



**Maryland**  
Department of  
the Environment

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Ben Grumbles  
Secretary

***Implementation, Maintenance, and Enforcement of the  
2012 PM<sub>2.5</sub> National Ambient Air Quality Standard***

**Prepared for:  
U.S. Environmental Protection Agency**

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**Prepared by:  
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## Table of Contents

<b>BACKGROUND .....</b>	<b>1</b>
<b>MARYLAND’S PLAN ELEMENTS .....</b>	<b>1</b>
CLEAN AIR ACT § 110(A)(2)(A) .....	2
CLEAN AIR ACT § 110(A)(2)(B) .....	4
CLEAN AIR ACT § 110(A)(2)(C) .....	5
CLEAN AIR ACT § 110(A)(2)(D) .....	7
§ 110(a)(2)(D) (i)(I) .....	7
(D)(i)(II) Visibility and Prevention of Significant Deterioration (PSD) .....	8
(D) (ii) Interstate Pollution Abatement and International Air Pollution .....	8
CLEAN AIR ACT §§ 110(A)(2)(E) .....	11
(E)(i) Adequate resources (legal, personnel and funding) .....	11
(E)(ii) Boards .....	13
(E)(iii) Reliance on local units of government .....	13
CLEAN AIR ACT § 110(A)(2)(F) .....	14
(F) (i) Stationary Source Monitoring Equipment .....	14
(F) (ii) Stationary Source Monitoring Reports .....	15
(F) (iii) Reports, State Role, and Public Notification .....	15
CLEAN AIR ACT § 110(A)(2)(G) .....	16
CLEAN AIR ACT § 110(A)(2)(H) .....	17
CLEAN AIR ACT § 110(A)(2)(J) .....	18
(J) Consultation with identified official on certain actions: .....	18
(J) Public Notification .....	19
(J) PSD and Visibility Protection .....	20
CLEAN AIR ACT § 110(A)(2)(K) .....	22
CLEAN AIR ACT § 110(A)(2)(L) .....	23
CLEAN AIR ACT § 110(A)(2)(M) .....	24
<b>CONCLUSION .....</b>	<b>26</b>
<b>APPENDIX A: ANNOTATED CODE OF MARYLAND<sup>1</sup> .....</b>	<b>28</b>
<b>APPENDIX B: APPROVAL LETTER .....</b>	<b>29</b>
<b>APPENDIX C: MARYLAND MAXIMUM 24-HOUR PM<sub>2.5</sub> VALUES .....</b>	<b>30</b>

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<sup>1</sup> The Annotated Code of Maryland is referenced in the Appendix A for reference purposes only.

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## Background

A State Implementation Plan (SIP) is a plan for each state that identifies how that state will attain and maintain the primary and secondary National Ambient Air Quality Standards (NAAQS). The SIP contains regulations, source-specific requirements, non-regulatory items such as plans and inventories, and other types of submittals designed to satisfy requirements promulgated by the U.S. Environmental Protection Agency (EPA). The initial SIPs for states were approved on May 31, 1972. SIPs may be revised by the state with EPA approval. The federally enforceable SIP for the State of Maryland is compiled under 40 CFR Part 52 Subpart V.

Section 110(a) of the federal Clean Air Act requires that each SIP provide for the implementation, maintenance, and enforcement of the NAAQS. This section also requires that within three years of the promulgation of a NAAQS, a state must adopt and submit such a plan to EPA. These “infrastructure SIPs” provide assurances of state resources and authorities, and where necessary establish the basic state programs, to implement, maintain, and enforce new or revised standards. This document summarizes how the §110(a)(2) requirements for the 2012 PM<sub>2.5</sub> annual NAAQS are addressed by Maryland.

