in subpart 4.

Therefore, as explained in detail in the following section, any additional attainment-related SIP elements that may be needed for the Areas to meet the applicable requirements of subpart 4 were not due at the time Pennsylvania submitted its redesignation requests for the Areas. Pennsylvania submitted its requests for redesignation for the Harrisburg and York Areas for the 1997 $PM_{2.5}$ NAAQS and the Harrisburg-York Areas for the 2006 24-hour $PM_{2.5}$ NAAQS on April 22, 2014.

2. Proposal on This Issue

In this proposed rulemaking action, EPA addresses the effect of the D.C. Circuit Court's January 4, 2013 decision ruling and the June 2, 2014 $PM_{2.5}$ Subpart 4 Classification and Deadline Rule on the Areas redesignation requests. EPA is proposing to determine that the D.C. Circuit Court's January 4, 2013 decision does not prevent EPA from redesignating the Areas to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Even in light of the D.C. Circuit Court's

decision, redesignation for these Areas is appropriate under the CAA and EPA's longstanding interpretations of the CAA's provisions regarding redesignation. 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, EPA then shows that, even if EPA applies the subpart 4 requirements to the redesignation requests of the Areas and disregards the provisions of its 1997 $PM_{2.5}$ Implementation Rule recently remanded by the D.C. Circuit Court, Pennsylvania's request for redesignation of the Areas still qualifies for approval. EPA's discussion takes into account the effect of the D.C. Circuit Court's ruling and the June 2, 2014 $PM_{2.5}$ Subpart 4 Classification and Deadline Rule on the maintenance plans of the Areas, which EPA views as approvable when subpart 4 requirements are considered.

a. Applicable Requirements under Subpart 4 for Purposes of Evaluating the Redesignation Requests of the Areas

With respect to the 1997 $PM_{2.5}$ Implementation Rule, the D.C. Circuit Court's January 4, 2013 ruling rejected EPA's reasons for implementing the $PM_{2.5}$ NAAQS solely in accordance with the provisions of subpart 1, and remanded that matter to EPA, so that it could address implementation of the 1997 annual $PM_{2.5}$ NAAQS under subpart 4 of Part D of the CAA, in addition to subpart 1. For the purposes of evaluating Pennsylvania's redesignation requests for the Areas, to the extent that implementation under subpart 4 would impose additional requirements for areas designated nonattainment, EPA believes that those requirements are not "applicable" for the purposes of section 107(d)(3)(E) of the CAA, and thus EPA is not required

to consider subpart 4 requirements with respect to the redesignation of the Areas. Under its longstanding interpretation of the CAA, 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 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* "SIP Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) 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 EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view 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").[2] In this case, at the time that Pennsylvania submitted its redesignation requests for the 1997 and the 2006 24-hour $PM_{2.5}$ NAAQS, the requirements under subpart 4 were not due.

EPA's view that, for purposes of evaluating the redesignation of the Areas, the subpart 4 requirements were not due at the time Pennsylvania submitted the redesignation requests is in

[2] 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.

keeping with the EPA's interpretation of subpart 2 requirements for subpart 1 ozone areas redesignated subsequent to the D.C. Circuit Court's decision in *South Coast Air Quality Mgmt. Dist. v. EPA*, 472 F.3d 882 (D.C. Cir. 2006). In *South Coast*, the D.C. Circuit Court found that EPA was not permitted to implement the 1997 8-hour ozone standard solely under subpart 1, and held that 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 EPA for areas under subpart 1, 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 rulemaking actions, 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) of the CAA.

EPA's interpretation derives from the provisions of section 107(d)(3) of the CAA. 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 EPA must have fully approved the "applicable" SIP for the area seeking redesignation. These two sections read together support 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 the state submitted its redesignation request, in order to be redesignated, would make it problematic or impossible for EPA to act on redesignation requests in accordance with the 18-month deadline Congress set for 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 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 CAA 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 D.C. Circuit Court's January 4, 2013 decision in *NRDC v. EPA* and EPA's June 2, 2014 $PM_{2.5}$ Subpart 4 Classification and Deadline Rule, compound the consequences of imposing requirements that come due after the redesignation request is submitted. Pennsylvania submitted its redesignation requests for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS on April 22, 2014 for the Areas, which is prior to the deadline by which the Areas are required to meet the attainment plan and other requirements pursuant to subpart 4.

To require Pennsylvania's fully-completed and pending redesignation requests for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS to comply now with requirements of subpart 4 that the D.C. Circuit Court announced only in January 2013 and for which the deadline to comply has not yet come, would be to give retroactive effect to such requirements and provide Pennsylvania a unique and earlier deadline for compliance solely on the basis of submitting its redesignation requests for the Areas. The D.C. Circuit Court recognized the inequity of this type of retroactive impact in *Sierra Club v. Whitman*, 285 F.3d 63 (D.C. Cir. 2002),[3] where it upheld the D.C. Circuit Court's ruling refusing to make retroactive EPA's determination that the

[3] *Sierra Club v. Whitman* was discussed and distinguished in a recent D.C. Circuit Court 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).

Areas did not meet their attainment deadlines. In that case, petitioners urged the D.C. Circuit Court to make EPA's nonattainment determination effective as of the date that the statute required, rather than the later date on which EPA actually made the determination. The D.C. Circuit 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 Pennsylvania by rejecting its redesignation requests for areas that are already attaining the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS and that met all applicable requirements known to be in effect at the time of the requests. For EPA now to reject the redesignation requests solely because Pennsylvania did not expressly address subpart 4 requirements which

have not yet come due and for which it had little to no notice, would inflict the same unfairness condemned by the D.C. Circuit Court in *Sierra Club v. Whitman*.

b. Subpart 4 Requirements and Pennsylvania's Redesignation Requests

Even if EPA were to take the view that the D.C. Circuit Court's January 4, 2013 decision requires that, in the context of pending redesignations for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, subpart 4 requirements were due and in effect at the time Pennsylvania submitted its redesignation requests, EPA proposes to determine that the Areas still qualify for redesignation to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. As explained subsequently, EPA believes that the redesignation request for the Areas, though not expressed in terms of subpart 4 requirements, substantively meet the requirements of that subpart

for purposes of redesignating the Areas to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS.

With respect to evaluating the relevant substantive requirements of subpart 4 for purposes of redesignating the Areas, EPA notes that subpart 4 incorporates components of subpart 1 of part D, which contains general air quality planning requirements for areas designated as nonattainment. *See* section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for coarse particulate matter (PM_{10})[4] nonattainment areas, and under the D.C. Circuit Court's January 4, 2013 decision in *NRDC v. EPA*, these same statutory requirements also apply for $PM_{2.5}$ nonattainment areas. EPA has longstanding general guidance that interprets the 1990 amendments to the CAA, making recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas. *See*, the General Preamble. In the General Preamble, 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, April 16, 1992). The subpart 1 requirements include, among other things, provisions for attainment demonstrations, RACM, RFP, emissions inventories, and contingency measures.

For the purposes of these redesignation requests, in order to identify any additional requirements which would apply under subpart 4, consistent with EPA's June 2, 2014 $PM_{2.5}$ Subpart 4 Classification and Deadline Rule, EPA is considering the Areas to be "moderate" $PM_{2.5}$ nonattainment areas. As EPA explained in its June 2, 2014 rule, section 188 of the CAA

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

provides that all areas 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 EPA reclassifies the area as a "serious" nonattainment area. Accordingly, 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: (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, 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.[5] In any event, in the context of redesignation, EPA has long relied on the interpretation that a fully approved nonattainment NSR 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,

[5] The potential effect of section 189(e) on section 189(a)(1)(A) for purposes of evaluating this redesignation is discussed in this rulemaking action.

[6] EPA refers to attainment demonstration, RFP, RACM, milestone requirements, and contingency measures.

dated October 14, 1994, entitled, "Part D NSR 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,[6] when EPA evaluates a redesignation request under either subpart 1 or 4, any area that is attaining the $PM_{2.5}$ NAAQS is viewed as having satisfied the attainment planning requirements for these subparts. For redesignations, EPA has for many years interpreted attainment-linked requirements as not applicable for areas attaining the standard. In the General Preamble, 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."

The General Preamble also explained that: "[t]he section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans . . . provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas." *Id.* EPA similarly stated in its 1992 Calcagni Memorandum that, "The requirements for reasonable further progress and other

measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard."

