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Washington, DC 20460

To Whom It May Concern:

The National Association of Clean Air Agencies (NACAA) appreciates this opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposed rule, *Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements*, as published in the *Federal Register* on March 23, 2015 (80 Fed. Reg. 15,340). NACAA is a national, non-partisan, non-profit association of air pollution control agencies in 41 states, the District of Columbia, four territories and 116 metropolitan areas. The air quality professionals in our member agencies have vast experience dedicated to improving air quality in the U.S. These comments are based upon that experience. The views expressed in these comments do not represent the positions of every state and local air pollution control agency in the country.

Once final, the 2012 fine particulate matter (PM_{2.5}) State Implementation Plan (SIP) Requirements Rule (SRR) will serve as an important guidepost to state and local air agencies with respect to a range of SIP requirements.

Developing SIPs to attain and maintain the 2012 PM_{2.5} National Ambient Air Quality Standards (NAAQS) is a significant challenge for state and local air agencies. However, we are committed to protecting public health and welfare by implementing the necessary air pollution control strategies that make the most sense for our communities and urge EPA to provide rules and guidance documents, as well as federal control measures, that will enable us to attain the PM_{2.5} NAAQS as expeditiously as practicable. We have reviewed carefully the proposed 2012 PM_{2.5} SRR and offer comments on the following issues.

1) *Timing of Rules and Guidance*

The current PM_{2.5} NAAQS was adopted by EPA in December 2012. Designations under this standard took effect on April 15, 2015 with attainment demonstrations for Moderate nonattainment areas due within 18 months after that date – by October 15, 2016. So that states have adequate time to successfully meet their statutory obligations under the Clean Air Act (CAA), it is imperative that EPA provide all NAAQS implementation rules and guidance in a timely manner. This PM_{2.5} SRR is not

timely. All states with PM_{2.5} SIP preparation responsibilities are severely hamstrung by the lack of a final rule and some are entirely unable to move forward with any development of a SIP in the absence of a final federal rule. We cannot overstate how critically important it is that EPA ensure that future implementation rules and guidance documents are developed, proposed and finalized on a much more accelerated timeline. EPA should propose the SRR at the same time a final NAAQS is promulgated and finalize the SRR within a year of the proposal.

2) *Precursor Emissions*

EPA states in its proposal that it considers the PM_{2.5} precursors for regulatory purposes under the PM_{2.5} SRR for all nonattainment areas to be sulfur dioxide (SO₂), nitrogen oxides (NO_x), volatile organic compounds (VOCs) and ammonia. EPA further states that its existing interpretation of the requirements of Clean Air Act subpart 4, with respect to precursors in PM₁₀ attainment plans, “contemplates that the state may develop an attainment plan that regulates only those precursors that are necessary to control for purposes of timely attainment in the area” and that the agency believes it is appropriate and reasonable to apply a similar approach to PM_{2.5} precursors under subpart 4. Therefore, EPA includes in the proposal three options that could allow a state to provide a technical demonstration and reasoned justification for excluding one or more PM_{2.5} precursors from control requirements in a particular nonattainment area.

Provided EPA is confident in the legality of applying the PM₁₀ approach for exempting certain precursors to PM_{2.5}, NACAA supports allowing states the ability to do so. We are concerned, however, with EPA’s three proposed precursor options, particularly given that there will be insufficient time following promulgation of a final SRR for states to conduct the types of technical analyses EPA seems to envision. Therefore, we recommend instead that EPA include in the final rule examples of the kinds of technical analyses states might use to demonstrate that a precursor should be excluded from controls and provide states discretion and flexibility to work with EPA to determine feasible and appropriate analyses for the particular area. We also recommend that EPA commit in the final rule that, at the request of a state, the agency will share any appropriate EPA modeling or assist the state with new modeling to help the state determine if a precursor can be exempted.

3) *RACM/RACT*

EPA proposes to exempt *de minimis* source categories from Reasonably Available Control Measure (RACM) and Reasonably Available Control Technology (RACT) requirements for bringing Moderate PM_{2.5} nonattainment areas into attainment. Under the proposal, if a state is able to demonstrate that a particular source category does not contribute significantly to nonattainment in the Moderate area (i.e., it does not exceed a defined threshold) then the state would be able to eliminate that source category from further consideration for control measures. However, a state could not elect to treat a source category as *de minimis* if doing so would preclude the state from demonstrating attainment for an area by the statutory attainment date.

NACAA supports the concept of a *de minimis* exemption in Moderate PM_{2.5} nonattainment areas provided it is narrowly focused, the analysis is manageable (i.e., it can be based on emissions rate [tons per day] rather than air quality impact [micrograms per cubic meter]) and it does not allow a source to be excluded if its inclusion is necessary for attainment.