**This submittal addresses Maryland's obligations under §110(a)(2) of the Clean Air Act specifically for the following standard:**

PM<sub>2.5</sub>: On December, 14, 2012, the EPA Administrator strengthened the health-based National Ambient Air Quality Standard (NAAQS) for particulate matter (PM<sub>2.5</sub>)<sup>2</sup>. EPA revised the annual standard to the level of 12.0 micrograms per cubic meter (µg/m<sup>3</sup>), based on the annual arithmetic mean averaged over 3 years. High levels of PM<sub>2.5</sub> contribute to respiratory problems in sensitive individuals.

## Maryland's Plan Elements

The following sections indicate the statutes, regulations, plans, and other elements used in the Maryland State Implementation Plan to meet the required elements of §§110(a)(2)(A)—(M) of the Clean Air Act (CAA).<sup>3</sup>

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<sup>2</sup> See 78 Fed. Reg. 3086-3287, April 15, 2013. “National Ambient Air Quality Standards for Particulate Matter,” Final Rule, 78 FR 3083, 15 January 2013, and CFR Parts 50, 51, 52, 53, and 58 became effective on March 18, 2013. See <http://www.gpo.gov/fdsys/pkg/FR-2013-01-15/pdf/2012-30946.pdf>.

<sup>3</sup> This SIP revision does not include the following two elements of Clean Air Act § 110(a)(2): section 110(a)(2)(C) “to the extent it refers to permit programs (known as ‘nonattainment new source review’) under part D and ... section 110(a)(2)(I) in its entirety.” See U.S. Environmental Protection Agency, “Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2)” for the 2008 Ozone NAAQS, the 2010 Nitrogen Dioxide NAAQS, the 2010 Sulfur Dioxide NAAQS, and the 2012 Fine Particulate Matter (PM<sub>2.5</sub>) NAAQS Memorandum from Stephen D. Page, Office of Air Quality Planning and Standards (Washington, DC: U.S. Environmental Protection Agency, September 13, 2013), page 4.

**Clean Air Act § 110(a)(2)(A)**

**§ 110(a)(2)(A), Emission Limits and Other Control Measures: Each such plan shall – (A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Chapter.<sup>4</sup>**

Maryland’s enforceable emission limitations and other control measures, under the Code of Maryland Regulations (COMAR) and Annotated Code of Maryland, which have been approved as part of Maryland’s SIP except as noted under 40 CFR 52.1070(c) address this item. Some of the SIP-approved COMAR that pertain to PM<sub>2.5</sub> and its precursors are listed below as examples.

<b>COMAR Subtitle/ Chapter</b>	<b>Chapter Name</b>	<b>PM<sub>2.5</sub> and Precursors of PM<sub>2.5</sub></b>
26.11.01	General Administrative Provisions	
26.11.02	Administrative provisions, Permits, Approvals, and Registration	.11, .12
26.11.04	Ambient Air Quality Standards	.02
26.11.05	Air Quality Episode System	.03, .04, .05, .06
26.11.06	General Emissions Standards, Prohibitions, and Restrictions; Materials Handling and Construction; and Confined and Unconfined Sources	.03, .05, .10, .14, <sup>5</sup> .15, .16
26.11.07	Open Fires	.03, .04, .05
26.11.08	Control of Waste Incinerators	.04, .05
26.11.09	Fuel Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations	.04, .05, .06, .07, .08, .09, .10, .12
26.11.10	Control of Iron and Steel Production Installations	.03, .04, .05
26.11.11	Control of Petroleum Products Installations, including Asphalt Paving and Asphalt Concrete Plans	.03
26.11.12	Control of Batch-Type Hot-Dip Galvanizing Installation	.04, .05

<sup>4</sup> See 42 U.S. Code 7410(a)(2)(A).

<sup>5</sup> COMAR 26.11.06.14 contains pre-construction permitting requirements for PSD sources.