It is evident that even if we were to consider the D.C. Circuit Court's January 4, 2013 decision in *NRDC v. EPA* to mean that attainment-related requirements specific to subpart 4 should be imposed retroactively[7] or prior to December 31, 2014 and thus, were due prior to Pennsylvania's redesignation requests, those requirements do not apply to areas that are attaining the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, for the purpose of evaluating pending requests to redesignate the areas to attainment. 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 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, EPA has viewed the obligations to submit attainment-related SIP planning requirements of subpart 4 as inapplicable for areas that EPA determines are attaining the1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. EPA's prior "Clean Data Policy" rulemakings for the PM_{10} NAAQS, also governed by the requirements of subpart 4, explain 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

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

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, EPA in this context 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.

Elsewhere in this document, EPA determined that the Areas have attained and continue to attain the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Under its longstanding interpretation, EPA is proposing to determine here that the Areas meet the attainment-related plan requirements of subparts 1 and 4 for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Thus, 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 these redesignation requests.

c. Subpart 4 and Control of $PM_{2.5}$ Precursors

The D.C. Circuit Court in *NRDC v. EPA* remanded to EPA the two rules at issue in the case with instructions to EPA to re-promulgate them consistent with the requirements of subpart 4. EPA in this section addresses the D.C. Circuit Court's opinion with respect to $PM_{2.5}$ precursors. While past implementation of subpart 4 for PM_{10} has allowed for control of PM_{10} precursors such as

NOx from major stationary, mobile, and area sources in order to attain the standard as expeditiously as practicable, section 189(e) of the CAA specifically provides that control requirements for major stationary sources of direct PM_{10} shall also apply to PM_{10} precursors from those sources, except where EPA determines that major stationary sources of such precursors "do not contribute significantly to PM_{10} levels which exceed the standard in the area."

EPA's 1997 $PM_{2.5}$ Implementation Rule, remanded by the D.C. Circuit Court, contained rebuttable presumptions concerning certain $PM_{2.5}$ precursors applicable to attainment plans and control measures related to those plans. Specifically, in 40 CFR 51.1002, EPA provided, among other things, that a state was "not required to address VOC [and NH_3] as . . . $PM_{2.5}$ attainment plan precursor[s] and to evaluate sources of VOC [and NH_3] emissions in the State for control measures." EPA intended these to be rebuttable presumptions. EPA established these presumptions at the time because of uncertainties regarding the emission inventories for these pollutants and the effectiveness of specific control measures in various regions of the country in reducing $PM_{2.5}$ concentrations. EPA also left open the possibility for such regulation of VOC and NH_3 in specific areas where that was necessary.

The D.C. Circuit Court in its January 4, 2013 decision made reference to both section 189(e) and 40 CFR 51.1002, and stated that, "In light of our disposition, we need not address the petitioners' challenge to the presumptions in [40 CFR 51.1002] that VOCs and NH_3 are not $PM_{2.5}$ precursors, as subpart 4 expressly governs precursor presumptions." *NRDC v. EPA*, at 27, n.10.

Elsewhere in the D.C. Circuit Court's opinion, however, the D.C. Circuit Court observed: "NH_3 is a precursor to fine particulate matter, making it a precursor to both $PM_{2.5}$ and PM_{10}. For a PM_{10} nonattainment area governed by subpart 4, a precursor is presumptively regulated. *See* 42 U.S.C. § 7513a(e) [section 189(e)]." *Id.* at 21, n.7.

For a number of reasons, EPA believes that its proposed redesignation of the Areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS are consistent with the D.C. Circuit Court's decision on this aspect of subpart 4. While the D.C. Circuit Court, citing section 189(e), stated that "for a PM_{10} area governed by subpart 4, a precursor is 'presumptively' regulated," the D.C. Circuit Court expressly declined to decide the specific challenge to EPA's 1997 $PM_{2.5}$ Implementation Rule provisions regarding NH_3 and VOC as precursors. The D.C. Circuit Court had no occasion to reach whether and how it was substantively necessary to regulate any specific precursor in a particular $PM_{2.5}$ nonattainment area, and did not address what might be necessary for purposes of acting upon a redesignation request.

However, even if EPA takes the view that the requirements of subpart 4 were deemed applicable at the time the state submitted the redesignation request, and disregards the 1997 $PM_{2.5}$ Implementation Rule's rebuttable presumptions regarding NH_3 and VOC as $PM_{2.5}$ precursors, the regulatory consequence would be to consider the need for regulation of all precursors from any sources in the Areas to demonstrate attainment and to apply the section 189(e) provisions to major stationary sources of precursors. In the case of the Areas, EPA believes that doing so is consistent with proposing redesignation of the Areas for the 1997 annual and the 2006 24-hour

$PM_{2.5}$ NAAQS. The Areas have attained the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS without any specific additional controls of NH_3 and VOC emissions from any sources in the Areas.

Precursors in subpart 4 are specifically regulated under the provisions of section 189(e), which requires, with important exceptions, control requirements for major stationary sources of PM_{10} precursors.[8] Under subpart 1 and EPA's prior implementation rule, all major stationary sources of $PM_{2.5}$ precursors were subject to regulation, with the exception of NH_3 and VOC. Thus EPA must address here whether additional controls of NH_3 and VOC from major stationary sources are required under section 189(e) of subpart 4 in order to redesignate the Areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. As explained subsequently, EPA does not believe that any additional controls of NH_3 and VOC are required in the context of these redesignations. In the General Preamble, EPA discusses its approach to implementing section 189(e). *See* 57 FR 13538-13542. With regard to precursor regulation under section 189(e), the General Preamble explicitly stated that control of VOC under other CAA requirements may suffice to relieve a state from the need to adopt precursor controls under section 189(e). *See* 57 FR 13542. EPA in this rulemaking action, proposes to determine that the Pennsylvania SIP revisions have met the provisions of section 189(e) with respect to NH_3 and VOC as precursors. These proposed determinations are based on EPA's findings that: (1) The Areas contain no major stationary sources of NH_3, and (2) existing major stationary sources of VOC are adequately controlled

[8] Under either subpart 1 or subpart 4, for purposes of demonstrating attainment as expeditiously as practicable, a state is required to evaluate all economically and technologically feasible control measures for direct PM emissions and precursor emissions, and adopt those measures that are deemed reasonably available.

under other provisions of the CAA regulating the ozone NAAQS.[9] In the alternative, EPA proposes to determine that, under the express exception provisions of section 189(e), and in the context of the redesignation of the Areas, which are attaining the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, at present NH_3 and VOC precursors from major stationary sources do not contribute significantly to levels exceeding the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS in the Areas. *See* 57 FR 13539-42.

EPA notes that its 1997 $PM_{2.5}$ Implementation Rule provisions in 40 CFR 51.1002 were not directed at evaluation of $PM_{2.5}$ precursors in the context of redesignation, but at SIP plans and control measures required to bring a nonattainment area into attainment of the 1997 annual $PM_{2.5}$ NAAQS. By contrast, redesignation to attainment primarily requires the nonattainment area to have already attained due to permanent and enforceable emission reductions, and to demonstrate that controls in place can continue to maintain the standard. Thus, even if we regard the D.C. Circuit Court's January 4, 2013 decision as calling for "presumptive regulation" of NH_3 and VOC for $PM_{2.5}$ under the attainment planning provisions of subpart 4, those provisions in and of themselves do not require additional controls of these precursors for an area that already qualifies for redesignation. Nor does EPA believe that requiring Pennsylvania to address precursors differently than it has already would result in a substantively different outcome.

Although, as EPA has emphasized, its consideration here of precursor requirements under subpart 4 is in the context of a redesignation to attainment, EPA's existing interpretation of

[9] The Areas have reduced VOC emissions through the implementation of various control programs including VOC Reasonably Available Control Technology (RACT) regulations and various on-road and non-road motor vehicle control programs.

subpart 4 requirements with respect to precursors in attainment plans for PM_{10} contemplates that states may develop attainment plans that regulate only those precursors that are necessary for purposes of attainment in the area in question, i.e., states may determine that only certain precursors need be regulated for attainment and control purposes.[10] Courts have upheld this approach to the requirements of subpart 4 for PM_{10}.[11] EPA believes that application of this approach to $PM_{2.5}$ precursors under subpart 4 is reasonable. Because the Areas have already attained the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS with its current approach to regulation of $PM_{2.5}$ precursors, EPA believes that it is reasonable to conclude in the context of these redesignations that there is no need to revisit the attainment control strategy with respect to the treatment of precursors. Even if the D.C. Circuit Court's decision is construed to impose an obligation, in evaluating these redesignation requests, to consider additional precursors under subpart 4, it would not affect EPA's approval here of Pennsylvania's requests for redesignation of the Areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. In the context of a redesignation, the Areas have shown that they have attained the standards. Moreover, Pennsylvania has shown and EPA has proposed to determine that attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS in these Areas are due to permanent and enforceable emissions reductions on all precursors necessary to provide for continued attainment of the standards. *See* Section V.A.3 of this rulemaking notice. It follows logically that no further control of additional precursors is necessary. Accordingly, EPA does not view the January 4,

[10] *See*, *e.g.*, "Approval and Promulgation of Implementation Plans for California – San Joaquin Valley PM_{10} Nonattainment Area; Serious Area Plan for Nonattainment of the 24-Hour and Annual PM_{10} Standards," (69 FR 30006, May 26, 2004) (approving a PM_{10} attainment plan that impose controls on direct PM_{10} and NOx emissions and did not impose controls on SO_2, VOC, or NH_3 emissions).
[11] *See*, *e.g.*, *Assoc. of Irritated Residents v. EPA et al.*, 423 F.3d 989 (9th Cir. 2005).

