

2008 Ozone NAAAQS Redesignation Request & Maintenance Plan

2A. Public Hearing and Comments

Following are the dates for public hearing and comments for the District of Columbia, Maryland, and Virginia for the 2008 ozone NAAQS redesignation request and maintenance plan.

	District of Columbia	Maryland	Virginia
Public comment period	September 29 – November 1, 2017	September 26 – November 8, 2017	October 16 - November 15, 2017
Public hearing date	November 1, 2017 (5:30 PM)	November 8, 2017 (11 AM)	November 6, 2017 (11 AM)

Record of Public Hearings & Summary of Public Comments and Draft Responses

(To be included in Appendix F)

As required by 40 C.F.R. § 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 Divisions of the Virginia Department of Environmental Quality, Maryland Department of the Environment, and the District Department of the Environment. The department contacts to access this information are:

Virginia Department of Environmental Quality – Director, Air Division
Maryland Department of the Environment – Director, Air and Radiation Management Administration
District Department of the Environment – Associate Director, Air Quality Division

The records of the public hearings are blank since no one attended the hearings.

As required by § 2.1(h) of Appendix V of 40 C.F.R. Part 51, below is a summary of the comments 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:** CAA requirements for approval of Redesignation Request and Maintenance Plan

Commenter: Sierra Club

Text: As discussed in detail below, Virginia’s request that the Washington DC-MD-VA 8-hour ozone nonattainment area be redesignated to attainment with respect to the 2008 ozone NAAQS fails to satisfy the essential requirements of CAA Section 107(d)(3)(E) and fails to ensure maintenance of the NAAQS through 2030.

Response: DEQ disagrees with this statement. These submittals meet all requirements of section 107(d)(3)(E). Virginia has successfully redesignated a number of areas since 1990 using these same procedures that follow federal guidance and regulation. Additionally, inventory analysis and air quality data as presented in these documents show trends that strongly indicate air quality will be maintained, and most likely improve, through 2030. No data indicates that ozone air quality will worsen in this timeframe.

2. **Subject:** Tardy RACT Submittals

Commenter: Sierra Club

Text: ...Virginia says it will submit as necessary source-specific requirements addressing RACT for the 2008 ozone NAAQS for each of these facilities in subsequent SIP revisions. However, these SIP revisions must be approved into Virginia's plan before EPA may redesignate the area as an attainment area. Consequently, Virginia has not "met" all requirements applicable to the area under CAA Section 110.

Response: DEQ disagrees with the assessment that an area designated marginal and located within the OTR, thus subject to requirements under Section 184, must complete all source-specific non-CTG RACT determinations before a redesignation request for the marginal area may be approved.

Section 107(d)(3)(E) notes that the EPA Administrator may not promulgate a redesignation of a nonattainment area (or portion thereof) to attainment unless "the State containing such area has met all requirements applicable to the area under section 110 and part D-Plan Requirements for Nonattainment Areas."

Section 184 requirements, including non-CTG RACT, apply regardless of air quality data for areas within the OTR whenever a revised ozone NAAQS is promulgated. The Northern Virginia area is a marginal nonattainment area for the 2008 ozone NAAQS. Marginal nonattainment areas outside the OTR would not need to require non-CTG RACT determinations for major stationary sources of VOC and NO_x. Areas designated attainment for the 2008 ozone NAAQS that are located within the OTR must also require non-CTG RACT determinations for major stationary sources of VOC and NO_x. These requirements are codified in the CAA and are required in the 2008 ozone NAAQS implementation rule at 40 CFR Part 51 Subpart AA *Provisions for Implementation of the 2008 Ozone National Ambient Air Quality Standards*, 40 CFR 51.1116, which EPA finalized March 6, 2015.

Section 184 requirements, therefore, do not require non-CTG RACT in the Northern Virginia area due to its nonattainment status but rather due to its inclusion in the OTR. Therefore, these non-CTG RACT requirements do not fall into Section 110 and part D requirements as listed under Section 107(d)(3)(E).

Since EPA published the 2008 ozone NAAQS implementation rule in 2008, Virginia has worked diligently since March 2015 to update the Virginia Regulations for the Control and Abatement of Air Pollution to implement the non-CTG RACT requirements. While not required for a redesignation request, and maintenance plan, episodic air quality analyses

demonstrate that non-CTG RACT application on certain sources within the Northern Virginia area will benefit air quality, and Virginia expects to be submitting these determinations within twelve months of EPA's final approval of the non-CTG RACT implementation SIP that completed public notice on November 16, 2016. These non-CTG RACT determinations should provide further assurance that air quality will not only maintain compliance with the 2008 ozone NAAQS but should continue to improve.

3. **Subject:** Prompt Implementation of Contingency Measures

Commenter: Sierra Club

Text: As proposed, implementation and compliance with necessary rules for ensuring attainment and maintenance of the 2008 8-hour ozone NAAQS would not become effective for up to 21 months. This in no way constitutes a timeline consistent with "prompt" correction, in violation of the law. Thus the plan must be revised. Virginia should commit to implementing the proposed Maintenance Plan's contingency measures within, at most, 12 months of any given trigger."

