

Appendix E

Notices for Public Hearing and Comments, Response to Comments, and
Technical Corrections

Notices for Public Hearing and Comments

Maryland Department of the Environment

Public Notice Website: <https://mde.maryland.gov/programs/air/airqualityplanning/pages/index.aspx>

Hearing Notice

Washington DC-MD-VA 2015 Ozone NAAQS Moderate Nonattainment Area Redesignation Request and Maintenance Plan

The Maryland Department of the Environment (MDE) gives notice of a public hearing and comment period concerning the redesignation request and maintenance plan for the moderate Washington DC-MD-VA 2015 Ozone National Ambient Air Quality Standards (NAAQS).

The virtual public hearing will be held on September 10, 2026 at 11:00 am.

Maryland Public Hearing Washington DC-MD-VA 2015 Ozone NAAQS Moderate Nonattainment Area Redesignation Request and Maintenance Plan

Thursday, September 10 11:00am

Please join the meeting from your computer, tablet or smartphone.

Video call link: <https://meet.google.com/ncf-dqsh-xkb>

You can also dial in using your phone.

PIN: 272 713 040#

Or dial: (US) +1 424-532-1144

The public hearing will be held as required by federal law (Clean Air Act at 42 U.S.C. 7410 (a) and 40 CFR 51.102). The proposed plan documents have been made available on the Metropolitan Washington Council of Governments' (MWCOG) website here:

- <https://www.mwcog.org/documents/2026/06/11/draft-washington-dc-md-va-2015-ozone-naaqs-moderate-nonattainment-area-redesignation-request-and-maintenance-plan--air-quality-air-quality-conformity-ozone>

Maryland will accept comments between August 5, 2026 and September 10, 2026 at 5:00 P.M. and may also be submitted at the hearing. Comments may be sent to the Planning Program, Maryland Department of the Environment, Air and Radiation Management Administration, 1800 Washington Boulevard, Suite 730, Baltimore, MD, 21230 or emailed to airplanning.mde@maryland.gov.

After MDE considers the comments received, MDE will finalize and submit the plan to the United States Environmental Protection Agency for approval.

Persons in need of special accommodations at the hearing should contact the Department's Office of Fair Practices at (410) 537-3964 at least five (5) business days in advance of the hearing. TTY users should contact the Department through the Maryland Relay Service at 1-(800) 735-2258.

For more information, email airplanning.mde@maryland.gov.

Virginia Department of Environmental Quality

Public Notice Website: <https://townhall.virginia.gov/L/ViewNotice.cfm?gnid=3449>

Public Notice – Air Quality Plan

Date Posted: 8/24/2026

Expiration Date: 9/24/2026

Submitted to Registrar for publication: NO

No comment forum defined for this notice.

Notice of action: The Department of Environmental Quality (DEQ) is seeking comments and announcing a public hearing on a proposed plan to maintain compliance with the 2015 ozone national ambient air quality standard (NAAQS) in the Northern Virginia 2015 ozone NAAQS nonattainment area. The Commonwealth intends to submit the plan as a revision to the Commonwealth of Virginia State Implementation Plan (SIP) in accordance with the requirements of § 110(a) of the federal Clean Air Act. The SIP is the plan developed by the Commonwealth to fulfill its responsibilities under the Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the Act.

Purpose of notice: DEQ is seeking comments on the overall plan and on the issue of whether the plan enables the Northern Virginia 2015 ozone NAAQS nonattainment area, which is part of the Washington DC-MD-VA 2015 ozone NAAQS nonattainment area, to maintain compliance with the 2015 ozone NAAQS until at least 2038.

Public comment period: August 24, 2026, to September 24, 2026.

Public hearing: A public hearing will be conducted at the Northern Regional Office in conference room 1 at 1:00 pm on Friday, September 18, 2026. The Northern Regional Office is located at 13901 Crown Court, Woodbridge, VA 22193.

Description of proposal: The proposal consists of:

1. An air quality maintenance plan in support of a concurrent request to redesignate the Northern Virginia 2015 ozone NAAQS nonattainment area (Counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park) to attainment: The purpose of the plan is to ensure that emissions of nitrogen oxides (NOX) and volatile organic compounds (VOC) do not exceed the 2022 attainment year levels through 2038, enabling the area to continue meeting the 2015 ozone NAAQS. The plan contains control measures that are currently in place and will be continued to maintain emissions at or below the 2022 levels. These measures include, but are not limited to, federal control programs for on-road and

non-road engines; formulation limitations on various consumer, commercial, and industrial products; and controls on industrial sources. The plan includes information concerning emissions estimates, growth assumptions, emission factors, and reduction assumptions.

2. Motor vehicle emission budgets for the years 2022, 2032, and 2038: The purpose of the motor vehicle emissions budgets is to ensure that transportation emissions conform to the requirements of the proposed plan for maintaining compliance with the 2015 ozone NAAQS (transportation conformity).

3. Contingency measures: The plan contains a program of contingency measures to be implemented if the air quality monitoring stations in the area record a violation of the 2015 ozone NAAQS or if emissions in the area increase above the 2022 levels.

The proposed ozone redesignation request and maintenance plan were prepared by the Metropolitan Washington Air Quality Committee (MWAQC), which consists of elected officials from the affected localities and representatives of state transportation and air quality planning agencies.

The maintenance plan will be submitted as a SIP revision in conjunction with a request to EPA from the Commonwealth to redesignate the Northern Virginia 2015 ozone NAAQS nonattainment area as attainment/maintenance. DEQ is accepting comments on both the redesignation request and maintenance plan, but the redesignation request will not be submitted as part of the SIP revision.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102). The proposed maintenance plan and supporting technical documents will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104.

How to comment: DEQ accepts written comments by email and postal mail. To be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ no later than the last day of the comment period. Both oral and written comments are accepted at the public hearing. DEQ prefers that comments be provided in writing, along with any supporting documents or exhibits. Comments on the redesignation request and maintenance plan must be submitted to Doris A. McLeod, Air Quality Planner, Division of Air – Data Analysis and Planning, Department of Environmental Quality, 1111 East Main Street, P.O. Box 1105, Richmond, Virginia 23218 (phone 804-659-1990, email doris.mcleod@deq.virginia.gov). All materials received are part of the public record.

To review the proposal: The proposal and any supporting documents are available on the DEQ Air Public Notices web site (<https://www.deq.virginia.gov/news-info/shortcuts/public-notice/air>). The documents may also be obtained by contacting the DEQ representative named above. The public

may review the documents between 8:30 am and 4:30 pm of each business day until the close of the public comment period at the following DEQ locations: 1) Central Office, 1111 East Main Street, Suite 1400, Richmond, VA, 23219, 804-698-4000 and 2) Northern Regional Office, 13901 Crown Court, Woodbridge, VA, 22193, 703-583-3800.

Contact Information

Name / Title:	Doris A. McLeod / <i>Air Quality Planner</i>
Address:	1111 East Main Street P.O. Box 1105 Richmond, 23218
Email Address:	doris.mcleod@deq.virginia.gov
Telephone:	(804)659-1990 FAX: ()- TDD: ()-

District of Columbia

Public Notice Website: <https://doee.dc.gov/node/1840796>

Notice of Public Hearing and Public Comment Period - 2015 Ozone NAAQS Maintenance Plan and Redesignation Request

Friday, August 21, 2026

Notice is hereby given that a public hearing will be held on Tuesday, September 22, 2026, at 5:30 pm. The Notice of Public Hearing and Comment Period was published on Friday, August 21, 2026 in the D.C. Register [73 DCR 11983](#). The public hearing will be held using teleconferencing, which allows for both a video and voice over internet protocol (VOIP) connection:

Webex: <https://dncet.webex.com/dncet/j.php?MTID=me9b9545cca3644878c473b15c2355130>

Meeting number: 2311 083 5275

Password: T3ZwZYpkt34

Join by phone:

[+1-202-860-2110](#) United States Toll (Washington D.C.)

1-650-479-3208 Call-in toll number (US/Canada)

Access code: 231 108 35275

This hearing provides interested parties an opportunity to comment on the District of Columbia's ("District") proposed maintenance plan and redesignation request for the 2015 Ozone National Ambient Air Quality Standards ("NAAQS"). After holding the public hearing and receiving public comments, DOEE will submit the Maintenance Plan for the Washington DC-MD-VA 2015 Ozone NAAQS Nonattainment Area as well as the Redesignation Request for the Washington DC-MD-VA 2015 Ozone NAAQS Moderate Nonattainment Area to the United States Environmental Protection Agency ("EPA") for approval as a revision to its State Implementation Plan ("SIP") at 40 CFR Part 52 Subpart J, pursuant to the provisions of § 107 of the federal Clean Air Act ("CAA").