2013 decision of the D.C. Circuit Court as precluding redesignation of the Areas to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS at this time.

In summary, even if, prior to the date of the redesignation request submittal, Pennsylvania was required to address precursors for the Areas under subpart 4 rather than under subpart 1, as interpreted in EPA's remanded 1997 $PM_{2.5}$ Implementation Rule, EPA would still conclude that the Areas had met all applicable requirements for purposes of redesignation in accordance with section 107(d)(3(E)(ii) and (v) of the CAA.

V. EPA's Analysis of Pennsylvania's SIP Submittals

EPA is proposing, contingent upon the D.C. Circuit Court's lifting of the stay of CSAPR, several rulemaking actions for the Harrisburg-Lebanon-Carlisle-York nonattainment areas: (1) To redesignate the Harrisburg and York Areas to attainment for the 1997 annual $PM_{2.5}$ NAAQS, and to redesignate the Harrisburg-York Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS; (2) to approve into the Pennsylvania SIP, the associated maintenance plans for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS; and (3) to approve the 2007 comprehensive emissions inventory into the Pennsylvania SIP to satisfy section 172(c)(3) of the CAA requirement for the Areas, one of the criteria for redesignation. EPA's proposed approvals of the redesignation requests and maintenance plans for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS are based upon EPA's determination that the Areas continue to attain the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, which EPA is proposing in this rulemaking action, and that all other redesignation criteria have been met for the Areas. In addition, EPA is proposing to approve the

2017 and 2025 MVEBs for Cumberland, Dauphin, Lebanon and York Counties, Pennsylvania for transportation conformity purposes. The following is a description of how the Pennsylvania April 22, 2014 submittals satisfy the requirements of section 107(d)(3)(E) of the CAA for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS.

A. Redesignation Requests

1. Attainment

As noted previously, in the final rulemaking action dated July 29, 2011 (76 FR 45424), EPA determined that the Harrisburg and York nonattainment areas had attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date. EPA based this determination of attainment upon complete, quality-assured and certified ambient air quality monitoring data for the period of 2007-2009 showing that the Areas had attained the 1997 annual $PM_{2.5}$ NAAQS. Further discussion of pertinent air quality issues underlying this determination was provided in the July 29, 2011 final rulemaking action for EPA's determination of attainment for these Areas.

Also noted previously, in the final rulemaking action dated March 29, 2012 (77 FR 18922), EPA determined that the Harrisburg-York Area had clean data for the 2006 24-hour $PM_{2.5}$ NAAQS. EPA based this determination upon complete, quality assured, quality controlled, and certified ambient air monitoring data showing that the Area has monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS based on the 2008-2010 data in EPA's Air Quality System (AQS) database.

EPA has reviewed the ambient air quality $PM_{2.5}$ monitoring data in the Areas consistent with the

requirements contained at 40 CFR part 50, and recorded in EPA's AQS database. To support the previous determination of attainment of the Areas, EPA has also reviewed more recent data in its AQS database, including certified, quality-assured data for the period from 2008-2010, 2009-2011, 2010-2012 and 2011-2013. These data, shown in Tables 1, 2, and 3 show that the Areas continue to attain the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. In addition, as discussed subsequently with respect to the maintenance plans, PADEP has committed to continue monitoring ambient $PM_{2.5}$ concentrations in accordance with 40 CFR part 58. Thus, EPA is proposing to determine that the Areas continue to attain the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, contingent upon the D.C. Circuit Court's lifting the stay of CSAPR.

Table 1. Design Values for the Harrisburg Area for the 1997 Annual $PM_{2.5}$ NAAQS ($\mu g/m^3$) for 2008-2010, 2009-2011, 2010-2012, and 2011-2013 (15 $\mu g/m^3$)

Monitor ID #	2008-2010	2009-2011	2010-2012	2011-2013
Cumberland 42-041-0101	11.6	11.0	11.0	11.0
Dauphin 42-043-0401	12.4	12.1	11.9	11.9

Table 2. Design Values for the York Area for the 1997 Annual $PM_{2.5}$ NAAQS ($\mu g/m^3$) for 2008-2010, 2009-2011, 2010-2012, and 2011-2013 (15 $\mu g/m^3$)

Monitor ID #	2008-2010	2009-2011	2010-2012	2011-2013
Hill Street 42-133-0008	12.2	11.5	11.7	11.3

Table 3. Design Values for the Harrisburg/York Area for the 2006 24-hour $PM_{2.5}$ NAAQS ($\mu g/m^3$) for 2008-2010, 2009-2011, 2010-2012, and 2011-2013 (35 $\mu g/m^3$)

Monitor ID #	2008-2010	2009-2011	2010-2012	2011-2013
Cumberland 42-041-0101	32	31	30	32

Dauphin 42-043-0401	33	32	31	31
York 42-133-0008	30	28	29	29

2. The Areas Have Met All Applicable Requirements under Section 110 and Subpart 1 of the CAA and have a Fully Approved SIP under Section 110(k) of the CAA

In accordance with section 107(d)(3)(E)(v) of the CAA, the SIP revisions for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS for the Areas must be fully approved under section 110(k) of the CAA and all the requirements applicable to the Areas 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) of the CAA include, but are not limited to the following: (1) Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; (2) provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; (3) implementation of a source permit program;

provisions for the implementation of part C requirements (PSD); (4) provisions for the implementation of part D requirements for NSR permit programs; (5) provisions for air pollution modeling; and (6) 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. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants in accordance with the NOx SIP Call (63 FR 57356, October 27, 1998), amendments to the NOx SIP Call (64 FR 26298, May 14, 1999 and 65 FR 11222, March 2, 2000), and CAIR (70 FR 25162, May 12, 2005). However, section 110(a)(2)(D) of the CAA requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that these requirements are applicable requirements for purposes of redesignation.

In addition, EPA believes that the other section 110(a)(2) elements of the CAA not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The Areas will still be subject to these

requirements after it is redesignated. EPA concludes that section 110(a)(2) of the CAA 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 of the CAA not linked in the area's nonattainment status are not applicable for purposes of redesignation. This approach is consistent with 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 37890, June 19, 2000) and in the Pittsburgh, Pennsylvania redesignation (66 FR 53099, October 19, 2001).

EPA has reviewed the Pennsylvania 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. EPA has previously approved provisions of Pennsylvania's SIP addressing section 110(a)(2) requirements, including provisions addressing $PM_{2.5}$. *See* 77 FR 58955 (September 25, 2012). These requirements are, however, statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Areas. Therefore, EPA believes that these SIP elements are not applicable requirements for purposes of review of Pennsylvania's $PM_{2.5}$ redesignation requests.

b. Subpart 1 Requirements

Subpart 1 sets forth the basic nonattainment plan requirements applicable to $PM_{2.5}$ nonattainment areas. Under section 172 of the CAA, states with nonattainment areas must submit plans providing for timely attainment and meet a variety of other requirements. The General Preamble for Implementation of Title I discusses the evaluation of these requirements in the context of EPA's consideration of a redesignation request. The General Preamble sets forth EPA's view of applicable requirements for purposes of evaluating redesignation requests when an area is attaining the standard. *See* 57 FR 13498 (April 16, 1992).