26.11.17	Requirements for New Major Sources and Modifications	.04, .05, .06, .07, .08, .09
26.11.25	Control of Glass Melting Furnaces	.03, .04
26.11.27	Administrative Provisions and Emission Limitations for Power Plants	.03, .05
11.14.08	Vehicle Emissions Inspection Program <sup>6</sup>	.09
26.11.29	NOx Reduction and Trading Program	.04-.15 <sup>7</sup>
26.11.30	Policies and Procedures Relating to Maryland's NOx Reduction and Trading Program	.03 - .09
20.79.01	Applications Concerning the Construction or Modification of Generating Stations and Overhead Transmission Lines <sup>8</sup>	.06
<b>Annotated Code of Maryland</b>		
Public Service Commission		
§ 7-205. Electric companies -- Modification of power plant		
§ 7-207. Generating stations or transmission lines -- General certification procedure		
§ 7-208. Generating stations or transmission lines -- Joint construction of station and associated lines		

***Source-specific provisions are listed in 40 CFR 52.1070(d).  
The approved plans are listed in 40 CFR 52.1070(e).***

<sup>6</sup> Maryland Dept. of Transportation (MDOT)/Motor Vehicle Administration (MVA) program.

<sup>7</sup> Regulations .03 and .05 were the NOx standards for cement plants and natural gas compression stations.

<sup>8</sup> Modifications to facilities at a power plant.

## Clean Air Act § 110(a)(2)(B)

**§ 110(a)(2)(B), Ambient Air Quality Monitoring/Data System:** *Each such plan shall – (B) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to – (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator.*<sup>9</sup>

Maryland's authority to monitor ambient air quality is found under §§2-103(b)(2) and 2-301(a)(1), Environment Article, Annotated Code of Maryland; and COMAR 26.11.04.02 (specifying that methods of measuring ambient air quality levels shall be those specified in 40 CFR Parts 50, 51, 53, and 58, as amended).

Maryland operates and maintains a network of ambient air monitors throughout the State. All ambient air monitors in the Maryland network that are used to determine compliance with the NAAQS have been designated by EPA as either Reference or Equivalent monitors. All ambient air monitors in the Maryland network are subjected to the Quality Assurance requirements of 40 CFR Part 58, Appendix A. In addition, all samplers are located at sites that have met the minimum siting requirements of Part 58, Appendix E.

Maryland has an EPA-approved ambient air monitoring network. EPA approved Maryland's calendar year 2015 ambient air monitoring network plan in its November 12, 2015, letter from EPA Region III Administrator Shawn Garvin to MDE Secretary Ben Grumbles.<sup>10</sup> Also note that Maryland submitted its 2017 ambient air monitoring plan to EPA Region 3 on May 19, 2016.

In order to keep EPA informed of changes to the sampling network, Maryland Department of the Environment (MDE) provides EPA Region III with prior notification of any planned changes to the network. As needed, details of these changes and anticipated approvals of the changes are communicated to EPA.

Pursuant to 40 C.F.R. Part 58, Subpart B, Section 58.10, "Annual monitoring network plan and periodic network assessment," MDE sends the EPA Regional Administrator an Annual Monitoring Network Plan for approval. The plan details any modifications to the network. This plan also provides a description of each modification, the reason for each modification, and any other information relevant to the modifications.

Section 58.10 also requires MDE (beginning July 1, 2010) to perform and submit to the EPA Regional Administrator an assessment of the Maryland ambient air monitoring network every five years to determine, at a minimum, if the network meets the monitoring objectives defined in 40 C.F.R., Part 58, Appendix D, whether new sites are needed, whether existing sites are no longer needed and can be terminated, and whether new technologies are appropriate for incorporation into the network.

Maryland has and will continue to submit data to EPA's Air Quality System (AQS), as required by 40 CFR 51.320, "Annual air quality data report." MDE collects and reports to EPA all ambient air quality data and associated quality assurance data for PM<sub>2.5</sub>. The reports comply with the federal

<sup>9</sup> See 42 U.S. Code 7410(a)(2)(B).

<sup>10</sup> See Appendix B for EPA Approval Letter (November 12, 2015).

requirements of 40 CFR 58.16, “Data submittal and archiving requirements” (July 1, 2012). As necessary, the submitted data is reviewed, edited, validated, and entered into the AQS for updating pursuant to prescribed AQS procedures. The state is required by 40 CFR 58.16 to report this data to the EPA AQS within 90 days after the end of each quarterly reporting period.

