

**RECORD OF HEARING AND SUMMARY OF PUBLIC COMMENT  
NORTHERN VIRGINIA PM<sub>2.5</sub> NONATTAINMENT AREA  
MAINTENANCE PLAN AND MOBILE SOURCE EMISSIONS BUDGET**

As required by 40 CFR 51.102(e), the complete record of the hearing, along with a list of commenters and the text of the written presentations or summary of the oral presentations, is located at the Air Division, Department of Environmental Quality. The department contact to access this information is the Director, Air Division.

The record of the public hearing is blank since no one attended the hearing.

As required by § 2.1(h) of Appendix V of 40 CFR Part 51, below is a summary of the comment received and responses thereto. Included is a brief statement of the subject, the identification of the commenter, the summary of the comment and the response (analysis and action taken). Each issue is discussed in light of all of the comments received that affect that issue. All comments have been reviewed and responses developed based on an evaluation of the issues raised in consideration of the overall goals and objectives of the air quality program and the intended purpose of the document under review.

1. **SUBJECT:** Recent litigation regarding PM<sub>2.5</sub>.

**COMMENTER:** United States Environmental Protection Agency, Region III

**TEXT:** On January 4, 2013, in *Natural Resources Defense Council v. EPA*, the U.S. Court of Appeals for the District of Columbia circuit remanded to EPA the Final Clean Air Fine Particulate Implementation Rule (72 FR 20586, April 25, 2007) and the Implementation of the New Source Review (NSR) program for Particulate Matter Less than 2.5 Micrometers (PM<sub>2.5</sub>) (72 FR 2831, May 16, 2008). No. 08-1250 (D.C. Cir. January 4, 2013). The Court found that EPA erred in implementing the 1997 PM<sub>2.5</sub> NAAQS pursuant to the general implementation provisions of Subpart 1 of part D of Title I of the Act, rather than the particulate-matter-specific provisions of subpart 4 of part D of Title I. EPA is still interpreting this court decision and its potential implications for redesignation requests and maintenance plans, as well as for motor vehicle emissions budgets.

**RESPONSE:** The proposed redesignation request and proposed maintenance plan fully conforms to all current EPA guidance and regulatory requirements. Additionally, these documents provide data conclusively demonstrating that the Metropolitan Washington D.C. region has complied with the 1997 PM<sub>2.5</sub> NAAQS

since 2005. For example, see Figures 5-2 and 5-3 of the proposed maintenance plan. Furthermore, the area's current design value using 2009-2011 data is  $10.8 \mu\text{g}/\text{m}^3$ , which is  $4.2 \mu\text{g}/\text{m}^3$  less than the 1997  $\text{PM}_{2.5}$  NAAQS requirement of  $15.0 \mu\text{g}/\text{m}^3$  on an annual basis. Given current mandates on a variety of  $\text{PM}_{2.5}$  and  $\text{PM}_{2.5}$  precursor emitting sources, it is inconceivable that the Metropolitan Washington D.C. area will ever violate the 1997  $\text{PM}_{2.5}$  NAAQS in the future. If this inconceivable event does come to pass, the proposed maintenance plan contains, in Section 8, contingency measures to further reduce  $\text{PM}_{2.5}$  emissions and  $\text{PM}_{2.5}$  precursor emissions. However, every indication is that  $\text{PM}_{2.5}$  air quality will continue the improvement trends depicted in Figures 5-2 and 5-3 of the proposed maintenance plan. The proposed maintenance plan notes in Table 5-1 that between the attainment year of 2007 and the out year of 2025, this region is expected to have reductions in  $\text{SO}_2$  emissions of more than 158,000 tons, reductions in  $\text{NO}_x$  emissions of more than 90,700 tons, and reductions in primary  $\text{PM}_{2.5}$  emissions of more than 2,700 tons. More information is simply not needed to provide assurances that the area will continue to maintain compliance with the 1997  $\text{PM}_{2.5}$  NAAQS through 2025. Should EPA decide to finalize a regulation requiring a different approach to the development of a 1997  $\text{PM}_{2.5}$  NAAQS maintenance plan, Virginia will review those requirements at that time to determine if they warrant the creation and submittal of a subsequent state implementation plan revision.

No modification to the proposed documents was made based on this comment.

2. **SUBJECT:** CSAPR.

**COMMENTER:** United States Environmental Protection Agency, Region III

**TEXT:** On August 21, 2012, the Court of Appeals for the D.C. Circuit issued a decision to vacate the Cross State Air Pollution Rule (CSAPR). In that decision, the Court also ordered EPA to continue administering the Clean Air Interstate Rule (CAIR) "pending the promulgation of a valid replacement." *EME Homer City Generation, L.P. v. EPA*, No. 11-1302 (D.C. Cir. Aug. 21, 2012), *reh'g denied* (per curiam) (Jan.24, 2013). While the D.C. Circuit has denied a rehearing of the decision to remand CSAPR, EPA is evaluating the ramifications of that decision and its potential implications for redesignation requests and maintenance plans.

**RESPONSE:** The proposed redesignation request and proposed maintenance plan does not rely on CSAPR or CAIR to facilitate the emission reductions from facilities located within the Metropolitan Washington D.C. area that might have had either of these regulations as applicable requirements. Rather, these documents rely upon federally enforceable consent agreement requirements, federally enforceable permit requirements, permanent retirement of electrical

generating units, and requirements contained within the Maryland Health Air Act to control the emissions of electrical generating units within the Metropolitan Washington D.C. area. More detail on these requirements may be found in Section 3.2.2 of the proposed redesignation request and in Section 5.2.2 of the proposed maintenance plan. No further requirements are needed to ensure that the area complies with the 1997 PM<sub>2.5</sub> NAAQS until at least 2025.

No modification to the proposed documents was made based on this comment.

3. **SUBJECT:** Product Emissions

**COMMENTER:** United States Environmental Protection Agency, Region III

**TEXT:** The second paragraph in the proposed maintenance plan under **Section 5.2.2.4 Future Control Strategies** reads as follows:

The Washington DC-MD-VA area will work with jurisdictions and USEPA to demonstrate the feasibility of (and get SIP credit for) achieving reductions across the entire region from market forces that will result in cleaner products being distributed across the entire region even when the regulations driving the cleaner products have only been adopted in a part of the region.

Please clarify what is meant by “cleaner products.”

**RESPONSE:** In this context, as with most environmental documents, “cleaner” generally refers to products that have a capacity to inherently emit less pollution as compared to other, similar products.

No modification to the proposed documents was made based on this comment.

4. **SUBJECT:** SO<sub>2</sub> NAAQS Proposed Guidance

**COMMENTER:** Ms. Pamela F. Faggert, Vice President and Chief Environment Officer, Dominion

**TEXT:** The commenter requests that language in Section 5.2.2.1.4 of the proposed maintenance plan, which provides information on EPA’s proposed approach for implementing the 2010 SO<sub>2</sub> NAAQS, be either reworded or removed from the document.

**RESPONSE:** The commenter is correct that the language in the proposed maintenance plan regarding implementation of the 2010 SO<sub>2</sub> NAAQS is obsolete.

MWAQC-TAC Item #3  
March 12, 2013

Reference to EPA's proposed guidance has been removed from the document.

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