

PRELIMINARY EPA RESPONSE (PREDECISIONAL), April 7, 2016

**Questions related to the Planned Redesignation Request & Maintenance Plan for the Washington DC-MD-VA 2008 Ozone NAAQS Nonattainment Area**

Based on the draft data for the period 2013 through 2015, the ozone design value for the Washington, DC-MD-VA 2008 NAAQS nonattainment area is 0.070 ppm. Therefore, the area is currently planning to submit a redesignation request and a maintenance plan for the 2008 ozone NAAQS. In this respect, we have a few questions related to the requirements for redesignation of the area to attainment and related milestone year and emissions inventories for which we need your response.

**Requirements for Redesignation**

Following are the questions along with the related parts of the Clean Air Act Section 107 (d) (3) (E), which outlines various requirements for redesignation of a nonattainment area to attainment.

“The Administrator may not promulgate a redesignation of a nonattainment area (or portion thereof) to attainment unless -

- (i) the Administrator determines that the area has attained the national ambient air quality standard;

*Questions –*

- a. *How does the Administrator determine that the area has attained the 2008 ozone NAAQS? Does EPA need to publish a “Clean Data Determination” for the region or is the certification of the 2015 ozone data by states sufficient for this purpose? States do not need to wait for an EPA determination of attainment to submit a redesignation request (RR). Certification of the AQ data need only precede the RR. Part of an approval of a RR is a determination that the area has attained the relevant NAAQS.*
- b. *Based on the Washington region’s ozone design value for the period 2012-14 (0.076 ppm), the region did not meet the 2008 ozone NAAQS (0.075 ppm) by the attainment date (July 20, 2015). However, based on the data for the period 2013-15, the region’s current design value is 0.070 ppm. Therefore, it currently meets the 2008 NAAQS. Since EPA has not finalized the proposed rule to extend the attainment date to July 20, 2016 yet, is it timely to submit the redesignation request and maintenance plan? The States need not wait for the attainment date extension or EPA’s determination that the area met the NAAQS by the extended date if any. The States can submit a RR and maintenance plan (MP) at any time; of course the critical criterion is that the certified AQ data will support a determination that the area attained. Also refer to the last sentence in the previous answer.*
- c. *When does EPA expect to finalize the proposal for extending the attainment date? Also, when might EPA be looking to publish a clean data determination? This summer, maybe? Best information is that the final rule should be issued (signed) shortly.*

- (ii) the Administrator has fully approved the applicable implementation plan for the area under section 110(k);

*Question – Does the approval of the 1997 ozone NAAQS attainment SIP by EPA on April 10, 2015 satisfy this requirement or do states also need to meet the requirements for the 2008 ozone NAAQS? In case of latter, the District, Maryland, and Virginia submitted and EPA approved the base year 2011 emissions inventory (approved in 2015) and emission statement (approved in 1994/95) as part of the 2008 ozone NAAQS implementation. However, the Nonattainment NSR rules (Marginal Area) due for submission by states by July 20, 2015 is pending for Maryland and Virginia for the 2008 ozone NAAQS. Do they need to be submitted and approved by EPA before the redesignation request could be submitted? Because the RR is for the 2008 ozone NAAQS, the plan requirements for the 2008 ozone NAAQS are relevant under this CAA provision; the NSR rules thus due count. And 1997 ozone anti-backsliding requirements, such as the attainment demo for the 1997 also must be fully approved.*

- (v) the State containing such area has met all requirements applicable to the area under section 110 and part D.”

*Question – Have the District, Maryland, and Virginia met all requirements for Section 110 and part D for the 2008 ozone NAAQS? Does the CSAPR-08 rule address the 110(a)(2)(D) FIP requirements for the 2008 ozone NAAQS? We’ll have to develop a list and check it twice. The 1997 ozone anti-backsliding requirements count as well. I’m thinking about the new & revised CTGs EPA issued in 2006, 2007 and 2008. These were applicable to the area due to its moderate classification under the 1997 NAAQS but were not part of the 1997 initial RACT or the 1997 attainment demo requirements because these CTGs became due after those SIPs became due I believe the Wash DC-MD-VA area States have submitted rules or negative declarations to EPA to cover these source categories. I have to check on the §110(a)(2)(D) element in relation to RRs. .*

### **Milestone Years & Emissions Inventories**

- (i) Base Year – The base year for the 2008 ozone NAAQS is 2011. A comprehensive emissions inventory submitted to EPA for the base year 2011 was approved in 2015.