As noted previously, EPA has determined that the Areas have attained the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Pursuant to 40 CFR 51.2004(c), the requirement for Pennsylvania to submit, for the Areas, attainment demonstrations and associated RACM, RFP plans, contingency measures, and other planning SIPs related to the attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS are suspended until the Areas are redesignated to attainment for the standards, or EPA determines that the Areas again violated the standards, at which time such plans are required to be submitted. Since attainment had been reached for the Areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS and the Areas continue to attain the standards, no additional measures are needed to provide for attainment. Therefore, the requirements of sections 172(c)(1), 172(c)(2), 172(c)(6), and 172(c)(9) of the CAA are no longer considered to be applicable for purposes of redesignation of the Areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS.

The requirement under section 172(c)(3) was not suspended by EPA's clean data determination for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS and is the only remaining requirement under section 172 of the CAA to be considered for purposes of redesignation of the Areas. Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. As part of Pennsylvania's redesignation request submittals, Pennsylvania submitted a 2007 base year emissions inventory for the Areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS which includes emissions estimates that cover the general source categories of point sources, nonroad mobile sources, area sources and on-road mobile sources. The pollutants that comprise the inventory are NOx, VOC, $PM_{2.5}$, NH_3, and SO_2.

In this rulemaking action, EPA is proposing to approve the 2007 base year emissions inventory in accordance with section 172(c)(3) of the CAA for the Areas. Final approval of the 2007 base year emissions inventory will satisfy the emissions inventory requirement under section 172(c)(3) of the CAA. For more information on the evaluation and EPA's analysis of the 2007 base year emissions inventory, *see* Appendices B and C of Pennsylvania's submittals and the emissions inventory technical support documents (TSDs) dated August 13, 2014 available on line at www.regulations.gov, Docket ID No. EPA-OAR-R03-2014-0525. The summaries of the 2007 base year emissions inventory in tons per year (tpy) are shown in Tables 4, 5, and 6.

Table 4. Harrisburg Area 2007 Emissions by Source Sector

Sector	PM_{10}	$PM_{2.5}$	NOx	SO_2	NH_3	VOC
Point	1,260	584	4,786	1,808	17	840
Area	8,944	3,059	2,194	3,216	6,935	8,768
Nonroad	369	346	4,443	188	4	4,489

Onroad	1,013	866	25,194	175	347	8,220
Total	**11,586**	**4,855**	**36,617**	**5,388**	**7,302**	**22,317**

Table 5. York Area 2007 Emissions by Source Sector

Sector	PM_{10}	$PM_{2.5}$	NOx	SO_2	NH_3	VOC
Point	3,556	2,462	22,164	115,901	80	1,320
Area	8,093	2,394	1,680	1,684	3,316	5,956
Nonroad	214	202	2,660	135	2	1,833
Onroad	430	358	10,684	78	161	4,810
Total	**12,292**	**5,417**	**37,189**	**117,798**	**3,559**	**13,920**

Table 6. Harrisburg-York Area 2007 Emissions by Source Sector

Sector	PM_{10}	$PM_{2.5}$	NOx	SO_2	NH_3	VOC
Point	4,815	3,046	26,950	117,709	96	2,160
Area	17,037	5,452	3,874	4,900	10,250	14,724
Nonroad	582	548	7,104	323	6	6,322
Onroad	1,443	1,225	35,878	254	509	13,030
Total	**23,878**	**10,271**	**73,806**	**123,185**	**10,861**	**36,236**

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) of the CAA requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since the PSD requirements will apply after redesignation, 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 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 NSR Requirements for Areas Requesting Redesignation to Attainment." Nevertheless, Pennsylvania currently has an approved NSR program, codified in the State's regulation at 25 Pa. Code

127.201. *See* 77 FR 41276 (July 13, 2012) (approving NSR program into the SIP). *See also* 49 FR 33127 (August 21, 1984) (approving Pennsylvania's PSD program). However, Pennsylvania's PSD program for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS will become effective in the Areas upon redesignation to attainment. *See* 49 FR 33128 (August 21, 1984) (approving PSD program into the SIP).

Section 172(c)(7) of the CAA requires the SIP to meet the applicable provisions of section 110(a)(2) of the CAA. As noted previously, EPA believes the Pennsylvania SIP revisions meet the requirements of section 110(a)(2) of the CAA that are applicable for purposes of redesignation.

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." In conjunction with its request to redesignate the Area to attainment status, Pennsylvania submitted SIP revisions to provide for maintenance of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS in the Areas for at least 10 years after redesignation, through 2025. Pennsylvania is requesting that EPA approve these SIP revisions as meeting the requirement of section 175A of the CAA. Once approved, the maintenance plans for the Areas will ensure that the SIPs for Pennsylvania meet the requirements of the CAA regarding maintenance of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS for the Areas. EPA's analysis of the maintenance plan is provided in Section V.B. of today's proposed 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 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 EPA promulgated pursuant to its authority under the CAA. EPA approved Pennsylvania's transportation conformity SIP requirements on April 29, 2009 (74 FR 19541).

Thus, for purposes of redesignating the Areas to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, EPA determines that upon final approval of the 2007 comprehensive emissions inventory as proposed in this rulemaking action, the Areas will meet all applicable SIP requirements under part D of Title I of the CAA for purposes of redesignating the Areas to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS.

c. Pennsylvania has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

Upon final approval of the 2007 comprehensive emissions inventory proposed in this rulemaking action, EPA will have fully SIP-approved all applicable requirements of the Pennsylvania SIP revisions for the Areas for purposes of redesignaton to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS in accordance with section 110(k) of the CAA. As noted in this rulemaking action, EPA is proposing to approve the Areas' 2007 emissions inventory (submitted

as part of the maintenance plans) as meeting the requirement of section 172(c)(3) of the CAA for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Therefore, upon approval of the 2007 emissions inventory, EPA will have satisfied all applicable requirements under part D of Title I of the CAA for the Areas.

3. Permanent and Enforceable Reductions in Emissions

As required by section 107(d)(3)(E)(iii) of the CAA, EPA is proposing to determine that Pennsylvania has demonstrated that the air quality improvement in the Areas is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions.[12]

In making this demonstration, Pennsylvania has calculated the change in emissions between 2002 for the Harrisburg Area and 2005 for the York and Harrisburg-York Areas, which are years used to designate the Areas as nonattainment, and 2007, which is one of the years the Areas monitored attainment, as shown in Tables 7, 8, and 9. The reduction in emissions in tons per year, and the corresponding improvement in air quality from 2002 and 2005 to 2007 in the Areas can be attributed to a number of regulatory control measures that have been implemented in the Areas and contributing areas in recent years. For more information on EPA's analysis of the 2002, 2005, and 2007 emissions inventories, see EPA's emissions inventory TSDs dated August 13, 2014, available in the docket for this proposed rulemaking action at www.regulations.gov. Docket ID No. EPA-OAR-RO3-2014-0525.

[12] It should be noted that the mobile source controls discussed in this section also provide reductions in VOC and/or SO_2 emissions. While those emissions may be reduced, the submitted maintenance plan and redesignation request do not rely on these emission reductions.

Table 7. Emission Reductions from 2002 Base Year to 2007 Attainment Year in the Harrisburg Area

	Sector	2002	2007	Reductions
$PM_{2.5}$	Stationary Point	490	584	-94
	Area	3,935	3,059	876
	Highway Vehicle	1,053	866	187
	Nonroad	377	346	31
	Total	**5,855**	**4,855**	**1,000**
NOx	Stationary Point	6,048	4,786	1,262
	Area	2,126	2,194	-68
	Highway Vehicle	33,823	25,194	8,630
	Nonroad	5,247	4,443	804
	Total	**47,244**	**36,617**	**10,627**
SO_2	Stationary Point	1,875	1,808	67
	Area	2,983	3,216	-232
	Highway Vehicle	694	175	518
	Nonroad	414	188	226
	Total	**5,967**	**5,388**	**579**
VOC	Stationary Point	1,082	840	242
	Area	10,633	8,768	1,866
	Highway Vehicle	9,940	8,220	1,720
	Nonroad	5,120	4,489	631
	Total	**26,776**	**22,317**	**4,459**
NH_3	Stationary Point	11	17	-6
	Area	7,415	6,935	480
	Highway Vehicle	390	347	43
	Nonroad	3	4	-1
	Total	**7,819**	**7,302**	**516**

Table 8. Emission Reductions from 2005 Base Year to 2007 Attainment Year in the York Area

	Sector	2005	2007	Reductions
$PM_{2.5}$	Stationary Point	4,804	2,462	2,342
	Area	3,254	2,394	860
	Highway Vehicle	131	358	-227
	Nonroad	221	202	18
	Total	**8,409**	**5,417**	**2,992**
NOx	Stationary Point	14,054	22,164	-8,110
	Area	9,618	1,680	7,938
	Highway Vehicle	7,073	10,684	-3,612
	Nonroad	2,953	2,660	292

