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April 19, 2012

The Honorable Phil Mendelson, Chair
& Members of the Committee
Metropolitan Washington Air Quality Committee
c/o Metropolitan Washington Council of Governments
777 North Capital Street, NW, Suite 300
Washington, D.C. 20002

Dear Chair Mendelson and Members of the Committee:

The undersigned organizations urge the Metropolitan Washington Air Quality Committee (“MWAQC” or “the Committee”) not to accept current proposals to adopt a “Margin of Safety” with respect to the motor vehicle emissions budget, and instead, to continue to utilize its more conservative inventory/budget and develop additional measures that can provide real surplus emissions reductions in the future.

Several of the undersigned have attended recent MWAQC and Technical Advisory Committee meetings. It is our understanding that the Committee may soon seek from the U.S. Environmental Protection Agency (“EPA”) re-designation of the region’s PM 2.5 air quality attainment status, as well as approval of a maintenance plan that will keep PM2.5 and NOx within Federal clean air standards through 2025 and beyond. At the same time, we further understand that some on the Committee seek a 20 percent “safety margin” of the 2017 inventory level, and a 30 percent safety margin of the 2025 emissions level, to purportedly account for vehicle age/mix and modeling uncertainties, so as not cause the region to be considered out of attainment in the interim (2017) and out (2025+) years.

While it is true that air regulations permit a “margin of safety” (“MOS”) which allows motor vehicle emissions to be higher than inventory levels as long as maintenance requirements are met, in the view of the undersigned organizations, the term in this context is an oxymoron. What such a so-called MOS would be is not an increase in “safety,” which usually means a margin that would provide for an *improved* public health or welfare outcome, or *improved* pollution reduction outcomes for environmental systems in view of given uncertainties. In this instance, an MOS would allow for ***up to an additional 30 percent increase of pollution in NOx and/or PM2.5 emissions from motor vehicles*** – in our view, just in case new or greatly expanded highways end up encouraging more exurban development and/or simply more driving, producing more NOx and PM2.5 emissions than are currently predicted. (Transportation Planning Board [“TPB”] staff, on the other hand, attributes the needed margin largely to the unpredictability of vehicle age and mix, and secondarily to potential

model issues; the TPB believes such margins are necessary to avoid potential conformity lapses, which would prevent new highway or transit project starts -- although projects already underway at the time of the lapse would mostly be permitted to proceed.) The Maryland Department of the Environment (“MDE”) has raised concerns similar to our own.

Apparently, TPB modeling shows NO_x declining fairly steadily to 2017, likely due to point source (electric generating plant) emission reductions, upcoming Tier 3 tailpipe standards for criteria pollutants, and low sulfur fuel standards, in addition, perhaps, to completion of significant transit projects like the Silver Line. While the downward trend would continue after that point, the slope of that beneficial decline begins to level off.

MWAQC staff have indicated that the speed with which motor vehicle fleet turnover occurs in future years, or how much the fleet will “age,” is indeed uncertain. Information developed by staff indicates that if the fleet ages at the same rate as between 2005-2011, precursor NO_x would increase by almost 20 percent. There is also concern that the out-years, after 2025, will see an increase in PM_{2.5} and a small NO_x increase regardless of the fleet mix/turnover issue, primarily due (according to MWAQC staff), to continued growth in vehicle use in suburban areas. This should not be a surprise, given the unfortunate, continued propensity to sprawl in some of our suburban jurisdictions -- in spite of all the known harms sprawl causes to our fiscal and environmental stability and public health, and despite some good work by the Metropolitan Washington Council of Governments and the TPB in recent years to promote different, healthier growth patterns. But we have not made enough progress as a region in that regard, and the region should not be given a “pass” in developing the mechanisms to further ratchet down on significant air pollutants as necessary. There are a number of additional Transportation Emissions Reduction Measures (“TERMs”) that could be developed to do that, including significantly amending the Constrained Long Range Plan to shift funding to additional transit investments linked to aggressive implementation of transit-oriented development as a means to further reduce vehicle miles of travel (“VMT”).

Our organizations believe there are several problems with the TPB’s proposed MOS. First, it is likely that ozone standards will change to better protect public health, becoming more stringent in the future and making it yet again more difficult to attain the needed emission reductions to meet the new standard. Second, the fleet turnover questions, as well as VMT growth issues noted above, are still extant. Third, according to MDE, even deeper reductions than those modeled by the TPB will be needed in the 2015-2018 timeframe, in order to permit attainment of a 75 ppb ozone standard, requiring an *additional* 4,700-9,700 tons/year of precursor NO_x reductions below the 41,700 tons/year modeled by the TPB for 2017.

Additionally, the District of Columbia, Virginia and Maryland should be operating under different rules of the game, now that the Chesapeake Bay Total Maximum Daily Load (“TMDL”) has been developed and the corresponding State Watershed Implementation Plans are in effect. In light of all the air quality assumptions made to develop the TMDL (e.g. improved ozone standards, additional point source controls, and the like – which are still not guaranteed), and the expectations for meeting the TMDL’s stringent nitrogen pollution allocations, it is more important than ever to be on a steady and unremitting course to reduce NO_x emissions and nitrogen loadings to the region’s rivers and the Bay. Given the anticipated challenges and costs of achieving the necessary reductions, the MWAQC should not call for allowing more emissions than the maintenance plan would otherwise provide, through the mechanism of a so-called “margin of safety.” The Bay requires the most conservative approach possible now, not a

wider opportunity to pollute because the possibility for establishing such a margin may be provided under Clean Air Act regulations.

Finally, air quality is an especially egregious problem for the Baltimore metropolitan area, which is in ozone non-attainment status – due in part to the transport of pollutants from the Washington metropolitan area. Instead of creating so-called margins of safety that are the equivalent of adding empty calories in spite of a diet, and that would continue to jeopardize the Baltimore region’s status and public health, MDE has recommended that California Low Emission Vehicle (“CAL LEV”) emissions standards and additional TERMS may well be needed to develop *real* surplus reductions, out of which a real MOS can be created. This lowered emissions budget is also supported by your Public Advisory Committee, and some members of your Technical Advisory Committee.

For all the above reasons, we urge you to reject the TPB’s proposed MOS at this time and develop or hew to a more conservative emissions budget instead.

Sincerely,

Lee R. Epstein, Director
Lands Program, CBF

Stewart Schwartz, Executive Director
Coalition for Smarter Growth

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Cc: Jeff Corbin, EPA, Special Assistant to the Administrator