With respect to the threshold for defining *de minimis* emissions, EPA proposes two options. The first would allow the state to determine whether a particular source category would be *de minimis* based on the facts and circumstances specific to the PM_{2.5} nonattainment area and subject to EPA approval. Under the second, EPA would establish a *de minimis* source category threshold that is a specific percentage of the level of the relevant PM_{2.5} NAAQS.

NACAA has concerns with both of these options. We believe that the first option lacks the detail necessary to evaluate it, particularly what is expected of a state seeking to base a determination on area-specific facts and circumstances and what criteria EPA will use to evaluate and approve or disapprove a state's determination. Regarding the second option, we have concerns about a modeling-based process for determining *de minimis* and, in any event, do not believe there would be adequate time to conduct the necessary, time-consuming analyses required for this option because this rulemaking is so late relative to the deadline for attainment plans.

With respect to source category definition, EPA proposes that states would need to define any source category for which there is a four-digit North American Industry Classification System (NAICS) code. The agency believes a four-digit NAICS code "provides an appropriate degree of distinction between industrial processes, while not making the source category definition overly broad." EPA also seeks comment on the alternatives of a two-digit NAICS code and a six-digit code. NACAA supports the use of a four-digit code and agrees with EPA that it provides the appropriate level of definition. We believe the two-digit code is too broad and the six-digit code too narrow.

Under EPA's proposal for identifying existing and potential control measures and technologies, the agency proposes that if a state can demonstrate attainment in a Moderate PM_{2.5} area by the statutory attainment date then the state must adopt and implement any technologically and economically feasible control measures necessary to attain as expeditiously as practicable. Under this approach, EPA proposes to allow a state to reject as RACM/RACT any measures that, collectively, are not needed to demonstrate attainment or that will not advance the attainment date by at least one year. NACAA agrees with EPA that a state need not be required to adopt measures that it demonstrates are not necessary for expeditious attainment in Moderate PM_{2.5} areas as long as the state can otherwise demonstrate attainment as expeditiously as practicable and by not later than the statutory attainment date.

4) BACM/BACT

EPA proposes two approaches for states to determine Best Available Control Measures (BACM) and Best Available Control Technology (BACT) for Serious PM_{2.5} nonattainment areas. Under the first, which is consistent with existing EPA guidance on determining BACT and BACM in Serious areas, states would determine BACM and BACT and additional feasible measures irrespective of whether or not all such measures are necessary for expeditious attainment. States would have the option of eliminating *de minimis* source categories from consideration for control provided the proper evidence and justification are offered. EPA notes that this option "would continue to provide that the test for BACM puts a 'greater emphasis on the merits of the measure or technology alone,' rather than on 'flexibility in considering other factors,' in contrast to the approach for RACM and RACT described in both the EPA's past guidance and in this proposal in Section IV.D."

Under the second proposed approach, states would identify BACM and BACT and additional feasible measures based on what is necessary to bring an area into attainment as expeditiously as

practicable. This approach “would directly link the control strategy determination process with the attainment demonstration for the area, allowing a state to eliminate potential measures that are not necessary to demonstrate attainment of the relevant NAAQS in the area and would not collectively advance the attainment date for the area by at least 1 year.” Under this approach, states would not need to engage in the process of defining *de minimis* sources categories.

NACAA supports the EPA’s second proposed approach. We believe this approach provides states with more flexibility to link their attainment plans to what is needed to attain. In addition, we believe this approach is sufficiently rigorous because, ultimately, states must develop a viable attainment plan.

5) *Showing Attainment in Unmonitored Areas*

With respect to demonstrating attainment in unmonitored PM_{2.5} nonattainment areas, EPA proposes four options to clarify the appropriate treatment of modeling results in such areas: Option 1 – Require a modeling analysis to demonstrate attainment only at existing monitors; Option 2 – Require a modeling analysis to demonstrate attainment in all locations in the nonattainment area including unmonitored areas; Option 3 – Require modeling analyses to demonstrate attainment at existing monitors and to examine attainment in unmonitored areas; Option 4 – Require a modeling analysis to demonstrate attainment only at existing monitors and recommend additional analysis in unmonitored areas as needed.

NACAA supports EPA’s proposed Option 4, which is an approach that is currently used and, we believe, provides for an appropriate level of analysis. We request that EPA define the terms “current or recent monitoring locations” and “current or recent monitoring data,” which the agency uses in describing Options 1, 3 and 4.