In 2015, EPA strengthened the 8-hour ozone NAAQS to 0.070 parts per million ("ppm"). 80 Fed. Reg. 65292 (October 26, 2015). Ground-level ozone air quality in the Washington, District of Columbia-Maryland-Virginia Area ("Washington Area") has improved since the area was designated nonattainment for that standard. EPA designated the District, as part of the Washington Area, as Marginal nonattainment, effective August 3, 2018. 83 Fed. Reg. 25776, 25795 (June 4, 2018). After the Washington Area failed to attain by the Marginal attainment date, EPA reclassified it as Moderate nonattainment effective November 7, 2022. 87 Fed. Reg. 60897, 60917 (October 7, 2022). On April 4, 2025, EPA determined that the Washington Area attained the 2015 ozone NAAQS by its Moderate attainment date of August 3, 2024, based on quality-assured monitoring data for 2021-2023 showing a design value of 0.070 ppm. 90 Fed. Reg. 14730 (April 4,

2025). The Washington Area has continued to attain the standard, with design values of 0.069 ppm for both 2022-2024 and 2023-2025.

The District, the State of Maryland, and the Commonwealth of Virginia are requesting that EPA redesignate the Washington Area to attainment and concurrently approve, as a SIP revision for each jurisdiction, the related CAA § 175A maintenance plan. The maintenance plan demonstrates that ozone air quality in the Washington Area will remain compliant with the 2015 ozone NAAQS through 2038, as verified by a monitoring network that meets all federal requirements. It also establishes motor vehicle emissions budgets for the interim year 2032 and the out year 2038 for transportation conformity purposes and includes contingency measures to be implemented in the event of a future violation.

Copies of the proposed maintenance plan and redesignation request are available for public review during normal business hours at the offices of the Department of Energy and Environment (“DOEE”), 1200 First Street NE, 5th Floor, Washington D.C. 20002, and in the attachments section below.

For further information about the D.C., Maryland, and Virginia redesignation request, including the appendices referenced in the documents, visit the [Metropolitan Washington Council of Governments website](#).

DOEE seeks public comments on the Maintenance Plan for the Washington DC-MD-VA 2015 Ozone NAAQS Nonattainment Area and the Redesignation Request for the Washington DC-MD-VA 2015 Ozone NAAQS Moderate Nonattainment Area.

Interested parties wishing to testify at this hearing must submit their name, address, telephone number, and affiliation (if any) to the DOEE Air Quality Division by 4:00 pm on Tuesday, September 22, 2026, by email to Dr. Samuel Kay at AirQuality.Planning@dc.gov or at the following address:

DOEE Air Quality Division
ATTN: Samuel Kay: 2015 Ozone NAAQS
1200 First Street NE, Fifth Floor
Washington, DC 20002

Interested parties may also submit written comments to the same DOEE address or the same email by 4:00 pm on Tuesday, September 22, 2026. Testimony presented at the public hearing will also be entered into the comment record. The record closes at the conclusion of the public hearing, and no comments will be accepted after that time.

All questions may be directed to Mr. Samuel Kay at AirQuality.Planning@dc.gov or by phone at 202-870-2924.

Attachment(s):

 [Washington_O3_RR_Draft_7.22.26.pdf](#)

 [Washington_O3_MP_Draft_7.22.26.pdf](#)

 [73 DCR 11983.pdf](#)

Related Content:

[Public Notices & Hearings](#)

[Air Quality](#)

[Air Quality Law and Regulations](#)

Public Comments



September 17, 2026

DOEE Air Quality Division
ATTN: Samuel Kay: 2015 Ozone NAAQS
1200 First Street NE, Fifth Floor
Washington, DC 20002
AirQuality.Planning@dc.gov

APACC calls for Strengthening DC's Commitment to Healthy Air Quality

The Anacostia Parks & Community Collaborative (APACC) is a network of individuals and organizations who come together to celebrate the Anacostia River and its park system. We appreciate the opportunity to provide comment on the Maintenance Plan for the Washington DC-MD-VA 2015 Ozone NAAQS Nonattainment Area and the Redesignation Request for the Washington DC-MD-VA 2015 Ozone NAAQS Moderate Nonattainment Area.¹

Despite the federal government's reckless rollback of clean air protections, pollution continues to accumulate across our community. This is especially true in neighborhoods along I-295 like Congress Heights and Anacostia where several industrial facilities also regularly emit harmful toxins into the air. Extreme heat amplifies these dangerous conditions, pushing up the number of unhealthy air days in the district each year.

The Air Quality Index (AQI) tracks pollutants like ozone. Locally, the AQI often hovers in the "moderate" range, which means sensitive groups such as children, seniors and those with respiratory issues like asthma are at risk. However, on Code Orange or Red days, which are increasingly becoming more common, outdoor activities become more dangerous for everyone.

That is why APACC calls for strengthening clean air requirements and standards at a time when they are under attack. For example, in February the White House gave a free pass to more than 180 polluting facilities, including habitual polluters like coal plants and chemical manufacturers, to ignore compliance with long-standing federal rules that limited mercury, arsenic and other hazardous emissions.²

Even more troubling, the Environmental Protection Agency (EPA) is determined to undermine the integrity of the Clean Air Act³ by making it less effective. A recent proposal calls for weakening the Clean Air Act to discourage the district and other states from implementing robust clean air initiatives and will lead to more air pollution in our community and worse health outcomes for residents. In fact, the EPA's

¹ https://doee.dc.gov/sites/default/files/dc/sites/doee/release_content/attachments/Washington_O3_RR_Draft_7.22.26.pdf
and
https://doee.dc.gov/sites/default/files/dc/sites/doee/release_content/attachments/Washington_O3_MP_Draft_7.22.26.pdf

² <https://www.propublica.org/article/clean-air-act-exemptions-trump-emails>

³ <https://www.federalregister.gov/documents/2026/06/12/2026-11843/ozone-reclassification-state-implementation-plan-rule>

recommendation for the district will result in more pollution that would have been cleaned up under the existing air quality standards.

Without adequate protections for healthy air quality and penalties for noncompliance, polluters in our community have been largely shielded from reporting their emissions output and slow to upgrade their facilities and vehicles with cleaner and more efficient technology. This has gone on too long and the communities where these sites operate need immediate redress.

Therefore, APACC calls on district leaders to reject the EPA's state implementation plan (SIP) requirements for reclassified nonattainment that would weaken implementation of the clean air standards, resulting in increased levels of pollution. And calls on the EPA to withdraw its proposal to weaken air quality standards and to invoke the existing requirement that the district (and other states like Maryland and Virginia) complete all SIP obligations at the highest levels to ensure that our city's actions lead to stronger, not fewer, commitments toward achieving and maintaining healthy air quality.

Thank you.

September 24, 2026

Via email to doris.mcleod@deq.virginia.gov

Doris A. McLeod
Air Quality Planner
Division of Air – Data Analysis and Planning
Virginia Department of Environmental Quality
1111 East Main St.
P.O. Box 1105
Richmond, VA 23218

**Re: Comments on the Draft Redesignation Request and Draft Maintenance Plan
for the Washington, DC-MD-VA 2015 Ozone NAAQS Nonattainment Area**

Dear Ms. McLeod:

The Southern Environmental Law Center; Chesapeake Bay Foundation; and Sierra Club, Virginia Chapter submit these comments on the proposal by the Virginia Department of Environmental Quality (“DEQ”) for the U.S. Environmental Protection Agency (“EPA”) to redesignate the Northern Virginia 2015 ozone National Ambient Air Quality Standard (“NAAQS”) nonattainment area (Counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park) to attainment and the associated proposed maintenance plan.

While our organizations are pleased that air quality in Northern Virginia has improved such that the area may qualify for redesignation to attainment, we know that ozone formation is difficult to predict and an array of factors, including hot weather, can cause an area to return to violating the ozone standard after redesignation. Accordingly, it is critical that DEQ put in place an effective ozone maintenance plan that includes adequate contingency measures designed to promptly correct any post-redesignation exceedances. As set forth below, our review of DEQ’s proposed maintenance plan indicates that the plan’s contingency provisions fail to satisfy Clean Air Act requirements or fulfill their essential purpose of promptly restoring health air quality if ozone pollution once again exceeds the 2015 NAAQS. We are also concerned that DEQ has not adequately assessed the impact Northern Virginia’s rapid data-center growth on the area’s continued ability to meet the 2015 ozone standard.

I. The contingency provisions in the draft maintenance plan fail to satisfy Clean Air Act requirements.

A. The draft contingency provisions unlawfully fail to require DEQ to implement all pre-redesignation State Implementation Plan measures to promptly correct any future violation.