	Total	**33,697**	**37,189**	**-3,492**
SO_2	Stationary Point	104,616	115,901	-11,285
	Area	13,937	1,684	12,253
	Highway Vehicle	170	78	91
	Nonroad	272	135	137
	Total	**118,995**	**117,798**	**1,198**
VOC	Stationary Point	2	1,320	-1,318
	Area	11,148	5,956	5,192
	Highway Vehicle	4,849	4,810	39
	Nonroad	1,975	1,833	142
	Total	**17,974**	**13,920**	**4,054**
NH_3	Stationary Point	1	80	-79
	Area	3,583	3,316	267
	Highway Vehicle	335	161	174
	Nonroad	2	2	0
	Total	**3,921**	**3,559**	**362**

Table 9. Emission Reductions from 2005 Base Year to 2007 Attainment Year in the Harrisburg-York Area

	Sector	**2005**	**2007**	**Reductions**
$PM_{2.5}$	Stationary Point	4,823	3,046	1,777
	Area	7,089	5,452	1,637
	Highway Vehicle	476	1,225	-749
	Nonroad	619	548	71
	Total	**13,008**	**10,271**	**2,737**
NOx	Stationary Point	14,169	26,950	-12,781
	Area	17,333	3,874	13,459
	Highway Vehicle	24,547	35,878	-11,331
	Nonroad	8,869	7,104	1,765
	Total	**64,918**	**73,806**	**-8,888**
SO_2	Stationary Point	104,640	117,709	-13,069
	Area	18,443	4,900	13,543
	Highway Vehicle	590	254	336
	Nonroad	787	323	464
	Total	**124,459**	**123,185**	**1,274**
VOC	Stationary Point	11	2,160	-2,149
	Area	23,688	14,724	8,964
	Highway Vehicle	15,072	13,030	2,042
	Nonroad	6,801	6,322	479

	Total	**45,571**	**36,236**	**9,335**
NH_3	Stationary Point	1	96	-95
	Area	11,054	10,250	804
	Highway Vehicle	1,056	509	547
	Nonroad	6	6	0
	Total	**12,116**	**10,861**	**1,255**

a. Federal Measures Implemented

Reductions in $PM_{2.5}$ precursor emissions have occurred statewide and in upwind states as a result of Federal emission control measures, with additional emission reductions expected to occur in the future.

Control of NOx and SO_2

$PM_{2.5}$ concentrations in the York and Harrisburg Areas are impacted by the transport of sulfates and nitrates, and the Areas' air quality is strongly affected by regulation of SO_2 and NOx emissions from power plants.

NOx SIP Call - On October 27, 1998 (63 FR 57356), EPA issued the NOx SIP Call requiring the District of Columbia and 22 states to reduce emissions of NOx, a precursor to ozone pollution.[13] Affected states were required to comply with Phase I of the SIP Call beginning in 2004 and Phase II beginning in 2007. Emission reductions resulting from regulations developed in response to the NOx SIP Call are permanent and enforceable. By imposing an emissions cap regionally, the NOx SIP Call reduced NOx emissions from large EGUs and large non-EGUs such as industrial boilers, internal combustion engines, and cement kilns. In response to the NOx

[13]Although the NOx SIP Call was issued in order to address ozone pollution, reductions of NOx as a result of that program have also impacted $PM_{2.5}$ pollution, for which NOx is also a precursor emission.

SIP Call, Pennsylvania adopted its NOx Budget Trading Program regulations for EGUs and large industrial boilers, with emission reductions starting in May 2003. Pennsylvania's NOx Budget Trading Program regulation was approved into the Pennsylvania SIP on August 21, 2001 (66 FR 43795). To meet other requirements of the NOx SIP Call, Pennsylvania adopted NOx control regulations for cement plants and internal combustion engines, with emission reductions starting in May 2005. These regulations were approved into the Pennsylvania SIP on September 29, 2006 (71 FR 57428).

CAIR - As previously noted, CAIR (70 FR 25162, May 12, 2005) created regional cap-and-trade programs to reduce SO_2 and NO_X emissions in 27 eastern states, including Pennsylvania. EPA approved the Commonwealth's CAIR regulation, codified in 25 Pa. Code Chapter 145, Subchapter D, into the Pennsylvania SIP on December 10, 2009 (74 FR 65446). In 2009, the CAIR ozone season NOx trading program superseded the NOx Budget Trading Program, although the emission reduction obligations of the NOx SIP Call were not rescinded. *See* 40 CFR 51.121(r) and 51.123(aa). Data collected from EPA's long-term national air quality and deposition monitoring networks show that these regional cap-and-trade programs have been effective in reducing emissions of SO_2 and NOx nationwide.[14]

Under the NOx SIP Call and CAIR, SO_2 and NOx emissions from EGUs were significantly reduced statewide and in states upwind of the Harrisburg and York areas. Table 10 shows

[14] Clean Air Interstate Rule, Acid Rain Program, and Former NOx Budget Trading Program, 2012 Progress Report (December 2013), available at http://www.epa.gov/airmarkets/progress/ARPCAIR_12_downloads/ARPCAIR12_01.pdf; Clean Air Interstate Rule, Acid Rain Program, and Former NOx Budget Trading Program, 2012 Progress Report (May 2014), available at http://www.epa.gov/airmarkets/progress/ARPCAIR_12_downloads/ARPCAIR12_02.pdf.

statewide EGU emissions data for 2002 and 2007 for the states that were determined to contribute significantly to air quality in the Harrisburg and York Areas for the 1997 annual $PM_{2.5}$ NAAQS. *See* Air Quality Modeling Final Rule Technical Support Document included in the docket for this proposed rulemaking action. Table 10 also shows the level of emissions in the contributing states for 2013, the latest year for which annual data is available, which shows the continuing decline of SO_2 and NOx emissions in these states.

Table 10. Comparison of 2002, 2007, and 2013 NOx and SO_2 Emissions from EGUs for States that contribute to the Harrisburg and York Areas

State	NOx (tpy)				SO_2 (tpy)			
	2002	2007	2013	Reductions 2002-2007	2002	2007	2013	Reductions 2002 - 2007
District of Columbia[15]	556	250	96	306	1,087	319	-	768
Illinois	172,354	123,105	55,386	49,249	353,228	272,571	135,866	80,657
Indiana	281,146	198,501	103,120	82,645	778,868	714,529	268,217	64,339
Kentucky	198,599	174,932	84,964	23,665	482,653	380,314	188,115	102,339
Maryland	76,056	54,553	14,554	21,503	254,008	272,879	25,118	-18,871
Michigan	132,623	108,198	65,728	24,425	342,997	338,014	194,396	4,983
North Carolina	145,706	64,770	49,059	89,936	462,993	370,827	48,154	92,166
New Jersey	33,149	17,059	5,713	16,090	48,269	34,189	2,433	14,080
New York	84,885	58,569	24,150	26,316	231,973	107,211	17,797	124,762
Ohio	370,497	240,722	86,399	129,775	1,132,069	954,646	282,007	177,423
Virginia	78,868	60,302	28,315	18,566	230,846	172,685	38,778	58,161
West Virginia	225,371	153,514	60,111	71,857	507,110	371,996	86,201	135,114
Total	**1,799,808**	**1 254,475**	**577,595**	**554,027**	**4,826,101**	**3,990,180**	**1,287,082**	**835,921**

Source: EPA's Air Markets Program Data (AMPD). AMPD query results are included in the docket for this proposed rulemaking action.

Table 10 shows that states impacting the York and Harrisburg Areas reduced NOx and SO_2 emissions from EGUs by 554,027 tons and 835,921 tons, respectively, between 2002 and 2007.

[15] The District of Columbia and Maryland were considered together in the contribution analysis.

EPA has therefore determined that the significant reductions in NOx and SO2 from upwind states and in Pennsylvania required under the NOx SIP Call and CAIR have contributed to the air quality attainment in the Harrisburg and York areas. In addition, the NOx and SO_2 emissions from these states further declined by 676,880 tons and 2,703,098 tons, respectively, from 2007 to 2013.

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards

These emission control requirements result in lower NOx emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules were phased in between 2004 and 2009. EPA estimated that, after phasing in the new requirements, the following vehicle NOx emission reductions will have occurred nationwide: Passenger cars (light duty vehicles) (77 percent); light duty trucks, minivans, and sports utility vehicles (86 percent); and larger sports utility vehicles, vans, and heavier trucks (69 to 95 percent). Some of the emissions reductions resulting from new vehicle standards occurred during the 2008-2010 attainment period; however, additional reductions will continue to occur throughout the maintenance period as new vehicles replace older vehicles. EPA expects fleet wide average emissions to decline by similar percentages as new vehicles replace older vehicles.