6) *Applicability of Subpart 4 for NNSR Permitting*

EPA proposes to change the current nonattainment New Source Review (NNSR) regulatory requirements for PM_{2.5} to address provisions of Clean Air Act subpart 4 relative to 1) the definition of a “major stationary source” and 2) the control requirements for major stationary sources of PM_{2.5} precursors. EPA notes in its proposal that although subpart 4 refers to these requirements specifically with respect to PM₁₀, the agency proposes to add similar requirements for PM_{2.5} in accordance with the January 4, 2013 decision of the U.S. Court of Appeals for the District of Columbia Circuit in *NRDC v. EPA*, 706 F.3d 428 (D.C. Cir. 2013), holding that subpart 4 also applies to implementation of the PM_{2.5} NAAQS.

With respect to the definition of a “major stationary source,” EPA proposes as its preferred approach a major source threshold of 70 tons per year of PM_{2.5} emissions (the same as the threshold for PM₁₀, per the definition in subpart 4) for stationary sources proposing to construct or modify in PM_{2.5} nonattainment areas reclassified as Serious. NACAA supports this proposed change to the “major stationary source” definition for Serious nonattainment areas.

With respect to the control of PM_{2.5} precursor emissions, EPA proposes to revise its existing provisions in the NNSR rules that regulate SO₂ and NO_x as precursors but establish a presumption that VOCs and ammonia are not regulated PM_{2.5} precursors. EPA proposes to establish that SO₂, NO_x, VOCs and ammonia are *all* regulated PM_{2.5} precursors for purposes of NNSR requirements.

EPA also proposes to codify a significant emissions rate (or modification trigger) of 40 tons per year for VOCs as a PM_{2.5} precursor, the same as for SO₂ and NO_x.

EPA does not, however, propose a significant emissions rate for ammonia. Instead, EPA is undertaking a separate rulemaking in which it intends to include a technical analysis of the relationship of each PM_{2.5} precursor to ambient PM_{2.5} concentrations. The agency plans to set a significant emissions rate for ammonia at that time, along with potentially revised significant emissions rates for the other PM_{2.5} precursors. In the meantime, the ammonia significant emissions rate “would remain to be defined by each state that needs to control major stationary sources of ammonia as part of their NNSR program.” States are thus left in the untenable position of having to set their own significant emissions rates for ammonia, with no guidance from EPA on how to adequately justify those rates.

NACAA believes that EPA’s failure to propose a significant emissions rate for ammonia leaves a major gap in the rule and creates uncertainty for state and local agencies with respect to the permitting of major sources of ammonia – including sources equipped with ammonia-emitting NO_x control systems – in the interim period before the rate/modification trigger is established. NACAA therefore recommends that EPA complete the separate rulemaking on significant emissions rates for ammonia and other PM_{2.5} precursors as expeditiously as possible, and that it propose a significant emissions rate for ammonia before finalizing the March 23, 2015 proposed rule. EPA should also provide definitive guidance for state and local agencies on how to conduct permitting of major sources of ammonia until a significant emissions rate is established. As a general matter, in the future, EPA should set significant emissions rates concurrently with the designation of new regulated NSR pollutants.

7) Revocation of the 1997 PM_{2.5} Standard

EPA proposes two options for revoking the primary annual 1997 PM_{2.5} NAAQS. Under the first, one year after the effective date of designations under the 2012 primary annual PM_{2.5} standard the 1997 standard would be revoked for all purposes in areas that attain the 1997 standard. Under the second option, one year after the effective date of designations under the 2012 primary annual PM_{2.5} standard the 1997 standard would be revoked for all purposes in all nonattainment and attainment areas for the 1997 standard and anti-backsliding measures would apply for any areas in nonattainment of the 1997 standard at the time of the effective date of the proposed revocation. NACAA supports the second option, which is consistent with how EPA revoked the 1997 ozone standard; we also support the proposed anti-backsliding provisions that would apply for nonattainment areas.

8) Federal Control Measures

Finally, the CAA provides that air pollution prevention and air pollution control at its source is the primary responsibility of state and local governments. At the same time, however, the Act requires EPA to address sources that are nationally significant. There are various source categories that contribute significantly not only to levels of PM_{2.5} but also to levels of ozone, sulfur dioxide, nitrogen oxides, toxic air pollutants, diesel particulate and greenhouse gases as well as to regional haze, acid deposition and nitrogen deposition to water bodies. Such source categories – which include heavy-duty vehicles and engines, locomotive engines, oceangoing marine engines, aircraft and electric generating units, among others – can be cost-effectively regulated at the national level and NACAA strongly urges EPA to adopt or refine national rules for them to help all areas of the country attain and maintain the existing and new NAAQS for PM_{2.5} and other criteria pollutants.

On behalf of NACAA, we thank you for this opportunity to comment on the proposed SIP requirements rule for the 2012 PM_{2.5} NAAQS. If you have any questions, please do not hesitate to contact either of us or Nancy Kruger, Deputy Director of NACAA. We look forward to working with EPA on the completion of this final rule and on all aspect of implementation of the 2012 PM_{2.5} standard.

Sincerely,



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