Pursuant to Clean Air Act § 175A, a maintenance plan must contain “contingency provision” as necessary “to assure that the State will promptly correct any violation” occurring after redesignation of the area to attainment.¹ Such provisions must, at a minimum, “include a requirement that the State will implement *all measures with respect to the control of the air pollutant concerned which were contained in the State implementation plan for the area before redesignation* of the area as an attainment area.”² DEQ’s draft maintenance plan does not satisfy this requirement.

Contrary to § 175A, the contingency provision section of DEQ’s draft maintenance plan says nothing whatsoever regarding DEQ’s obligation to implement pre-redesignation nonattainment plan measures to correct any post-redesignation ozone standard violation. Instead, Section 6.3 provides a “non-exhaustive list of *possible* contingency measures for consideration.”³ Section 6.2 is likewise vague, promising only that in the event contingency provisions are triggered, DEQ and other states will implement “one or more” of the listed programs “or any other measures available.”⁴

While a state is free to adopt and implement additional contingency measures as needed to restore healthy air quality in the event that air quality deteriorates and no longer meets the NAAQS, such action cannot relieve the state of its obligation to comply with the Clean Air Act’s directive that it implement “all” pre-redesignation nonattainment plan measures.⁵ To comply with this requirement, the final plan should identify the ozone-control measures contained in each jurisdiction’s plan prior to redesignation and expressly require their implementation when a contingency-measure-triggering violation occurs. It should also identify which measures will remain continuously applicable after redesignation (e.g., Nonattainment New Source Review, 9 VAC 5-80-2000(B), due to area being part of the Ozone Transport Region) and those measures that would need to be reactivated upon a violation.⁶

¹ 42 U.S.C. § 7505a(d).

² *Id.* (emphasis added).

³ Draft Maintenance Plan at 27 (emphasis added).

⁴ *Id.*

⁵ *See* 42 U.S.C. § 7505a(d).

⁶ Virginia’s Nonattainment NSR program currently applies in Northern Virginia regardless of the area’s attainment designation because Northern Virginia is part of the Ozone Transport Region. *See* 9 VAC5-80-2000(B)-(C). Thus, identifying Nonattainment NSR as a pre-redesignation State Implementation Plan measure would not impose a new permitting requirement in Northern Virginia even if ozone standard violations resume post-redesignation. Rather,

B. The proposed contingency provisions fail to require immediate implementation of pre-redesignation State Implementation Plan measures in the event the area returns to violating the ozone standard.

Contrary to Clean Air Act § 175A's requirement that contingency provisions be in place to "*promptly* correct any violation."⁷ Section 6.4 of the draft maintenance plan states that the schedule under which DEQ and other agencies must identify, develop, and implement contingency provisions does not even *begin* until "three months after quality assured data determines that a violation of a 3-year design value occurred within the previous year."⁸ Once the schedule commences, the agencies would have 24 months to complete the process.⁹ And, as noted above, the plan says nothing whatsoever about DEQ's obligation to implement pre-existing nonattainment plan measures and certainly doesn't provide that such measures must be implemented any sooner than the general 24-month deadline. Such approach does not satisfy the Clean Air Act.

In requiring contingency measures to be implemented "promptly" upon an area's return to violating a standard—and specifying that those measures must include nonattainment plan provisions that are already incorporated into a state's plan—Congress plainly intended for a state to implement those pre-existing nonattainment plan provisions without delay.¹⁰ This is further evidenced by the House Report for the Clean Air Act Amendments of 1990—amendments that established the Act's maintenance plan requirements. The Report states that while "[m]ore may be required by EPA," a maintenance plan must at a minimum "provide contingency measures that include implementation by the State of all measures for control of the air pollutant concerned which were contained in the SIP for the area prior to its redesignation as an attainment area."¹¹ "This requirement," the Report explains, "is intended to assure that areas which have attained and are on a maintenance plan have an adequate program of controls immediately available in the event the area once again exceeds the standard."¹²

EPA has acknowledged Congress' intent for immediate action: "The maintenance plan must also include contingency measures to ensure that any violations *can be quickly addressed* should violations occur after the area is designated to attainment."¹³ EPA stressed the implementation of nonattainment plan control measures should be especially quick, explaining

identifying Nonattainment NSR in the plan would recognize that the program is already being implemented and confirm that the plan's schedule for developing and adopting additional contingency measures does not apply to it.

⁷ 42 U.S.C. § 7505a(d) (emphasis added).

⁸ Draft Maintenance Plan at 27–28.

⁹ *Id.*

¹⁰ *See* 42 U.S.C. § 7505a(d).

¹¹ H.R. Rep. No. 101-490, at 226–27 (1990), *as reprinted in* 1990 U.S.C.C.A.N. 3025, 3250–51 (excerpt attached).

¹² *Id.*

¹³ State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 Fed. Reg. 13,498, 13,563 (Apr. 16, 1992) (emphasis added).

that a maintenance plan “should provide for prompt implementation of these measures with minimal administrative action on the part of the State or other government agency responsible for its implementation.”¹⁴

DEQ must revise the plan to distinguish between additional contingency measures that may require future rulemaking and pre-redesignation SIP measures that are already available for implementation. The plan must require the latter measures to take effect promptly upon a violation, without subjecting them to the three-month delay or the additional 24-month schedule applicable to the development of new controls. Without that requirement, the maintenance plan fails to comply with the requirement in Clean Air Act § 175A that contingency measures be in place to “prompt correct” any ozone standard violation occurring after redesignation.

II. EPA cannot lawfully redesignate the Northern Virginia area to attainment until DEQ meets all applicable Clean Air Act Part D Requirements.

Clean Air Act § 107(d)(3)(E) states that EPA may not redesignate a nonattainment area to attainment unless EPA has fully approved the applicable implementation plan and the state has met all requirements under § 110 and Part D of the Act.¹⁵ The draft redesignation request states that Virginia “will be submitting its final [Nonattainment New Source Review] certification SIP by the end of 2026.”¹⁶ The request likewise states that Virginia will submit its Reasonably Available Control Technology requirements by the end of 2026 and identifies outstanding submissions from other participating jurisdictions.¹⁷

Promises by DEQ and other jurisdictions to make required submissions in the future do not satisfy Clean Air Act § 107(d)(3)(E). DEQ must identify all outstanding requirements, complete the SIP process, and provide the public with an opportunity to review the final submissions before EPA acts on the redesignation request.

III. The proposed maintenance plan does not adequately account for data-center growth and associated ozone-forming emissions.

Northern Virginia is experiencing an extraordinary growth in data centers.¹⁸ These facilities typically utilize backup diesel generators that emit ozone-forming pollutants.¹⁹

¹⁴ *Id.*

¹⁵ 42 U.S.C. § 7407(d)(3)(E)(ii), (v).

¹⁶ Draft Redesignation Request at 20.

¹⁷ *Id.*

¹⁸ See, e.g., Joint Legislative Audit and Rev. Comm’n, *Data Centers in Virginia*, at i (Dec. 9, 2024), <https://jlarc.virginia.gov/pdfs/reports/Rpt598.pdf> [<https://perma.cc/3EP2-JHBZ>] (“Northern Virginia is the largest data center market in the world ... The data center industry is growing rapidly in Virginia, both in established markets and newer ones.”).

¹⁹ See *id.* at 58–59 (explaining that nearly all Virginia data centers use diesel generators for backup power, and that they emit nitrogen oxides that can contribute to ground-level ozone pollution).

Moreover, it appears likely that a growing number of these facilities will utilize their own behind-the-meter electricity generation for regular operations, emitting even greater amounts of ozone-forming pollution.²⁰ And data-center growth is also driving the expansion of methane-gas-fired utility power plants.²¹ It does not appear that the draft maintenance plan adequately accounts for Northern Virginia's exceptional data-center growth and associated increase in ozone-forming emissions.

Specifically, it appears that the draft maintenance plan relies on a *national* estimate of data-center growth rather than a specific analysis of expected growth in Northern Virginia. The draft maintenance plan explains: "Virginia projected point source non-EGU facility emissions using the approach applied by USEPA in the draft 2032 and 2038 projection inventories."²² Appendix A1 provides additional detail, explaining that "[g]rowth estimates for 2032 and 2038 are based on the facility-specific and pollutant-specific emission estimates derived from the facility level data in" EPA's draft 2022 Emissions Modeling Platform ("EMP").²³ EPA's 2022v1 EMP states that EPA's projection of data-center emissions was based on "assumed linear growth rate to 2050 of 67%" using Energy Information Administration ("EIA") projection information from the 2022 Annual Energy Outlook.²⁴ Finally, review of the 2022 Annual Energy Outlook reveals that the EIA projection pertains to *national* growth in energy use by commercial information-technology and office equipment.²⁵ Thus, the maintenance plan's prediction of data-center growth ultimately rests on a *national* projection of growth in a broader sector. The maintenance plan does not explain why a national projection of data-center growth adequately reflects Northern Virginia's exceptionally rapid data-center growth.