*Question – Would we need to update the onroad and nonroad portions of the 2011 BY inventory using the MOVES2014a model or do those emissions inventories developed and submitted using the MOVES2010a model and NMIM model (EPA approved models at that time) respectively meet the requirements for the 2011 BY emission inventories for the proposed redesignation request and maintenance plan for the 2008 ozone NAAQS?*

*I am awaiting a response from EPA OTAQ. As you know all emissions inventories (EIs) in the MP (which would include the attainment year EI) must use MOVES2014a because the MP sets conformity budgets. I will do all I can to avoid a redo of the 2011 inventory. However, the attainment year EI has two purposes: (1) set an overall emissions level consistent with attaining for use in the maintenance demonstration part of the MP; and, (2) be compared to the 2011 EI to demonstrate there were reductions in the area (see CAA §107(d)(3)(E)(iii)). .*

*As for (2), I do not know off-hand how MOVES2014a differs from MOVES2010a in terms of emissions factors in the past. We’ll have to know this. Thus, would*

MOVES2014a result in higher on-road mobile emissions for 2011 than those emissions predicted by MOVES2010a? The 2011 VMT & activity levels presumably have not changed. I assume MOVES2014a provides the benefits of any new regulations affecting on-road vehicle emissions that have come into force.

- (ii) Attainment Year – The EPA memorandum titled “Procedures for Processing Requests to Redesignate Areas to Attainment,” by John Calcagni, Director, Air Quality Management Division, September 4, 1992 provides the guidance for the selection of the attainment year. The Section 5a (Attainment Inventory), pages 8-9 of this memorandum says that the attainment year emission inventory should include the emissions during the time period associated with the monitoring data showing attainment. It also says that “For ozone nonattainment areas the inventory should be based on actual typical summer day emissions of ozone precursors (volatile organic compounds and nitrogen oxides) during the attainment year. This will generally correspond to one of the periodic inventories required for nonattainment areas to reconcile milestones.”

*Question – The Washington area is considering to use the year 2014 as an attainment year for the proposed redesignation request and maintenance plan as it seems to meet both requirements outlined in the above memorandum. It is in the middle of the three year period (2013-2015) of the air quality data, which shows attainment and it is also a periodic emissions inventory year. The Washington region submitted annual emissions inventories for 2014 as part of the NEI2014 process in December 2015. Are you OK with 2014 being used as an attainment year?*

2014 would be a very good choice as it is a periodic comprehensive EI year. The 3-year period of AQ data showing attainment must contain the attainment year. Thus a 2014 attainment year EI works with the 2013-2015 AQ data. The 2014 EI needs to be a “SIP quality” EI as it form the basis of the maintenance demonstration.

- (iii) Milestone Years (Intermediate & Maintenance Year) - Maintenance of the attainment status in the future needs to be demonstrated by showing that future emissions of ozone precursors will not exceed the level of the attainment inventory over the 10-year period following EPA’s approval of the redesignation request. For his purpose, a future maintenance year and an intermediate year (between attainment year and maintenance year) needs to be identified.

*Question – Is 2025 acceptable as the intermediate year and 2030 as the maintenance year? There are a number of reasons why the area prefers to use 2025 and 2030 as the intermediate and the maintenance year respectively. First, the CAA requires that the maintenance be demonstrated over the 10-year period following EPA’s approval of the redesignation request & maintenance plan and EPA has 18 months to decide on the plan since its submission. Therefore, the maintenance year has to be atleast 12 years apart from the year of the expected submission. For this reason, 2030 seems a good choice for the maintenance year as it is about 12 years apart from the expected late 2017/early 2018 time-frame of submission. Second, the year 2025 lies close to the middle of 2018 and 2030. Third, both 2025 and 2030 are currently milestone years for the transportation conformity analysis and so the emissions analysis frame-work is ready.*

Late-2017/early-2018 submittal with say 2018 approval would put the 2030 year 11 years later; this is ok because CAA §175A requires at least 10-years of maintenance be demonstration after EPA's approval of the RR. 2025 is a bit after 2014. Region 3 will have to think about the need for a 2020-ish interim year.

Please let us know any additional information we should consider as we develop the redesignation request & maintenance plan.

We must hope the air quality trends in the area continue to result in a design value of 0.075 ppm or less; EPA does not approve RRs if the latest AQ data shows a violation or even if current preliminary data suggest there could be violation. (No slack given for the criterion of CAA §107(d)(3)(E)(i).) However, given the 2013-2015 prelim DV of 0.070 ppm, the area has some cushion relative to the 2008 0.075 ppm NAAQS.

Another factor is when EPA revokes the 2008 ozone NAAQS. For the last transition between ozone standards, EPA has issued rules saying that EPA does not redesignate areas to attainment for a revoked NAAQS.\* EPA told NAACA that we expect to propose to revoke the 2008 ozone NAAQS one year after the initial round of nonattainment designations under the 2015 NAAQS. EPA's intent is to issue these initial designations for the 2015 ozone NAAQS in the fall of 2017 (2 years after October 1, 2015)\*\*. Therefore, if the final 2015 implementation/transition rule is like the prior rule, the last date EPA could approve the RR would be somewhere in the period November to December 2018 (don't know how long after the designations rule will be published after a October 2017 final rule signature plus an allowance for a minimum of 30 days after publication to effective).

\* See 40 CFR 51.1105(c) (80 FR 12264 a6 12314-12315, March 6, 2015).

\*\*Timelines: See <https://www.epa.gov/ozone-pollution/2015-ozone-naaqs-timelines>