

MEMORANDUM

TO: MWAQC Technical Advisory Committee (TAC)

FROM: MWAQC Staff:
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SUBJECT: Update on SIP Planning Status for the Ozone National Ambient Air Quality Standard (NAAQS) for the Washington, DC/MD/VA Nonattainment Area

DATE: September 13, 2022

Purpose

This memo provides an update on SIP Planning for the Ozone NAAQS and staff recommendations for work activities to develop State Implementation Plan (SIP) submittal requirements, including a list of technical and regulatory questions that need to be addressed to inform decision-making. The planning update includes:

- information on the region's attainment status including attainment designation,
- required plan submittals, and
- motor vehicle emission budget compliance needs for Transportation Conformity.

Recommendations focus on SIP type submittals including requests to update Motor Vehicle Emissions Budgets (MVEBs) for Transportation Conformity.

Main questions identified include:

1. EPA actions on repeal of the 2008 Ozone NAAQS,
2. Requirements for revising MVEBs for the 2008 Ozone Maintenance Plan, and
3. Anticipated timeline for reclassification from Marginal to Moderate, and/or issuance of Clean Data Determination for the 2015 Ozone NAAQS.

Also, additional questions focus on the status of federal guidance on acceptable approaches for inclusion of contingency measures for both Attainment and Maintenance Plans given recent court decision and relevant Clean Air Act requirements.

Status List

Current Attainment Status and Designation

2008 Ozone NAAQS – Attained, Maintenance Plan

2015 Ozone NAAQS – Marginal, EPA has proposed to reclassify the region to Moderate, Final Rule expected this Fall.

Marginal Nonattainment Area Attainment Deadline - August 3, 2021

Moderate Nonattainment Area Attainment Deadline - August 3, 2024

For the 2015 Ozone NAAQS:

Design Value for 2018-2020 – 71 Failed to Attain by deadline of August 3, 2021.

Design Value for 2019-2021 – 70 Attained (data certified, EPA Clean Data Determination pending)

Design Value for 2020-2022 – 67 Attained (data not yet certified, further evidence of Clean Data)

Clean Data Determination (CDD)

EPA action on the Clean Data Determination (CDD) is pending. EPA may wait until the reclassification rulemaking is final before issuing the CDD.

Attainment Plan (AP)

Under development, anticipated to have delayed submittal given schedule for attainment modeling. AP will establish a new set of MVEBs. SIP requirements will be suspended if EPA Issues a CDD. Based on two years of DVs at or below 2015 NAAQS is it highly likely that a CDD will be issued which will suspend requirement to submit an AP.

Redesignation Request/Maintenance Plan (R/MP)

Pending, decision on CDD from EPA which would suspend SIP Planning Requirements and enable R/MP process to begin. A R/MP will establish a new set of MVEBs. Given the high likelihood of receiving a CDD it is likely that the region would be required to submit a R/MP. There is no specific federal schedule for the R/MP.

2008 Ozone Maintenance Plan MVEBs

EPA has not revoked the 2008 Ozone NAAQS. The MVEBs for the 2008 Ozone NAAQS will still apply even when new MVEBs are established with a 2015 Ozone SIP AP OR R/MP). While new EPA MOVES3 model will be used to set new MVEBs, the existing 2008 MVEBs were set using older version, MOVES2014a while the new MOVES3 model will have to be used for transportation conformity analyses starting January 2023. Preliminary tests indicate new MOVES3 result in increased estimates of NOx emissions and would prevent the region from demonstrating conformity with its next update of the Long Range Transportation Plan (expected in 2024).

New Measures

Under development of the Attainment Plan, RACM Needed

Contingency Measures

Attainment Plan: Awaiting EPA Guidance on acceptable approach for contingency measures for Attainment Plans given the recent court ruling.

Maintenance Plan: To be developed.

Staff Recommendation

Based on the final 2019-2021 Ozone design value (DV) of 70 parts per billion (ppb), the Washington region attained the 2015 Ozone NAAQS. The current draft DV as of September 1, 2022 is 67 ppb, which shows that the region continues to attain the above NAAQS.