To better ensure that ozone-forming emissions resulting from Northern Virginia's rapid data-center growth will not cause violations of the 2015 ozone standard to recur, DEQ must replace (or validate) the EIA's national growth assumption by gathering and analyzing Northern Virginia-specific information about expected data-center growth. At a minimum, the final plan should reflect DEQ's assessment of:

- All existing data centers and associated generators included in the 2022 inventory;

²⁰ See *id.*, App. I, at 131 ("Instead of relying on utilities, many data center companies are looking at ways to generate their own power using on-site power generation. ... Of the current technologies available, only natural gas appears viable for on-site generation ...").

²¹ See *id.* at 37 ("Virginia's growing data center industry is projected to greatly increase energy demand and will require construction of new generation and transmission infrastructure beyond what would have otherwise been built.").

²² Draft Maintenance Plan at 17.

²³ App. A1, at 5, § 4 (titled *Technical support document for the development of point source (EGU & Non-EGU) emissions inventories for 2022, 2032, and 2038*).

²⁴ EPA, *Documentation of 2022v1 Emissions Released in October 2024, Version: 10/21/2024*, at 23 (Oct. 21, 2024), https://gaftp.epa.gov/Air/emismod/2022/v1/2022v1_emissions_docn.pdf [<https://perma.cc/5ZFS-SQJW>].

²⁵ EIA, *Annual Energy Outlook 2022 Narrative*, at 14 (Mar. 2022), https://www.eia.gov/outlooks/aeo/pdf/AEO2022_Narrative.pdf [<https://perma.cc/Q6R5-X6TP>].

- All permitted, proposed, and reasonably foreseeable data centers that would impact future emissions projections;
- The number, capacity, fuel, emissions rate, and assumed operating hours of backup generators;
- Emissions associated with testing, maintenance, emergency operation, and any demand-response or load management operation; and
- The additional utility power plant emissions associated with projected data-center electricity demand.

Given the unprecedented and rapid expansion of the data-center industry in Northern Virginia, DEQ cannot simply rely on EIA's national growth factor to demonstrate that Northern Virginia's air quality will continue to comply with the 2015 ozone standard. To ensure healthy air quality, DEQ must analyze available information specifically pertaining to data-center growth in Northern Virginia. If necessary to protect air quality, DEQ must undertake rulemaking to establish emission standards and other requirements needed to reduce ozone-forming emissions resulting from data-center growth.

Conclusion

For the above-stated reasons, DEQ must revise and supplement the draft 2015 ozone NAAQS redesignation request and maintenance plan before submitting them to EPA for approval. Specifically, DEQ must revise the maintenance plan's contingency provisions to require prompt implementation of all pre-redesignation state implementation plan measures, ensure that applicable Clean Air Act § 110 and Part D requirements have been met, and utilize Northern Virginia-specific information to demonstrate that data-center growth will not jeopardize the area's continued compliance with the 2015 ozone standard following redesignation to attainment.

Respectfully submitted,

/s/ Keri N. Powell

Keri N. Powell

Air Program Leader and Carol Remmer Angle

Senior Attorney for Community Health

Southern Environmental Law Center

Ten 10th St. NW, Ste. 1050

Atlanta, GA 30309

(678) 433-6851

kpowell@selc.org

Ms. Doris McLeod
September 24, 2026
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Mark Sabath
Senior Attorney
Southern Environmental Law Center
500 New Jersey Ave. NW, Suite 600
Washington, DC 20001
(434) 977-4090
msabath@selc.org

Patrick Fanning
Virginia Staff Attorney
Chesapeake Bay Foundation
1108 E. Main Street, Suite 1600
Richmond, VA 23219
(804) 780-1392
pfanning@cbf.org

Connor Kish
Director
Sierra Club, Virginia Chapter
100 West Franklin St.
Richmond, VA 23220
(804) 225-9113
connor.kish@sierraclub.org

Attachment

Attachment

101st CONGRESS }
2d Session }

HOUSE OF REPRESENTATIVES

{ REPT. 101-490
{ Part 1

CLEAN AIR ACT AMENDMENTS OF 1990

MAY 17, 1990.—Ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce,
submitted the following

REPORT

together with

ADDITIONAL, SUPPLEMENTAL, AND

DISSENTING VIEWS

[To accompany H.R. 3030]

[Including cost estimate of the Congressional Budget Office]

The Commerce on Energy and Commerce, to whom was referred the bill (H.R. 3030) to amend the Clean Air Act to provide for the attainment and maintenance of the national ambient air quality standards, the control of toxic air pollutants, the prevention of acid deposition, and other improvements in the quality of the Nation's air, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE, REFERENCE, AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Clean Air Act Amendments of 1990”.

(b) **REFERENCE.**—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Clean Air Act.

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TITLE I—PROVISIONS FOR ATTAINMENT AND MAINTENANCE OF NATIONAL AMBIENT AIR QUALITY STANDARDS

- Sec. 101. General planning requirements.
Sec. 102. General provisions for nonattainment areas.
Sec. 103. Additional provisions for ozone nonattainment areas.

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Federal government engages in, supports, in any way, provides financial assistance for, licenses, permits or approves any activity, that agency has an affirmative responsibility to assure that such action conforms to the State or Federal implementation plan.

Section 176(c) is amended to clarify that conformity requires a showing of conformity to the plan's purpose of eliminating or reducing the severity of NAAQS violations, and achieving expeditious attainment of all the ambient standards, as well as a showing that the relevant activities, considering any growth likely to result, will not contribute to a failure to attain the standard, or delay timely attainment of the standard or achievement of interim emissions reductions, including any applicable emission reduction milestones.

The Administrator is directed within one year to promulgate regulations governing the determination of conformity under this section. In the case of individual projects or activities that are part of larger plans, it may not always be necessary that each individual project fully meets the conformity criteria on its own merits. An individual project may be found in conformity if the project is part of a larger plan of projects, provided the plan as a whole meets the conformity criteria and an enforceable commitment has been made to implement the larger plan.

The Administrator's regulations must insure, however, that Federal agencies do not selectively approve, fund, or build only the elements of an overall plan that increase emissions, as has sometimes happened under current law. The regulations should also insure that the conformity of a project is reassessed if its design changes significantly from that described in a conforming overall plan. Each State with an ozone or CO nonattainment area is required under these regulations to submit within 18 months of enactment a SIP revision containing for each nonattainment area criteria and procedures for assessing conformity.

Through the evaluation of the air quality impacts of proposed projects before they are undertaken, the conformity provision is intended to foster long range planning for the attainment and maintenance of air quality standards, and to assure that Federal agencies do not take or support actions which are in any way inconsistent with the effort to achieve NAAQS or which fail to take advantage of opportunities to help in the effort to achieve NAAQS.

The Committee expects that the new conformity provisions will be especially helpful in assuring that air quality considerations play a greater role in Federally supported transportation planning efforts, which can have a major impact on air quality and, in some severely polluted areas, are essential as part of the program for achieving NAAQS.

The Committee believes these changes are consistent with the report of the GAO, dated March 1990, entitled "Air Pollution—EPA Needs More Data from FHWA on Changes to Highway Projects," although it is not limited to such projects.

Section 102. General provisions for nonattainment areas

This section of the bill amends part D of the Clean Air Act to include five subparts that provide (i) general requirements for all nonattainment areas, (ii) specific requirements for ozone nonattainment areas, (iii) specific requirements for CO nonattainment areas,

(iv) specific requirements for PM-10 nonattainment areas, and (v) specific requirements for sulfur oxides, NO₂, and Pb nonattainment areas.

Existing Clean Air Act section 171 is amended in section 102(a) of the bill to provide that the definition of "reasonable further progress" means such annual incremental reductions as prescribed by the Clean Air Act or by the Administrator. The definition of "nonattainment area" is revised to mean any area designated as nonattainment by the Administrator under section 107.

Classifications of nonattainment areas.—Section 172(a)(1) is amended in section 102(b) of the Clean Air Act Amendments of 1990 to provide that after promulgating the designation of an area as nonattainment, EPA is authorized to classify nonattainment areas for purposes of imposing different attainment dates and different control requirements. In determining the classifications, EPA may consider the severity of the air quality problem, the feasibility of pollution control measures, and other factors. To announce the classifications, EPA must publish a notice in the *Federal Register*, which is not subject to notice and comment and is not subject to judicial review. However, EPA's classification may be challenged after the Administrator takes action on a SIP submittal under section 110(k) or imposes sanctions under section 179. The notice should explain the basis for the classifications.

