



April 11, 2023

Administrator Michael S. Regan
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Draft Guidance on the Preparation of State Implementation Plan Provisions That Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter;
Docket ID No. EPA-HQ-OAR-2023-0063

Dear Administrator Regan:

On behalf of the Metropolitan Washington Air Quality Committee (MWAQC), we are writing with regard to the *Draft Guidance on the Preparation of State Implementation Plan (SIP) Provisions That Address the Nonattainment Area Contingency Measure (CM) Requirements for Ozone and Particulate Matter* by the U.S. Environmental Protection Agency (EPA). MWAQC is the air quality planning commission for the National Capital Region certified by the governors of Maryland and Virginia and the mayor of the District of Columbia to develop plans to attain federal standards for air quality and improve air quality in the metropolitan Washington region. MWAQC has developed attainment plans for the 1979 ozone National Ambient Air Quality Standard (NAAQS), for which the area needed serious and severe classification plans, as well as the 1997 ozone NAAQS, for which the area needed a moderate classification plan. MWAQC has also authored several redesignation requests and maintenance plans for various NAAQS. We are providing comment on this recently released CM guidance document, as we believe there is still considerable ambiguity surrounding what exactly constitutes a CM that is suitable for inclusion in the SIP.

MWAQC is committed to developing and implementing additional CMs as needed. However, identifying reasonable, cost-effective local control measures is increasingly difficult. This is also true of CMs. The metropolitan Washington region has already enforced significant controls on local emissions sources. MWAQC believes that this effort made by EPA to clarify CM identification for the purposes of a SIP, as well as the quantification of their emissions reductions benefits, is warranted. However, the suggested methodology for developing the magnitude of CM emission reductions results in values that are well beyond the reach of the MWAQC and its member state and local governments to achieve. The metropolitan Washington region's emission inventories for nitrogen oxides (NO_x) and volatile organic compounds (VOC), the primary precursors to ozone and the targeted pollutants for ozone attainment plans, are heavily influenced by the onroad and nonroad sectors as well as the marine, air, and rail (MAR) sector. For example, the 2014 inventory for the metropolitan Washington region shows that 70% of the total NO_x emissions and 43% of the total VOC emissions originated from onroad/nonroad/MAR sectors, which state and local governments have no authority to regulate in a consequential manner. The federal government has the authority to regulate these sectors under the Clean Air Act while state regulation of these categories is severely limited or pre-empted. The contingency measures in an attainment plan must be put in place at the state and local level. Therefore, including sectors of the emissions inventory for which state and local governments have little or no authority to regulate in the calculation for necessary CM emission reductions is not possible. MWAQC recommends that these sectors be removed from the calculations and that the calculations be

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based only on those sectors of the emissions inventory where state and local governments have the authority to enact and enforce meaningful control measures. In addition to these concerns, providing "reasoned justification" for any potential shortfall in CM emission reductions, per the guidance document, could quickly become an incredibly resource intensive exercise for state air agencies to undertake.

Further, we seek additional guidance on how to address the challenge of state administrative process acts requiring public participation and stakeholder involvement prior to the development and implementation of any new rule, a process that must be balanced against the need for emission reductions from CMs to occur within one year of a triggering event, and thus be self-implementing.

Thank you again for the opportunity to provide comments on EPA's Draft Guidance on the Preparation of State Implementation Plan Provisions That Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter.

Sincerely,

Anita Bonds
Chair, Metropolitan Washington Air Quality Committee (MWAQC)