Heavy-Duty Diesel Engine Rule

EPA issued the Heavy-Duty Diesel Engine Rule in July 2000. This rule included standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007 which reduced $PM_{2.5}$ emissions from heavy-duty highway engines and further

reduced the highway diesel fuel sulfur content to 15 ppm. Standards for gasoline engines were phased in starting in 2008. The total program is estimated to achieve a 90 percent reduction in direct $PM_{2.5}$ emissions and a 95 percent reduction in NOx emissions for new engines using low sulfur diesel fuel.

Nonroad Diesel Rule

On June 29, 2004 (69 FR 38958), EPA promulgated the Nonroad Diesel Rule for large nonroad diesel engines, such as those used in construction, agriculture, and mining, to be phased in between 2008 and 2014. The rule phased in requirements for reducing the sulfur content of diesel used in nonroad diesel engines. The reduction in sulfur content prevents damage to the more advanced emission control systems needed to meet the engine standards. It will also reduce fine particulate emissions from diesel engines. The combined engine standards and the sulfur in fuel reductions will reduce NOx and PM emissions from large nonroad engines by over 90%, compared to current nonroad engines using higher sulfur content diesel.

Nonroad Large Spark-Ignition Engine and Recreational Engine Standards

In November 2002, EPA promulgated emission standards for groups of previously unregulated nonroad engines. These engines include large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles using spark-ignition engines such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. Emission standards from large spark-ignition engines were implemented in two tiers, with Tier 1 starting in 2004 and Tier 2 in 2007. Recreational vehicle emission standards

are being phased in from 2006 through 2012. Marine Diesel engine standards were phased in from 2006 through 2009. With full implementation of all of the nonroad spark-ignition engine and recreational engine standards, an overall 80 percent reduction in NO_X are expected by 2020. Some of these emission reductions occurred by the 2002-2007 attainment period and additional emission reductions will occur during the maintenance period as the fleet turns over.

Federal Standards for Hazardous Air Pollutants

As required by the CAA, EPA developed Maximum Available Control Technology (MACT) Standards to regulate emissions of hazardous air pollutants from a published list of industrial sources referred to as "source categories." The MACT standards have been adopted and incorporated by reference in Section 6.6 of Pennsylvania's Air Pollution Control Act and implementing regulations in 25 Pa. Code § 127.35 and are also included in Federally enforceable permits issued by PADEP for affected sources. The Industrial/Commercial/Institutional (ICI) Boiler MACT standards (69 FR 55217, September 13, 2004, and 76 FR 15554, February 21, 2011) are estimated to reduce emissions of PM, SO_2, and VOCs from major source boilers and process heaters nationwide. Also, the Reciprocating Internal Combustion Engines (RICE) MACT will reduce NOx and PM emissions from engines located at facilities such as pipeline compressor stations, chemical and manufacturing plants, and power plants.

b. State Measures

Heavy-Duty Diesel Emissions Control Program

In 2002, Pennsylvania adopted the Heavy-Duty Diesel Emissions Control Program for model

years starting in May 2004. The program incorporates California standards by reference and required model year 2005 and beyond heavy-duty diesel highway engines to be certified to the California standards, which were more stringent than the Federal standards for model years 2005 and 2006. After model year 2006, Pennsylvania required implementation of the Federal standards that applied to model years 2007 and beyond, discussed in the Federal measures section of this proposed rulemaking action. This program reduced emissions of NOx statewide.

Vehicle Emission Inspection/Maintenance (I/M) program

Pennsylvania's Vehicle Emission I/M program was expanded into the Harrisburg, York and Harrisburg-York Areas in early 2004, and applies to model year 1975 and newer gasoline-powered vehicles that are 9,000 pounds and under. The program, approved into the Pennsylvania SIP on October 6, 2005 (70 FR 58313), consists of annual on-board diagnostics and gas cap test for model year 1996 vehicles and newer, and an annual visual inspection of pollution control devices and gas cap test for model year 1995 vehicles and older. This program reduces emissions of NOx from affected vehicles.

Consumer Products Regulation

Pennsylvania regulation "Chapter 130, Subchapter B. Consumer Products" established, effective January 1, 2005, VOC emission limits for numerous categories of consumer product, and applies statewide to any person who sells, supplies, offers for sale, or manufactures suchconsumer products on or after January 1, 2005 for use in Pennsylvania. It was approved into the Pennsylvania SIP on December 8, 2004 (69 FR 70895).

Based on the information summarized above, Pennsylvania has adequately demonstrated that the improvement in air quality in the Harrisburg, York and Harrisburg-York Areas are due to permanent and enforceable emissions reductions. The reductions result from Federal and State requirements and regulation of precursors within Pennsylvania that affect the Harrisburg, York and Harrisburg-York Areas.

B. Maintenance Plans

On April 22, 2014, PADEP submitted maintenance plans for the Harrisburg and York Areas for the 1997 annual $PM_{2.5}$ NAAQS, and a maintenance plan for the Harrisburg-York Area for the 2006 24-hour $PM_{2.5}$ NAAQS as required by section 175A of the CAA. EPA's analysis for proposing approval of the maintenance plans is provided in this section.

1. Attainment Emissions Inventory

Section 172(c)(3) requires states to submit a comprehensive, accurate, current inventory of actual emissions from all sources in the nonattainment area. For a maintenance plan, states are required to submit an inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS, referred to as the attainment inventory (or the maintenance plan base year inventory), and which should be based on actual emissions. PADEP submitted an attainment inventory for 2007, which is one of the years in the period during which the Harrisburg and York Areas monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS and Harrisburg-York Area monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS. The inventory for 2007 is comprised

of NOx, $PM_{2.5}$, SO_2, VOC, and NH_3 emissions from point sources, nonpoint sources, onroad mobile sources, and nonroad mobile sources.

The 2007 point source inventory contained emissions for EGU and non-EGU sources in Cumberland, Dauphin, Lebanon, and York Counties that were directly reported by the facilities. Since the reported emissions did not include condensable emissions, the EGU inventory was augmented to account for condensable by application of emission factors developed by the Mid-Atlantic Regional Air Management Association (MARAMA) in 2008. The nonpoint source emissions inventory for 2007 was developed using 2007 specific activity data along with EPA emission factors and the most recent available emission calculation methodologies. PADEP used the 2008 National Emissions Inventory (NEI) data to fill in any missing categories in the 2007 inventory. For the 2007 nonroad mobile sources, PADEP generated emissions using EPA's National Mobile Inventory Model (NMIM) 2008 model. Since marine, air and rail/locomotive (MAR) emissions are not part of the NONROAD model, they were calculated separately outside of the NONROAD model. The 2007 onroad mobile source inventory was developed using EPA's highway mobile source emissions model MOVES2010. PADEP used local activity to replace default inputs in the model where appropriate.

EPA has reviewed the documentation provided by PADEP and found the 2007 emissions inventory acceptable for meeting the requirements under section 172(c)(3). For more information on the emissions inventory submitted by PADEP for the Areas and EPA's analysis of the emissions inventory, see Appendices B and C of the Pennsylvania submittals and the

emissions inventory TSDs dated August 13, 2014, available on line at www.regulations.gov, Docket ID No. EPA-OAR-R03-2014-0525.

2. Maintenance Demonstration

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." 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 maintenance demonstration need not be based on modeling. *See Wall v. EPA*, *supra*; *Sierra Club v. EPA*, *supra*. *See also* 66 FR 53099-53100; 68 FR 25430-32. PADEP uses projection inventories to show that the Areas will remain in attainment and developed projection inventories for an interim year of 2017 and a maintenance plan end year of 2025 to show that future emissions of NOx, SO_2, VOC, and $PM_{2.5}$ will remain at or below the attainment year 2007 emissions levels throughout the Areas through the year 2025. Although emissions of NH_3 are projected to increase from 2007 to 2017 and from 2007 to 2025, the increase will not affect the Areas' ability to maintain the standard because it is more than compensated by the significant reductions of the other precursors in 2017 and 2025.