Attainment dates for nonattainment areas.—Revised section 172(a)(2) provides that for primary NAAQS, a nonattainment area must reach attainment as expeditiously as practicable, but no later than five years from the date of designation to nonattainment. EPA may grant an extension of up to 10 years, depending on the severity of the problem and the feasibility of control measures.

For secondary standards, the attainment date is a reasonable time after the date of designation.

The Administrator may grant up to two one-year extensions of the attainment date, upon request by the State, if the State complies with all plan requirements and no more than an minimal number of exceedances of the standard, as determined by EPA, has occurred in the year preceding the extension year.

Schedule for plan submissions.—Revised section 172(b) provides that when EPA promulgates the designation of an area as nonattainment, it must set a schedule for plan submittal. At the latest, all elements of the plan other than the attainment demonstration must be submitted within three years from the promulgation of the nonattainment designation.

Nonattainment plan provisions.—Revised section 172(c) establishes requirements for all nonattainment area plans, including those for ozone, CO, and PM-10 nonattainment areas. These requirements include for the following provisions:

(1) All reasonably available control measures are to be provided for as expeditiously as possible. To comply with this requirement, the SIP must require use of reasonably available control technology (RACT) on existing stationary sources, at a minimum.

(2) Requirements for reasonable further progress.

(3) Emissions inventories, including periodic updates as may be required by EPA.

(4) An identification of expected emissions from new sources and a demonstration that those emissions will be consistent with reasonable further progress towards attainment, and attainment by the date required.

(5) Requirements for new or modified major sources, in accordance with Clear Air Act section 173.

(6) Enforceable emission limits and other measures necessary for attainment (including, at the State's choice, economic incentives such as fees or auctions).

(7) General implementation planning requirements of section 110(a)(2).

(8) Equivalent modeling techniques, emission inventories, and planning procedures may be allowed by the Administrator upon application by the State.

(9) The implementation of specific contingency measures to be undertaken in the event the area fails to meet any applicable milestone, make reasonable further progress, or attain the NAAQS by the deadline date. Such measures are to take effect without further action by the State of Administrator, and are to be adequate to compensate for any emission reduction shortfall.

Plan revision required in response to findings of plan inadequacy.—Revised section 172(d) provides that where the State is required to submit a SIP revision because the Administrator has issued a finding that the SIP is substantially inadequate to provide for attainment or meet any other requirement of the Act, the SIP revision must correct any deficiencies identified by the Administrator and meet all other applicable requirements of the Act. The Administrator is authorized to adjust otherwise applicable dates, except for attainment dates, to the extent necessary to apply those requirements in a consistent fashion. The new section requires EPA, as appropriate, to issue (i.e., make public) written guidelines, interpretations, and information to the States, taking into consideration any such guidelines, interpretations, or information provided to the States or others in the public before enactment. This requirement should help States submit adequate and approvable SIP's and revisions. It should also help those subject to the plan requirements. Internal agency memoranda to EPA personnel that are not available to the public or made public will not suffice.

Future modification of standard.—Revised section 172(e) provides that if a NAAQS is relaxed, control requirements in areas that remain in nonattainment may not be made less stringent.

Permit requirements.—Section 102(c) of the bill amends Clean Air Act sections 172 and 173, concerning permit requirements.

New source requirements.—The current Clean Air Act requirements for new and modified major stationary sources, including permits, are retained, revised, and expanded.

The requirement that new sources or modifications in nonattainment areas obtain offsets for their emissions is retained. The Administrator is given the authority to set the rules for determining the "baseline" against which emission offsets are to be credited. The baseline is to be consistent with assumptions used in the State's attainment demonstration. The section 172 requirement that States analyze possible alternative sites in issuing new source permits is retained.

Major sources must each obtain offsets, except for sources located in zones targeted by the Department of Housing and Urban Development and EPA for economic development, which must come within allowances for emission increases provided for in the area's attainment demonstration.

Prohibition on use of old growth allowances.—New section 173(b) prohibits continued use of growth allowances approved prior to any SIP call.

Offsets.—A new section 173(c) is added which clarifies that a new or modified major stationary source may only comply with offset requirements under Part D by obtaining enforceable emission reductions from the same source or other sources in the same nonattainment area. However, provision is made for a State to allow a source to obtain emission reductions in a second area (or other additional areas) if the second area has an equal or greater classification and emissions from that second area contribute to a violation of NAAQS in the first area. Such enforceable emission reductions are required to be in effect by the time the new or modified source commences operation.

Section 173(c) specifies that any such offsets must be adequate to assure that the total tonnage of increased emissions from the new or modified source are offset by an equal or greater reduction, as applicable, in actual emissions. Reductions in potential or allowable emissions are not to be deemed adequate if there is not a real reduction in actual emissions that equals or exceeds, as applicable, the emission increase accompanying the operation of the new or modified major source. Emission reductions otherwise required by law are not allowed to be creditable for the purposes of any offset requirement. Incidental emission reductions which are not otherwise required by this Act would not be considered "as required by law" and shall be creditable if they otherwise meet the requirements of the new section 172(c)(1). For example, reductions that are achieved indirectly pursuant to a requirement of the Act are not covered—for example, VOC reductions achieved by virtue of an air toxics requirement (other than the specific pollutant directly covered by such a requirement), or reductions achieved pursuant to a State requirement that goes beyond the requirements of this Act. These types of reductions are creditable.

In the case of ozone nonattainment areas covered under subpart 2 of these amendments, the Committee specifies that the minimal ratio of offsetting emission reductions to actual emission increases shall not be less than 1.1 to 1.0. In addition, greater offset ratios and more inclusive major source definitions in Sections 103, 104, and 105 of this bill may apply to the implementation of the offset program in ozone, CO, and PM-10 nonattainment areas to require greater offset ratios, and regulation of smaller sources, in more polluted areas.

The Committee notes that a company that is building either a new or modified production facility pursuant to a valid construction permit and that incurred no obligation under current law to obtain offsets as a condition of obtaining its construction permit would not be required under the provisions of this amendment to obtain offsets as a condition of being issued its operating permit. The amendment makes no change in current law in this regard.

Also, if the company builds its facility consistent with the requirements of the construction permit which was issued prior to enactment of this bill, the company may subsequently obtain an operating permit without meeting any additional obligations related to obtaining offsets, even if the area in which the company is building its facility moves from a classification which did not require offsets to one which does. In effect, the company is grandfathered, just as it would be under current law. The company would not be required to obtain offsets as a condition of obtaining its operating permits even if the operating permit is applied for by the company after enactment of the amendment.

Control technology information.—A new subsection 173(d) is added which requires States to submit to EPA control technology information from permits issued under Section 173. EPA is to make this information available to the States and the general public through a control technology clearinghouse (as provided in section 108(k)) for information regarding reasonably available control technology (RACT), best available control technology (BACT), and lowest achievable emission rate technology (LAER). The affected sources and States and local permitting authorities need access to such information.

Planning procedures.—Section 102(d) of the bill revises section 174 which addresses planning procedures. The planning procedures set out in current sections 174 (a) and (b) are broadened to ensure that State and local (including regional) authorities share in the development and implementation of the SIP, with some technical revisions to make clear that implementation includes enforcement and to conform this section with revisions in other parts of the Act. In addition, a new subsection (c) is added, which clarifies that when a nonattainment area includes more than one State, the affected States may jointly undertake planning procedures.

Maintenance plans.—Section 102(e) of the bill establishes a new Clean Air Act section 175A addressing Maintenance Plans. Under this section, any nonattainment area seeking redesignation to attainment must submit an approvable maintenance plan showing that the standard will be maintained for at least 10 years. The plan must include such additional measures as are necessary to assure such maintenance of the standard. Subsequent plan revisions are required eight years after designations as attainment to provide for maintenance of the standard for the 10-year period following the expiration of the first 10-year period.

The new section specifically provides that until such plan revision containing a maintenance plan meeting the requirements of this section is approved, and the area is redesignated as an attainment area, all existing SIP requirements and Part D requirements continue in force and effect.

The new section requires each maintenance plan SIP revision to include such contingency measures as the Administrator deems necessary to promptly correct any violation of the standard which occurs after redesignation of the area as an attainment area. It also requires each such maintenance plan to provide contingency measures that include implementation by the State of all measures for control of the air pollutant concerned which were contained in the SIP for the area prior to its redesignation as an attainment

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area. More may be required by EPA. The Committee believes EPA should provide guidance which shall be public for such plans.

This requirement is intended to assure that areas which have attained and are on a maintenance plan have an adequate program of controls immediately available in the event the area once again exceeds the standard.

Interstate transport.—Section 102(f) of the bill establishes a new Clean Air Act section 176A which, upon EPA's own motion or upon petition from a State, provides for an interstate transport region that consists of all States which contribute to NAAQS violations in any one State for a particular pollutant. After establishing such a region, EPA may add or remove States from it, based on the same considerations concerning emissions.