Response: DEQ disagrees with the opinion that a 21 month timeline is inconsistent with prompt correction of a situation requiring the implementation of a contingency measure. The timeline in the proposed document is consistent with EPA guidance on contingency measures (EPA memorandum, SUBJECT: Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act, Lydia N. Wegman, Director, Air Quality Strategies and Standards Division, USEPA, May 20, 2005). In regards to contingency plans, Page 7, under Question 11, of this memorandum notes, "...The schedule for adoption and implementation should be as expeditious as practicable, but no longer than 24 months." Therefore, the proposal conforms with EPA's guidance on this topic. The commenter should also note that a shorter timeframe than that listed in the proposed plan is not practical. DEQ and other regulatory agencies cannot develop and implement a control program as well as meet all requirements within Virginia's Administrative Process Act within 12 months.

4. **Subject:** Predicted Effects of Climate Change

Commenter: Sierra Club

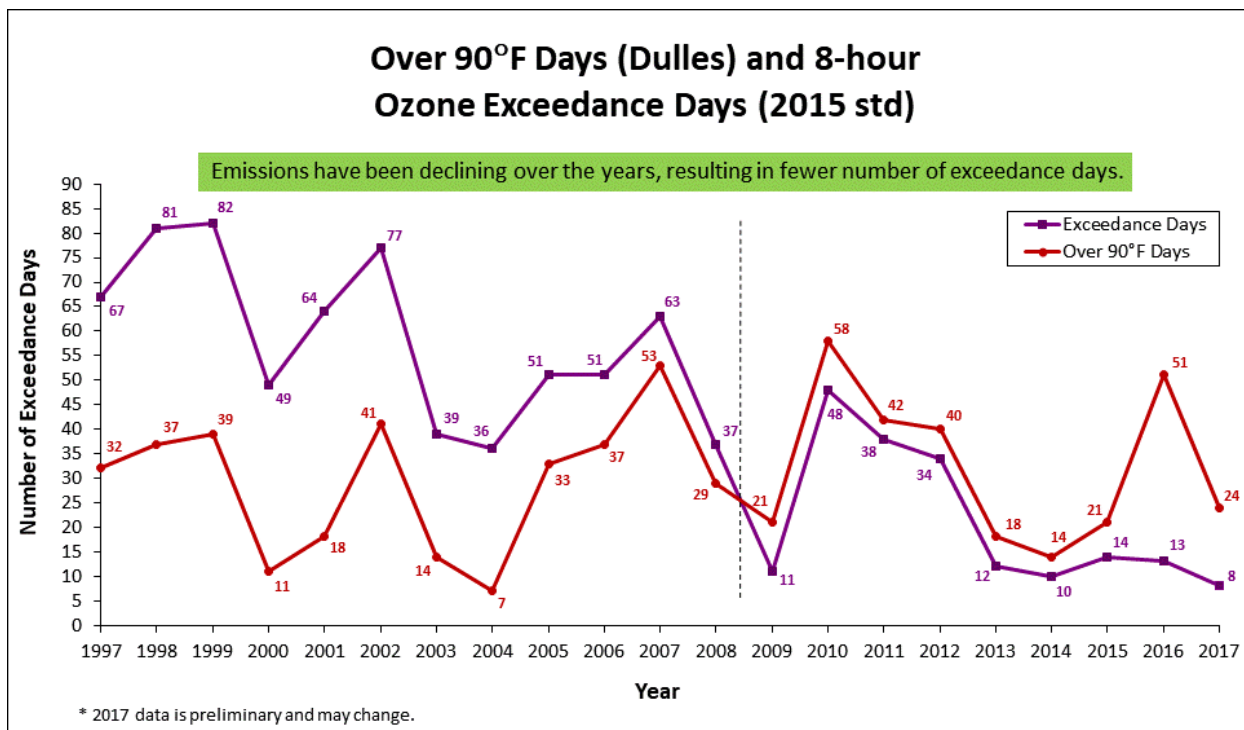
Text: Therefore, the analyses underlying the 2008 ozone NAAQS and the assumptions upon which Virginia has based its claims that the NAAQS will be maintained in the present area likely underestimate the level of ozone reductions actually required in light of increasingly warming temperatures to come.

...given the projected increase in summer temperatures the area will experience during the ten-year maintenance period and beyond, Virginia should revise the proposed Maintenance Plan to specifically include consideration and a discussion of climate change impacts to ensure that the plan is indeed adequate.

Response: Virginia takes very seriously the threat of climate change. In fact, in Executive Directive 11 the Governor directed DEQ on May 16, 2017, to take a number of actions, including the development of a regulation to address electric power facilities. Additionally,

Northern Virginia, as part of the Metropolitan Washington Council of Governments, participates on the MWCOG’s Climate Energy and Environment Policy Committee, which developed the Regional Climate and Energy Action Plan (published March 23, 2017).