The Federal and State measures described in Section V.A.3. of this proposed rulemaking action demonstrate that the reductions in emissions from point, area, and mobile sources in the Areas have occurred and will continue to occur through 2025. In addition, the following State and Federal regulations and programs ensure the continuing decline of SO_2, NOx, $PM_{2.5}$, and VOC emissions in the Areas during the maintenance period and beyond:

Non-EGUs previously covered under the NOx SIP Call

Pennsylvania established NOx emission limits for the large industrial boilers that were previously subject to the NOx SIP Call, but were not subject to CAIR. For these units, Pennsylvania established an allowable ozone season NOx limit based on the unit's previous ozone season's heat input. A combined NOx ozone season emissions cap of 3,418 tons applies for all of these units.

CSAPR (August 8, 2011, 76 FR 48208)

If the CSAPR stay is lifted as requested by EPA, the implementation of CSAPR will preserve the reductions achieved by CAIR.

Regulation of Cement Kilns

On July 19, 2011 (76 FR 52558), EPA approved amendments to 25 Pa. Code Chapter 145 Subchapter C to further reduce NOx emissions from cement kilns. The amendments established NOx emission rate limits for long wet kilns, long dry kilns, and preheater and precalciner kilns

that are lower by 35% to 63% from the previous limit of 6 pounds of NOx per ton of clinker that applied to all kilns. The amendments were effective on April 15, 2011.

Stationary Source Regulations

Pennsylvania regulation 25 Pa. Code Chapter 130, Subchapter D for Adhesives, Sealers, Primers, and Solvents was approved into the Pennsylvania SIP on September 26, 2012 (77 FR 59090). The regulation established VOC content limits for various categories of adhesives, sealants, primers, and solvent, and became applicable on January 1, 2012.

Amendments to Pennsylvania regulation 25 Pa. Code Chapter 130, Subchapter B established, effective January 1, 2009, new or more stringent VOC standards for consumer products. The amendments were approved into the Pennsylvania SIP on October 18, 2010 (75 FR 63717).

Pennsylvania's Clean Vehicle Program

The Pennsylvania Clean Vehicles Program (formerly, New Motor Vehicle Control Program) incorporates by reference the California Low Emission Vehicle program (CA LEVII), although it allowed automakers to comply with the NLEV program as an alternative to this program until Model Year (MY) 2006. The Clean Vehicles Program, codified in 25 Pa. Code Chapter 126, Subchapter D, was modified to require CA LEVII to apply to MY 2008 and beyond, and was approved into the Pennsylvania SIP on January 24, 2012 (77 FR 3386). The Clean Vehicles Program incorporates by reference the emission control standards of CA LEVII, which, among other requirements, reduces emissions of NOx by requiring that passenger car emission standards

and fleet average emission standards also apply to light duty vehicles. Model year 2008 and newer passenger cars and light duty trucks are required to be certified for emissions by the California Air Resource Board (CARB), in order to be sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired, received, titled or registered in Pennsylvania. In addition, manufacturers are required to demonstrate that the California fleet average standard is met based on the number of new light-duty vehicles delivered for sale in the Commonwealth. The Commonwealth's submittal for the January 24, 2012 rulemaking projected that, by 2025, the program will achieve 318 tons more NOx reductions than Tier II for the counties in the Harrisburg, York, and Harrisburg/York Areas.

Emission Limits on PPL Brunner Island

In 2009, PPL installed a flue gas desulfurization system and electrostatic precipitators on Units 1, 2, and 3 at the PPL Brunner Island power plant located in York County, resulting in significant SO_2 reductions at the facility. The facility's Title V permit is Federally enforceable pursuant to section 502 of the CAA, and includes emission limits for PM, SO_2, and NOx for Units 1, 2, and 3. Levels of SO_2 were significantly reduced from 106,148 tons in 2007 to 17,822 tons in 2010. EPA approved Pennsylvania's Title V program on July 30, 1996. 61 FR 39597.

Two Pennsylvania regulations – its Diesel-Powered Motor Vehicle Idling Act (August 1, 2011, 76 FR 45705) and its Outdoor Wood-Fired Boiler regulation (September 20, 2011, 76 FR 58114) - were not included in the projection inventories, but may also assist in maintaining the standard. Also, the Tier 3 Motor Vehicle Emission and Fuel Standards (79 FR 23414, April 29, 2014)

establishes more stringent vehicle emissions standards and will reduce the sulfur content of gasoline beginning in 2017. The fuel standard will achieve NOx reductions by further increasing the effectiveness of vehicle emission controls for both existing and new vehicles.

The projection inventories for the 2017 and 2025 point, area, and nonroad sources were taken from regional inventories coordinated by MARAMA for the states in the Mid-Atlantic/Northeast Visibility Union and Virginia (MANE-VU+VA), which includes Pennsylvania. Detailed discussion of how 2017 and 2025 projections were developed are contained in Appendix C-2 and C-3, respectively, of Pennsylvania's submittals. EPA has reviewed the documentation provided by PADEP and found the methodologies acceptable.

EPA has determined that the 2017 and 2025 projected emissions inventories provided by PADEP are approvable. For more information on EPA's analysis of the emissions inventory, *see* EPA's TSDs dated August 13, 2014, available on line at www.regulations.gov., Docket ID No. EPA-OAR-R03-2014-0525. Tables 11, 12, and 13 provide a summary of the inventories for the 2007 attainment year, as compared to the projected inventories for the 2017 interim year and the 2025 maintenance plan end year for the Areas in tpy.

Table 11. Comparison of 2007 Attainment Year and 2017 and 2025 Projected $PM_{2.5}$ Emissions in the Harrisburg Area

	$PM_{2.5}$	NOx	SO_2	NH_3	VOC
2007 (attainment)	4,855	36,617	5,388	7,302	22,317
2017 (interim)	4,240	22,862	4,598	7,819	16,393
2017 (projected decrease)	615	13,755	790	-517	5,924
2025 (maintenance)	3,958	16,116	3,626	8,277	14,333
2025 (projected decrease)	897	20,501	1,762	-975	7,984

Table 12. Comparison of 2007 Attainment Year and 2017 and 2025 Projected $PM_{2.5}$ Emissions in the York Area

	$PM_{2.5}$	NOx	SO_2	NH_3	VOC
2007 (attainment)	5,417	37,189	117,798	3,559	13,920
2017 (interim)	4,915	28,859	16,441	3,663	10,886
2017 (projected decrease)	502	8,330	101,357	-104	3,034
2025 (maintenance)	4,944	27,673	16,406	3,774	9,822
2025 (projected decrease)	473	9,516	84,951	-215	4,098

Table 13. Comparison of 2007 Attainment Year and 2017 and 2025 Projected $PM_{2.5}$ Emissions in the Harrisburg-York Area

	$PM_{2.5}$	NOx	SO_2	NH_3	VOC
2007 (attainment)	10,271	73,806	123,185	10,861	36,236
2017 (interim)	9,155	51,721	21,038	11,483	27,279
2017 (projected decrease)	1,116	22,085	102,147	-622	8,957
2025 (maintenance)	8,902	43,789	20,032	12,051	24,155
2025 (projected decrease)	1,369	30,017	103,153	-1,189	12,081

As shown in Tables 11, 12 and 13, the projected levels of $PM_{2.5}$, NOx, SO_2, and VOC are well under the 2007 attainment year levels for each of these pollutants. While the emissions of NH_3 are projected to be higher than the 2007 inventory for this pollutant for both the interim year and the end-year, the significant decreases in the other precursors more than offset the increase, and thus EPA does not believe the increase in NH_3 will affect the Areas' ability to maintain the NAAQS. Pennsylvania has adequately demonstrated that the Areas will continue to maintain the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS during the 10 year maintenance period.

3. Monitoring Network

Pennsylvania's maintenance plans include a commitment to continue to operate its EPA-approved monitoring network, as necessary to demonstrate ongoing compliance with the NAAQS. Pennsylvania currently operates a $PM_{2.5}$ monitor in each of the counties in the

Harrisburg Area, namely Cumberland, Dauphin, and Lebanon Counties, and a $PM_{2.5}$ monitor on Hill Street in the York Area. In its April 22, 2014 submittals, Pennsylvania stated that it will consult with EPA prior to making any necessary changes to the 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

To provide for tracking of the emission levels in the Areas, PADEP requires major point sources to submit air emissions information annually and prepares a new periodic inventory for all $PM_{2.5}$ precursors every three years in accordance with EPA's Air Emissions Reporting Requirements (AERR). Emissions information will be compared to the attainment year inventory (2007) to assure continued attainment with the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS and will be used to assess emissions trends, as necessary. Also, as noted in the previous subsection, PADEP will continue to operate its monitoring system in accordance with 40 CFR 58 and remains obligated to quality-assure monitoring data and enter all data into the AQS in accordance with federal requirements. PADEP will use this data, supplemented with additional data, as necessary, to assure continuing attainment in the Areas.