Under section 176A(b), whenever EPA establishes an interstate transport region, it must establish a commission, consisting, as a minimum, of the Governor of each State or the Governor's designee, one air pollution official from each State in the region, the Administrator and a representative from each of the relevant EPA regions. It is intended that no member serve in two capacities. The Federal officials have a nonvoting status. All actions must be by majority vote. The Commission may recommend that EPA issue a SIP call to certain States, requiring them to include specified measures in their SIPs to solve the interstate transport problem. It can make other recommendations as well. All must include the basis for the submittals.

Under section 175(c), the Administrator is obligated to act, after an opportunity for public input, to approve or disapprove in whole or in part each of a Commission's recommendations within 18 months after they are submitted. Conforming changes are made to Clean Air Act section 106 (authorizing EPA to fund interstate air quality agencies) to authorize EPA funding for transport commissions formed under new Clean Air Act section 176A.

Sanctions and consequences of failure to attain.—Section 102(g) establishes a new section 179 specifying mandatory sanctions for State failure to submit or implement an approvable SIP, and establishing the consequences for nonattainment areas that fail to attain by the deadline date.

Section 179(a) outlines the State failures which are sanctionable once the EPA Administrator makes the finding or determination or takes a disapproval action. Other provisions of the Act guide the Administrator on when and whether to make such findings, etc. Of course, such findings, etc., are subject to judicial review as final agency actions.

These failures include failure to submit a plan or plan element meeting the minimum criteria of section 110(k), EPA disapproval of a State plan in whole or in part, failure to make any required submission satisfying the minimum criteria of section 110(k), and failure to implement any requirement of an approved plan.

If the State has not corrected such deficiency within 18 months from the Administrator's finding, determination, or disapproval, one of the two listed sanctions in section 179(b) (which includes a highway funding cut-off, and a 2:1 offset requirement) is to apply immediately upon expiration of such 18-month period. If the deficiency is not corrected within an additional six months, the second

Record of Public Hearings & Summary of Public Comments and Responses

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 Energy and 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 Energy and 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:** The number of unhealthy air days is increasing, and some communities are disproportionately affected.

Commenter: Anacostia Parks & Community Collaborative

Text: “....pollution continues to accumulate across our community. This is especially true in neighborhoods along I-295 like Congress Heights and Anacostia where several industrial facilities also regularly emit harmful toxins into the air. Extreme heat amplifies these dangerous conditions, pushing up the number of unhealthy air days in the district each year.”... “on Code Orange or Red days, which are increasingly becoming more common, outdoor activities become more dangerous for everyone.”

Response: The number of unhealthy ozone days (code orange and above) has been much lower for the last 10 years in the District as well as in the entire Washington, DC-MD-VA 2015 Ozone nonattainment area (Washington, DC-MD-VA area) compared to prior years. Measured against the 2015 Ozone NAAQS, the Washington, DC-MD-VA area had 51 unhealthy ozone days in 2005 and 14 in 2015, compared with seven in 2024 and five in 2025, the third-lowest on record.

This has been made possible due to the implementation of a number of control programs that were adopted at the federal, state, and local levels. Ozone levels have decreased significantly over the years and have been below the 2015 ozone standard since 2021. The area's design value fell from 0.072 ppm for 2014-2016 to 0.069 ppm for 2023-2025, and on April 4, 2025, EPA determined that the area attained the 2015 Ozone NAAQS by its moderate attainment date. 90 Fed. Reg. 14730. Ozone is a regional pollutant. It forms from NO_x and VOC emitted across the entire nonattainment area and from sources in upwind states, so the maintenance plan addresses it on a regional basis. Hazardous air pollutants from individual facilities are regulated separately, and through federal standards under CAA § 112 and through DOEE's air permitting, compliance, and enforcement programs.

The maintenance plan still guards against heat related ozone formation in two ways. First, the ozone monitoring network will continue to operate. Second, if any monitor records a violation of the 2015 Ozone NAAQS, the plan's contingency measures must be developed, adopted, and implemented within 24 months.

Within the District, DOEE has substantially expanded federally-compliant air monitoring in the communities the commenter identifies. In 2024, DOEE opened the Anacostia Freeway near-road monitoring station along I-295. It also opened Ward 8's first ambient air monitoring station at Bald Eagle Recreation Center, funded through an EPA American Rescue Plan grant. That station added ozone and nitrogen dioxide in June 2025. These monitors will provide more evidence as to whether the Washington DC-MD-VA area is maintaining the 2015 Ozone NAAQS.

Local sources of emissions and related air pollution issues were discussed in detail by a guidebook published by Metropolitan Washington Air Quality Committee (MWAQC) on July 30, 2025, titled "Resource Guide for Air Quality Action". This guide was developed based on direct feedback from stakeholders within the metropolitan Washington region and provides a framework to guide the MWAQC members and their associated communities in considering equity and environmental justice in air quality planning and policy development. It contains a recommended list of actions and strategies that can be used to improve air quality within metropolitan Washington region.

2. **Subject:** Federal air pollution control rules are being relaxed, removed, or not enforced.

Commenter: Anacostia Parks & Community Collaborative

Text: "For example, in February the White House gave a free pass to more than 180 polluting facilities, including habitual polluters like coal plants and chemical manufacturers, to ignore

compliance with long-standing federal rules that limited mercury, arsenic and other hazardous emissions.”

“A recent proposal calls for weakening the Clean Air Act to discourage the district and other states from implementing robust clean air initiatives and will lead to more air pollution in our community and worse health outcomes for residents.”

Response: The commenter is pointing to federal rules recently being relaxed, removed, or not enforced and their possible consequences. DOEE acknowledges those concerns but the proposed redesignation request and maintenance plan, if approved by EPA will serve as a federally enforceable plan to ensure that air quality in the region does not return to violating the health-protective Ozone NAAQS. The facility exemptions the commenter cites are exemptions from federal hazardous air pollutant standards under CAA § 112. That program is separate from the Ozone NAAQS program, and the exemptions do not change any control measure the maintenance plan relies on.

The “recent proposal” the commenter cites is EPA’s proposed Ozone Reclassification State Implementation Plan from June 12, 2026. That rulemaking is separate from this redesignation request and maintenance plan.

The maintenance plan does contain a list of contingency control measures that will be implemented if any monitor records a violation of the 2015 Ozone NAAQS, or if future emission inventories show total NOx or VOC emissions above the attainment-year levels in Table 5-1 of the plan. The second trigger means that rising emissions, including any increase caused by changes to federal programs, would require action before air quality violates the standard. In addition, CAA § 175A(b) requires a second maintenance plan eight years after redesignation, which will reflect federal and state programs as they stand at the time.

3. **Subject:** The District should reject weakened SIP requirements and complete all SIP obligations at the highest level.

Commenter: Anacostia Parks & Community Collaborative

Text: "...APACC calls on district leaders to reject the EPA's state implementation plan (SIP) requirements for reclassified nonattainment that would weaken implementation of the clean air standards, resulting in increased levels of pollution."

Response: The redesignation request and maintenance plan do not relax or remove any control requirements. Under CAA § 175A(d), the maintenance plan can only be approved if the area is meeting the health-protective NAAQS and must provide that the region will continue to implement every control measure for ozone that was in its SIP before redesignation. CAA §

110(l) separately bars EPA from approving any SIP revision that would interfere with attaining or maintaining a NAAQS. The Washington, DC-MD-VA area is in the Ozone Transport Region, where RACT and new source review requirements under CAA § 184 apply regardless of attainment status.

4. Subject: Contingency provisions should include a requirement to implement all measures with respect to the control of the air pollutant concerned which were contained in the state implementation plan (SIP) before redesignation.

Commenter: Southern Environmental Law Center, Chesapeake Bay Foundation, Sierra Club (SELC, et al)

Text: The SELC notes that Section 175A of the Clean Air Act (CAA) requires as part of contingency planning that states commit to implementing all measures with respect to the control of the air pollutant concerned which were contained in the SIP for the area before redesignation. The SELC states that the draft maintenance plan does not satisfy this requirement.

Response: DEQ agrees that such a statement must be included in the maintenance plan. DEQ has not requested that any control measures implemented in the area prior to this designation be removed from the SIP. At this time, DEQ has no intention of making such a request to Environmental Protection Agency (EPA). Should such a change to the SIP take place, the change would need to be provided with public participation requirements as required by 40 CFR Part 51 and § 110 of the CAA.

The draft maintenance plan contains the following statement under Section 4.1.2:

This maintenance plan includes a commitment to continue to enforce all applicable requirements of past revisions to the state implementation plan (SIP) after the ozone nonattainment area is redesignated to attainment.