Status of Ozone Planning & Available SIP Options Moving Forward

The Washington region has been working simultaneously on both attainment and maintenance SIPs for the 2015 Ozone NAAQS with an understanding that it will switch to just one of the two SIPs at an appropriate time. Based on the ozone data discussed above and the reasons cited under each SIPs, below, it appears pursuing a Maintenance Plan will be prudent at this time.

1. Redesignation Request and Maintenance Plan (2015 Ozone NAAQS)

Based on the ozone DV data mentioned above, it seems highly likely that EPA will issue a CDD. If that happens, SIP requirements for nonattainment areas will be suspended and the region can turn to developing a Redesignation Request and Maintenance Plan (R/MP) for the 2015 Ozone NAAQS. An R/MP will establish a new set of MVEBs and contingency measures. It must be noted, however, that a R/MP will not absolve the region of requirements to also demonstrate conformity with the 2015 Ozone NAAQS R/MP MVEBs unless EPA officially revokes the 2008 NAAQS.

2. Maintenance Plan Update (2008 Ozone NAAQS)

The National Capital Region Transportation Planning Board (TPB) plans to update the Long Range Transportation Plan (LRTP) in 2024. This update is necessary to ensure that the plan complies with the federal requirement for a year 20 plan period and also to update changes to the project lists from its member agencies given the new and increased funding included in the federal reauthorization of transportation act (Infrastructure Investment Jobs Act – IIJA). The 2024 Plan update will have to conduct a revised air quality conformity analysis using the new version of EPA's MOVES3 model as the two-year grace period allowed for using this model expires in January 2023. A preliminary study pursued by TPB shows that NOx emissions developed using MOVES3 will be higher compared to Tier 2 MVEBs provided in the 2008 Ozone NAAQS maintenance plan.

Therefore, TPB needs to have the 2008 Ozone R/MP MVEBs updated using MOVES3 by the end of 2023 and found adequate for conformity purposes by Spring 2024. In addition, the Infrastructure Investment and Jobs Act (IIJA) provides increased funding for highway and transit projects for the District, Maryland, and Virginia. The three state DOTs and local governments are anticipating availing those funds. This impacts the schedule for highway and transit projects in the region. Without an approved conformity analysis, DOTs and locals will not be able to access those funds. In light of the above facts, the region needs to update the MVEBs provided in the 2008 Ozone NAAQS maintenance plan using EPA's latest approved MOVES3 model.

An updated 2008 Ozone NAAQS maintenance plan would provide a number of benefits. It will provide a new set of MVEBs based on the latest on-road emission model. It will also allow time to see if the downward ozone trend continues in 2023 and beyond before the region submits the 2015 Ozone R/MP.

Questions to EPA

The region would like to request EPA to provide response to the following questions related to the 2008 ozone NAAQS maintenance plan update and contingency measures.

1. Does EPA have plans to revoke the 2008 Ozone NAAQS, if so, when?
2. COG understands that a MVEB revision can be submitted for consideration and approval by EPA and that such a submittal may not necessarily require the region to update all emission inventories for all sources, depending on EPA's guidance (*Policy Guidance on the Use of MOVES3 for State Implementation Plan Development, Transportation Conformity, General Conformity, and Other Purposes, Page 8, US EPA, November 2020*). Since the region submitted the 2008 Ozone maintenance plan only in 2018, does EPA still expect the region to update point, non-point, and MAR inventories in addition to updating onroad and nonroad inventories?
3. Can contingency measures included in the 2008 Ozone NAAQS maintenance plan be used in the 2015 Ozone NAAQS maintenance plan since those measures were neither used in developing emissions inventories in that plan nor used as contingency measures later on after the approval of the above plan as conditions set forth in that plan for use of those measures never occurred (e.g. absence of 4th highest ozone value exceeding 75 ppb before 2020 or the 2008 ozone NAAQS violation after 2021)?