However, the maintenance plan for the 2008 ozone NAAQS does not require discussions of the climate change work being carried out to be considered adequate. Current ozone air quality is compliant with the 2008 ozone NAAQS and has improved steadily over the last 20 years. While ozone creation is affected by meteorological factors such as temperature, precursor (VOC and NO_x) emission reductions have improved air quality significantly. The following chart originates from the Metropolitan Washington Air Quality Committee. The chart provides the number of exceedance days based on the 2015 ozone NAAQS in the metropolitan Washington area as well as the number of days over 90°F, based on measurements at Dulles International Airport.



Temperature is not the only meteorological measurement that impacts ozone formation. Rainfall, wind speed, wind direction, and other data also impact ozone creation. What can be gleaned from the above chart is that the ozone air quality in the Metropolitan Washington area is steadily improving. This information, coupled with the information provided in the proposed documents that show the area’s air quality is well beneath the 75 ppb standard and that additional, significant VOC and NO_x emission reductions are expected in the future, provide ample assurance that the area’s air quality will maintain in compliance with the 2008 ozone NAAQS through 2030.

5. **Subject:** Typographical error related to Figure 3-1 in Redesignation Request

Commenter: USEPA

Text: There are two figures labeled as Figure 3-1: the first figure is the map depicting the "Washington DC-MD-VA 2008 Ozone NAAQS Nonattainment Area" and the second figure is the "Design Value Trend" graph.

Response: The label for the second figure will be renamed to Figure 3-2.

6. **Subject:** Corrections and citations for HAA approval date in Redesignation Request

Commenter: USEPA

Individual Comments:

a. **Text:** 3.2.2 Emission Reduction Requirements

The Healthy Air Act (HAA) was approved by EPA on September 4, 2008 (73 FR 51599). EPA recommends including a citation for the implementing regulations for the HAA as well as the Federal Register citation. The following are EPA 's suggested edits:

"The Maryland Healthy Air Act (Annotated Code of Maryland Environment Title 2 Ambient Air Quality Control Subtitle 10 Healthy Air Act Sections 2-1001 - 2-1005, *implementing regulations at COMAR 26. 11.27*) became effective on July 16, 2007 and approved by USEPA on ~~October 6~~ September 4, 2008 (73 FR 51599) ... "

Response: The above suggestions for corrections in the HAA approval date and adding citations for implementing regulations as well as the Federal Register citation (*shown above in italics*) will be incorporated.

b. **Text:** The effective date of EPA's "Control of Emissions From Non-road Large Spark-Ignition Engines, and Recreational Engines (Marine and Land-Based)" final rule was January 7, 2003, not July 1, 2003.

Response: The above suggestion for correction in the Federal Register citation will be incorporated.

c. **Text:** The Code of Federal Regulations (CFR) citation for the definition of "summer day emissions" is 40 CFR 51.900(v), not 40 CFR 51.901.

Response: The above suggestion for correction in the Federal Register citation will be incorporated.

7. **Subject:** Citations in Maintenance Plan

Commenter: USEPA

Text: 5.1 Attainment Inventory

The Code of Federal Regulations (CFR) citation for the definition of "summer day emissions" is 40 CFR 51.900(v).

Response: The above suggestion for correction in the Federal Register citation will be incorporated.

8. **Subject:** Effective date for implementation of EPA's "Control of Emissions From Nonroad Large Spark-Ignition Engines, and Recreational Engines (Marine and Land-Based)" in Maintenance Plan

Commenter: USEPA

Text: 5.4.2 Nonroad Emission Controls

The effective date of EPA's "Control of Emissions From Nonroad Large Spark-Ignition Engines, and Recreational Engines (Marine and Land-Based)" final rule was January 7, 2003.

Response: The above suggestion for correction in the effective date for the above rule will be incorporated.

9. **Subject:** Contingency Measures in Maintenance Plan

Commenter: USEPA

Text: 6.2 Air Quality Issues and Contingency Measures

Maryland's NOx Rule Phase 1 is already effective and SIP-approved. A rule that is already in place cannot be used as a contingency measure, because the emission reductions have already been achieved. Contingency measures in a maintenance plan are meant to address potential future air quality problems and, therefore, need to be new measures that will achieve additional emissions reductions. The NOx Rule Phase 1 would be better placed in section 5.4, Control Measures for Maintenance of Good Air Quality.

Response: Maryland disagrees with this statement. The 2nd sentence of the 2nd paragraph of the Maintenance Plan mentions that the Maryland NOx Rule (phase I) was not included in the emissions reductions for any future year in the plan. Also, a new sentence (after 4th sentence of the 2nd paragraph) is being added to make it clear that the rule reduces emissions from certain coal-fired power plants, including units located within the Metropolitan Washington, D.C. nonattainment area, through June 2020. The new sentence says that "The rule, under COMAR 26.11.38.04, reduces emissions from certain coal-fired power plants, including units located within the Washington DC-MD-VA 2008 ozone NAAQS nonattainment area, through June 2020."

2B. Timeline

Date	Action
December 12, 2017	MWAQC-TAC recommends approval of the draft redesignation request & maintenance plan to MWAQC with response to public comments included
December 20, 2017	MWAQC approves the redesignation request & maintenance plan
January 2018	States submit to EPA the final redesignation request & maintenance plan