However, review of the proposed maintenance plan shows that the commitment was not included in subsequent paragraphs. To ensure that this intent is clearly stated, the following statement has been added to Section 6 Contingency Measures:

The District of Columbia, the State of Maryland, and the Commonwealth of Virginia commit to continuing the implementation of all control measures for this area included in the SIP prior to the redesignation of the area for the 2015 ozone National Ambient Air Quality Standards (NAAQS).

5. Subject: Contingency provisions should be implemented promptly. The schedule in the proposed maintenance plan allows for 24 months to implement the measures, which is not prompt enough.

Commenter: SELC, et al

Text: The SELC notes that Section 175A of the CAA requires contingency measures to promptly correct any violation. The SELC states that the draft maintenance plan does not satisfy this requirement.

Response: DEQ disagrees with this comment. DEQ relies upon EPA guidance to determine the schedule for implementation that is adequate to promptly address future violations of the standard or exceedances of the attainment year emission inventory. The 24-month timeframe provided in Section 6.4 of the proposal comports with the guidance in the EPA memorandum entitled, "Maintenance Plan Guidance Document for Certain 8-hour Ozone areas Under Section 110(a)(1) of Clean Air Act" and dated May 20, 2005.¹ Under #11, page 7, the guidance states:

The schedule for adoption and implementation should be as expeditious as practicable, but no longer than 24 months.

As noted in the SELC's comments and described in Section 6.3, the proposed maintenance plan offers a listing of measures that may be chosen for implementation should a monitored violation occur or an exceedance of the emissions inventory occur. Very few regulations exist that generate reasonable emission reductions and that have not already been implemented in this area since the area has a long history of ozone air quality issues. Using a non-exhaustive listing in the maintenance plan allows states, in the event of an ozone air quality violation, to conduct an evaluation at that time using the latest approved tools for modeling and for emissions estimation. Such tools, models, and inventory techniques are continuously evolving to provide better, more accurate data and projections. This approach allows states to determine which measures might be most helpful for air quality improvements and which measures may be implemented in the timeliest manner.

Lastly, the regulatory processes in the three states require significant time. Rules must be developed, stakeholders must be engaged, and public participation requirements must be followed. Otherwise, the regulations may not withstand legal challenge, and achieving necessary reductions will be further delayed. The requirements for promptly implementing such regulations must be balanced by the timelines needed for regulatory actions as part of the Administrative Process Act.

¹ URL: <https://www.regulations.gov/document/EPA-HQ-OAR-2005-0150-0025>

6. Subject: CAA Part D Requirements-Nonattainment New Source Review (NNSR), Reasonably Available Control Technology (RACT)

Commenter: SELC, et al

Text: The SELC notes that §107(d)(3)(E) of the CAA prevents EPA from redesignating an area to attainment unless EPA has fully approved the state's applicable implementation plan. The SELC points out that Virginia identified the NNSR certification and RACT certifications as outstanding items.

Response: Virginia is working on these documents and expects that they will soon be available for public comment in accordance with requirements in 40 CFR Part 51 and Section 110 of the CAA. Virginia expects to submit these documents to EPA in a timely manner such that EPA will be able to approve Virginia's request for redesignation. It should be noted that due to this area also being part of the Ozone Transport Region (OTR), the requirements for NNSR and for the application of RACT are required by the CAA regardless of air quality, designation, or classification.

7. Subject: Emission estimates from data centers

Commenter: SELC, et al

Text: The SELC states that emissions from data centers were not adequately addressed. They point to a national estimate of data center growth, rather than a regional or local estimation, and the number of facilities that will install and operate their own power supplies. They state that DEQ must:

- Include all existing data centers and associated generators in the 2022 inventory;
- Include all permitted, proposed, and reasonably foreseeable data centers that would impact future emission projections;
- Include the number capacity, fuel, emissions rate, and assumed operating hours of backup generators;
- Include emissions associated with these data centers; and
- Include additional utility power plant emissions associated with projected data center electricity demand.

Further, they note that DEQ must undertake rulemaking to establish emission standards and other requirements to protect air quality from data center emissions.

Response: DEQ disagrees with the supposition that data center emissions are not adequately addressed in the emissions inventory.

The emissions inventory used in this maintenance plan is based on the 2022 emissions modeling platform (EMP), developed through a collaboration with state and local agencies and EPA. The 2022 EMP development effort began well in advance of this maintenance plan's development. Data centers have become a topic of concern for many organizations and individuals. However, air emissions from most data centers would not normally be captured as individual point sources in the 2022 EMP due to EPA's guidance on inventory development. EPA has published a technical support document entitled, "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations," and dated May 2017.² This document is hereafter referred to as the 2017 inventory guidance.

Section 2.5.8 of the 2017 inventory guidance describes the types of sources that should be included in a SIP or modeling inventory within the point source sector (page 25):

As defined by the Air Emissions Reporting Rule (AERR) in 40 CFR 51.50, point sources are large, stationary (non-mobile), identifiable sources of emissions that release pollutants into the atmosphere. A point source is a facility that is a major source under 40 CFR Part 70 for one or more of the pollutants for which reporting is required by 40 CFR 51.15 (a)(1). This does not include the emissions of hazardous air pollutants, which are not considered in determining whether a source is a point source for ozone, fine particulate matter (PM_{2.5}), and regional haze emissions inventory development and reporting. These point sources can be associated with a single point or group of points in space. Examples of important point source emissions categories include power plants, industrial boilers, petroleum refineries, cement plants, and other industrial plants.

Nearly all data centers currently operating in Virginia are not major sources under 40 CFR Part 70. In 2022, only three data centers operating in Virginia were considered major under 40 CFR Part 70. Two of those major data centers are located in this nonattainment area. In 2022, these two data centers accounted for about 50 tons per year (tpy) and about 0.14 tons per day (tpd) of nitrogen oxides (NO_x), the predominant precursor to ozone in this nonattainment area. Analyses using Virginia's Comprehensive Environmental Data System (CEDs) at the time of the 2022 EMP development process identified about 470 tpy of NO_x from approximately 101 data centers within the nonattainment area. Therefore, using the 2017 inventory guidance, the NO_x emissions from most data centers operating in 2022 would not be accounted as singular point sources with discrete latitude and longitudes, source-specific operating information, and other descriptive components that go into a point source inventory for SIP or modeling purposes. Rather, synthetic minor and minor data centers would be included in the area/non-point inventory as part of a general source classification code (SCC) relating to the combustion of fuel across an entire jurisdiction.

² URL: https://www.epa.gov/sites/default/files/2017-07/documents/ei_guidance_may_2017_final_rev.pdf

This approach recommended by the 2017 inventory guidance for only including major stationary sources in the point sector is appropriate since data centers do not have significant air emissions as compared to other types of source categories. For example, the ozone season daily emissions of NO_x in 2022 from the data centers in the Northern Virginia portion of the nonattainment area equate to approximately 0.8 tpd of NO_x (see Section #5 below regarding updates made to the inventory to correct errors). Approximately 0.66 tpd of NO_x is from data centers that would otherwise have been omitted from the point source inventory and included in the area/nonpoint inventory using the 2017 inventory guidance. Total point source daily NO_x emissions are 8.8 tpd in 2022 for the Northern Virginia portion of the nonattainment area. The onroad NO_x 2022 estimate for the Northern Virginia portion of the nonattainment area is 27.9 tpd (see Appendix D1). The nonroad and marine/air/rail NO_x 2022 estimate for the Northern Virginia portion of the nonattainment area is approximately 10 tpd (see Appendix C1). Point source emissions are a small portion of the inventory, and data centers are a small portion of the point source inventory.

However, DEQ felt that inclusion of most data centers in the area/nonpoint inventory sector, with only major data centers represented in the point source sector and all other data centers included in the area/nonpoint sector as part of a general SCC, could cause difficulties when developing appropriate future year inventories. One issue was the application of growth rates. Growth rates for a general fuel combustion SCC in the area/non-point inventory usually do not reflect large growth. Applying a data center-specific growth rate to this SCC would assume more growth than appropriate for non-data center operations that are also included in general SCCs. Another issue is that location may be important for future analyses. A third issue is temporalization of such emissions. At this point, data is not readily available concerning operating schedules for each unit and facility. DEQ is developing a data center generator set database that is scheduled to be implemented by the end of 2026. This online portal for data centers will include hours of operation and other operating data that may allow DEQ to better understand how such units should be represented in future inventory efforts.