5. Contingency Measures

The contingency plan provisions are designed to promptly correct a violation of the 1997 annual $PM_{2.5}$ NAAQS that occurs in the Areas after redesignation. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to ensure that a state will promptly correct a violation of the NAAQS that occurs 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).

Pennsylvania's maintenance plans describe the procedures for the adoption and implementation of contingency measures to reduce emissions should a violation occur. Pennsylvania's contingency measures include a first level response and a second level response. A first level response is triggered for when the annual mean $PM_{2.5}$ concentration exceeds 15.5 $\mu g/m^3$ in a single calendar year within the Areas, or if the periodic emissions inventory for the Areas exceed the attainment year inventory by more than ten percent. The first level response will consist of a study to determine if the emissions trends show increasing concentrations of $PM_{2.5}$, and whether this trend is likely to continue. If it is determined through the study that action is necessary to reverse a trend of emissions increases, Pennsylvania will, as expeditiously as possible, implement necessary and appropriate control measures to reverse the trend.

A second level response will be prompted if the two-year average of the annual mean concentration exceeds 15.0 $\mu g/m^3$ within the Areas. This would trigger an evaluation of the conditions causing the exceedence, whether additional emission control measures should be implemented to prevent a violation of the standard, and analysis of potential measures that could be implemented to prevent a violation. Pennsylvania would then begin its adoption process to implement the measures as expeditiously as practicable.

Pennsylvania's candidate contingency measures include the following: (1) A regulation based on the Ozone Transport Commission (OTC) Model Rule to update requirements for consumer products; (2) a regulation based on the Control Techniques Guidelines (CTG) for industrial cleaning solvents; (3) voluntary diesel projects such as diesel retrofit for public or private local onroad or offroad fleets, idling reduction technology for Class 2 yard locomotives, and idling reduction technologies or strategies for truck stops, warehouses, and other freight-handling facilities; (4) promotion of accelerated turnover of lawn and garden equipment, focusing on commercial equipment; and (5) promotion of alternative fuels for fleets, home heating and agricultural use. Pennsylvania's rulemaking process and schedule for adoption and implementation of any necessary contingency measure is shown in the SIP submittals as being 18 months from PADEP's approval to initiate rulemaking. For all of the reasons discussed in this section, EPA is proposing to approve Pennsylvania's 1997 annual and 2006 24-hour $PM_{2.5}$ maintenance plans for the Harrisburg, York, and Harrisburg-York Areas as meeting the requirements of section 175A of the CAA.

C. Transportation Conformity

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, 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 April 22, 2014, Pennsylvania submitted SIP revisions that contain the 2017 and 2025 $PM_{2.5}$ and NOx onroad mobile source budgets for Cumberland, Dauphin, Lebanon, and York Counties, Pennsylvania. Pennsylvania did not provide emission budgets for SO_2, VOC, and NH_3 because it concluded, consistent with the presumptions regarding these precursors in the Transportation Conformity Rule at 40 CFR 93.102(b)(2)(v), which predated and were not disturbed by the litigation on the 1997 $PM_{2.5}$ Implementation Rule, that emissions of these precursors from motor vehicles are not significant contributors to the Area's $PM_{2.5}$ air quality problem. EPA issued conformity regulations to implement the 1997 annual $PM_{2.5}$ NAAQS in July 2004 and May 2005 (69 FR 40004, July 1, 2004 and 70 FR 24280, May 6, 2005). Those actions were not part of the final rule recently remanded to EPA by the D.C. Circuit Court in *NRDC* v. *EPA,* No. 08–1250 (January 4, 2013), in which the D.C. Circuit Court remanded to EPA the 1997 $PM_{2.5}$ Implementation Rule because it concluded that EPA must implement that NAAQS pursuant to the PM-specific implementation provisions of subpart 4, rather than solely under the general provisions of subpart 1. That decision does not affect EPA's proposed approval of the MVEBs for the Areas. The MVEBs in tpy are presented in Tables 14, 15, and 16.

Table 14. MVEBs for Cumberland and Dauphin Counties for the 1997 $PM_{2.5}$ and 2006 24-hour NAAQS

Year	$PM_{2.5}$	NOx
2017	365	10287
2025	275	7024

Table 15. MVEBs for Lebanon County for the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ 24-hour NAAQS

Year	$PM_{2.5}$	NOx
2017	76	2252
2025	52	1446

Table 16. MVEBs for York County for the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ 24-hour NAAQS

Year	$PM_{2.5}$	NOx
2017	192	5390
2025	144	3398

EPA's substantive criteria for determining adequacy of MVEBs are set out in 40 CFR 93.118(e)(4). Additionally, to approve the MVEBs, EPA must complete a thorough review of the SIP, in this case the $PM_{2.5}$ maintenance plans, and conclude that with the projected level of motor vehicle and all other emissions, the SIPs will achieve its overall purpose, in this case providing for maintenance of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and (3) EPA taking action on the MVEB.

In this proposed rulemaking action, EPA is initiating the process for determining whether or not the MVEBs are adequate for transportation conformity purposes. The publication

of this document starts a 30-day public comment period on the adequacy of the submitted MVEBs. This comment period is concurrent with the comment period on this proposed action and comments should be submitted to the docket for this rulemaking. EPA may choose to make its determination on the adequacy of the budgets either in the final rulemaking on this maintenance plan and redesignation request or by informing Pennsylvania of the determination in writing, publishing a notice in the Federal Register and posting a notice on EPA's adequacy web page (http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm).[16] However, EPA would not complete the adequacy process for these budgets in advance of the final rule approving the maintenance plan and redesignation request unless the D.C. Circuit Court lifts the stay on the implementation of CSAPR.

EPA has reviewed the MVEBs and found them consistent with the maintenance plan and that the budgets meet the criteria for adequacy and approval. Therefore, EPA is proposing to approve the 2017 and 2025 $PM_{2.5}$ and NOx MVEBs for Cumberland, Dauphin, Lebanon, and York Counties for transportation conformity purposes provided that the D.C. Circuit Court grants EPA's motion to lift the stay of CSAPR, as discussed in detail in Section IV.B. of today's proposed rulemaking action. Additional information pertaining to the review of the MVEBs can be found in the TSDs dated September 3, 2014, available on line at www.regulations.gov, Docket ID No. EPA-R03-OAR-2014-0525.

[16] For additional information on the adequacy process, please refer to 40 CFR 93.118(f) and the discussion of the adequacy process in the preamble to the 2004 final transportation conformity rule. *See* 69 FR 40039-40043.

VI. Proposed Actions

EPA is proposing to approve the redesignations of the Harrisburg-Lebanon-Carlisle-York Areas from nonattainment to attainment for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. EPA has evaluated Pennsylvania's redesignation requests and determined that the Areas meet the redesignation criteria set forth in section 107(d)(3)(E) of the CAA provided that the D.C. Circuit Court grants EPA's motion to lift the stay of CSAPR. The monitoring data demonstrates that the Areas have attained the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, and, for the reasons discussed previously, that they will continue to attain the NAAQS. Final approval of these redesignation requests would change the designation of Harrisburg and York Areas from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS, and the Harrisburg-York Area from nonattainment to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is also proposing to approve the associated maintenance plans for the Areas as revisions to the Pennsylvania SIP because they meet the requirements of section 175A of the CAA as described previously in this proposed rulemaking notice. In addition, EPA is proposing to approve the 2007 base year emissions inventory as meeting the requirement of section 172(a)(3) of the CAA. Furthermore, EPA is proposing to approve the 2017 and 2025 $PM_{2.5}$ and NOx MVEBs submitted by Pennsylvania for Cumberland, Dauphin, Lebanon, and York Counties for transportation conformity purposes. EPA is also initiating the process for determining whether the MVEBs are adequate for transportation conformity purposes. EPA's proposed approval of Pennsylvania's redesignation requests, maintenance plans, and MVEBs in today's rulemaking action are

contingent upon the lifting of the CSAPR stay. 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 CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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.);
- 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 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 CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule proposing to approve Pennsylvania's redesignation requests, maintenance plans, 2007 base year emissions inventory, and MVEBs for transportation conformity purposes for the Harrisburg and York Areas for the 1997 annual $PM_{2.5}$ NAAQS and the Harrisburg-York Area for the 2006 24-hour $PM_{2.5}$ NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas

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

Dated: September 30, 2014

Shawn M. Garvin
Regional Administrator,
Region III.

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