For these reasons, DEQ decided to include the highest emitting data centers in the 2022 EMP as point sources. (The remainder of the 2022 operational data centers are included in the area/nonpoint sector of the inventory based on their fuel use and resulting emissions.) Ideally DEQ wanted to include all data centers operating in 2022 within the nonattainment area in the 2022 EMP as point sources. Including an additional 99 sources in the 2022 EMP as point sources necessitates first entering these facilities into EPA's Environmental Inventory System (EIS). Entering an additional 99 sources into EIS was not possible with current staffing resources and time constraints. However, DEQ identified the 21 highest emitting data centers in 2022 in the nonattainment area and included those in EIS. This approach accounted for an additional 245 tpy of NO_x from these 21 data centers in the point source category. Including

these facilities and NO_x emissions in the point source inventory allowed a data center-specific growth rate to be applied when developing the 2032 and 2038 emission inventory projections. EPA applied a growth ratio of approximately 1.19 (on average) to the 2022 NO_x emissions to project their emissions to 2032 and a growth ratio of approximately 1.33 (on average) to the 2022 NO_x emissions to project their emissions to 2038. These growth ratios are higher than any other source category or point source facility in the Northern Virginia portion of the nonattainment area.

Whether these growth rates result in accurate predictions of future emissions from data centers is unclear. However, the inventory analysis provided in Table 5-6 of the maintenance plan shows a large margin of safety for NO_x between the attainment year of 2022 and the projection years of 2032 and 2038, more than 30 tpd. These reductions are primarily due to the reductions in onroad NO_x emissions from vehicular turnover and to a lesser extent in nonroad NO_x emissions from equipment turnover. New vehicles and nonroad equipment are much cleaner than the replaced items. The 2032 and 2038 onroad projections include conservative estimates of electric vehicle penetration, where future year electric and other technologies were frozen at 2025 levels, to address uncertainties in the federal regulations for this source category. The projections have been augmented with reasonable transportation buffers to account for changes to models and inputs. These data are discussed in Section 5.2 of the maintenance plan and Appendix D1. Even with these highly conservative projection methodologies, the onroad and nonroad sectors show projected reductions such that the entire emissions inventory for 2032 and 2038 will be well below the NO_x 2022 attainment emissions inventory. Emissions growth in the data center sector is unlikely to outpace these reductions.

If unforeseen circumstances occur where the emissions growth of any sector causes the actual NO_x emissions to exceed the 2022 attainment year levels, Section 6 includes contingency measures for that situation.

Another effort underway at DEQ is the [data center monitoring project](#).³ Although current monitoring data for ozone does not show negative impacts from the increase in the number of data centers in this area over the last few years,⁴ DEQ is conducting a monitoring project to determine if additional federal reference monitors are needed in areas containing high numbers of data centers (Loudoun County and Prince William County). This project is monitoring PM_{2.5}, carbon monoxide, and nitrogen dioxide (NO₂). Since NO₂, as part of NO_x, is an ozone precursor, this monitoring project should also provide some insight into whether the NO_x emissions from data centers may be impacting ozone design values.

³ URL: <https://www.deq.virginia.gov/news-info/shortcuts/topics-of-interest/data-center-air-monitoring-project>

⁴ DEQ, "2025 Consolidated Annual Report", December 2025, Page 6 of the "Air Quality and Air Pollution Control Policies of the Commonwealth of Virginia (Section B)", URL: <https://rga.lis.virginia.gov/Published/2025/RD1017/PDF>.

Further, DEQ offers on its website several sources from which the commenter could derive much of their requested information such as number, size, and locations of many data centers. For example, the DEQ website provides the user with the ability to see [issued air permits for data centers](#).⁵ This webpage provides 194 issued air permits across the Commonwealth as of September 28, 2026. These permits identify emissions units and controls, require stack testing to demonstrate compliance with NO_x limits, place limits on operating hours per year for scheduled maintenance and readiness testing, and require recordkeeping. The DEQ website also provides a link to APG-576, [Diesel Engine-Generator Set Procedures for Writing New and Modified Permits](#)⁶ dated January 29, 2025. As of July 1, 2026, this document requires a NO_x emissions limit of 0.60 grams per horsepower-hour, reflective of the use of selective catalytic reduction (SCR) or equivalent control, on emergency and non-emergency engines located at data centers. (This stringent control requirement is also codified in Virginia law at [§10.1-1322.6](#).⁷) At this time, additional NO_x controls beyond SCR are not available. The website also provides, under [Topics of Interest](#), information on several data center permitting projects currently undergoing agency review.

The commenter suggests that utility plant emissions are underestimated in the future year due to underestimations in the power needed for data center operations. The utility plant emissions for the Northern Virginia portion of this area are associated with Possum Point Power Station (ORIS Number 3804, Federal EIS Facility Number 7520511, Virginia Registration Number 70225) and Potomac Energy Center, LLC (ORIS Number 59004, Federal EIS Facility Number 17856211, Virginia Registration Number 73826). These facilities consist of combined cycle operations that are well-controlled for NO_x with SCR. The Title V permits for these facilities may be found on DEQ's [Issued Title V Permits](#) webpage.⁸ Table 1 below provides the 2022 through 2025 tons per ozone season (tpOS) (May through September) NO_x emissions from each of these units. These values are available for download from EPA's [Clean Air Markets Program Data](#) website.⁹ For comparison, also included in Table 1 are the 2032 and 2038 projections from these units for the May through September period that may be found in Appendix A.

⁵ URL: <https://www.deq.virginia.gov/news-info/shortcuts/permits/air/issued-air-permits-for-data-centers>

⁶ URL: https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\440\GDoc_DEQ_5121_v2.pdf

⁷ URL: <https://law.lis.virginia.gov/vacode/title10.1/chapter13/section10.1-1322.6/>

⁸ URL: <https://www.deq.virginia.gov/news-info/shortcuts/permits/air/issued-title-v-permits>

⁹ URL: <https://campd.epa.gov/data/custom-data-download>

Table 1: Combined Cycle Emissions, tpOS NO_x

Identification Numbers	Facility Name	Unit ID	2022 OS NO _x (tpOS)	2023 OS NO _x (tpOS)	2024 OS NO _x (tpOS)	2025 OS NO _x (tpOS)	2032 Projected OS NO _x (tpOS)	2038 Projected OS NO _x (tpOS)
3804 7520511 70225	Possum Point	6A	19	18	23	23	21	15
3804 7520511 70225	Possum Point	6B	19	18	21	20	20	14
59004 7520511 73826	Potomac Energy Center, LLC	CT1	11	15	17	13	12	8
59004 7520511 73826	Potomac Energy Center, LLC	CT2	14	15	16	11	14	10
---	---	Total Emissions, tpy	63	65	77	68	67	47

The NO_x emissions from each unit are minimal across the ozone season due to the requirements for SCR in each facility's permit. Even if the projected NO_x emissions, which are based on the American Electric Outlook High Oil and Gas 2023 case, is lower than experienced values in those years, the significant margin of safety between the attainment year and the outyears for NO_x will easily compensate for that discrepancy. Also, as noted above, an exceedance of the attainment year inventory in the outyear triggers contingency measures in Section 6 of the maintenance plan.

To summarize:

- Nearly all data centers are not required by federal guidance to be included in the point source inventory as discrete point sources due to their permitted emissions levels. The data centers that are included in the point source emissions inventories are those that are required to be included since they are classified as major stationary sources and those that were included at DEQ's discretion considering available resources.
- Data center NO_x emissions are small compared to other emissions categories.
- The DEQ external website contains a large amount of information on permitted and proposed data centers.
- The growth ratios applied to the data center NO_x emissions were significantly larger than the ratios applied to all other stationary point sources.
- The emissions of NO_x from power plants within the Northern Virginia portion of the nonattainment area are controlled by advanced SCR and therefore these units do not emit large amounts of NO_x.

- A large safety margin exists between the projected NO_x emission inventories and the attainment year emissions inventory. Should unforeseen circumstances occur that increase the overall emissions inventory of NO_x above the attainment year value, contingency measures in Section 6 are included to remedy this situation.

8. Subject: Updates to the emissions inventory point source data

During the comment period, DEQ found that updates were needed to the point source emissions inventory for the Northern Virginia area to ensure an accurate assessment of emissions. The updates needed were:

- Removal of emissions that were double counted for one facility in 2022, 2032, and 2038: The duplicate line items were removed. This change affected one facility.
- Revision of annual to ozone season tons per day methodology: The daily ozone season estimation methodology for some emergency generators was revised to better reflect known data.
- Revisions for typographical errors: Typographical errors in unit and process identification numbers in the Attachment A spreadsheet were corrected. These errors originally resulted from text to Excel conversions.
- Emissions for point sources and total areawide emissions were updated to reflect these changes in both documents.

These edits did not change the conclusion of the redesignation request and maintenance plan, that the area complies with the 2015 ozone NAAQS and will remain in compliance with this NAAQS through 2038.

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