### **Clean Air Act § 110(a)(2)(C)**

**§ 110(a)(2)(C), Program for Enforcement of Control Measures and for Construction or Modification of Stationary Sources:** *Each such plan shall – (C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this Subchapter.*<sup>11</sup>

Note: In accordance with EPA guidance, infrastructure SIPs are to include the preceding requirements, with the exception of the NNSR permitting program, which is to be addressed in a different SIP.<sup>12</sup>

With the exception of its Vehicle Emissions Inspection Program, Maryland’s statutory provisions for the enforcement of the provisions described in §110(a)(2)(A) of the Clean Air Act are found at §§2-601—614 of the Environment Article of the Annotated Code of Maryland. Specific enforcement provisions for the items under §110(a)(2)(A), above, may also be found in SIP approved portions of COMAR 26.11.

In addition to the enforcement provisions in §§2-601—614 of the Environment Article, Annotated Code of Maryland, §2-1005 of the Environment Article, Annotated Code of Maryland, contains enforcement provisions pertaining specifically to the requirements of the Maryland Healthy Air Act (“HAA”)<sup>13</sup>. The HAA was developed with the purpose of bringing Maryland into attainment with earlier National Ambient Air Quality Standards (NAAQS) for ozone and fine particulate matter.

Maryland’s provisions for the enforcement of its Vehicle Emissions Inspection Program are found in §23-207 of Title 23 of the Transportation Article of the Annotated Code of Maryland, with implementing regulations at COMAR 11.14.08.08. Pursuant to COMAR 11.14.08.08A, such enforcement is administered by the Motor Vehicle Administration, which is part of the Maryland Department of Transportation.

Maryland's permit to construct requirements are found in COMAR 26.11.02.12 and 26.11.06.04, which contains procedures for obtaining minor NSR permits and which contains enforcement provisions for violations of permits to construct, PSD approvals, and operating permits, respectively.

<sup>11</sup> See 42 U.S. Code 7410(a)(2)(C).

<sup>12</sup> See U.S. Environmental Protection Agency, “Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2)” for the 2008 Ozone NAAQS, the 2010 Nitrogen Dioxide NAAQS, the 2010 Sulfur Dioxide NAAQS, and the 2012 Fine Particulate Matter (PM<sub>2.5</sub>) NAAQS Memorandum from Stephen D. Page, Office of Air Quality Planning and Standards (Washington, DC: U.S. Environmental Protection Agency, September 13, 2013).

<sup>13</sup> See the Annotated Code of Maryland, Environment Article; Title 2. Ambient Air Quality Control; Subtitle 10. Health Air Act; Sections 2-1001 - 2-1005.

Maryland's Title V permits are under COMAR 26.11.03. This chapter of COMAR also includes provisions providing for enforcement of Title V permits (COMAR 26.11.03.21, "General Part 70 Permits"). Note that the COMAR 26.11.03 is not part of Maryland's EPA-approved SIP and is mentioned here just for reference purposes.

COMAR 26.11.06.14 also contains pre-construction permitting requirements for PSD sources. Related definitions are found in COMAR 26.11.01.01B(37).

COMAR 20.79, "Applications Concerning the Construction or Modification of Generating Stations and Overhead Transmission Lines," particularly the EPA SIP-approved portions of this chapter, regulate construction and modification (and permitting) of electric generating stations, including consideration of related air quality impacts in attainment and nonattainment areas.

Statutory provisions also establish requirements for construction and modification of generating stations. See the EPA SIP-approved portions of the following sections of the Public Utilities Article, Annotated Code of Maryland:

- § 7-205, Electric companies -- Modification of power plant
- § 7-207, Generating stations or transmission lines -- General certification procedure
- § 7-208, Generating stations or transmission lines -- Joint construction of station and associated lines

## Clean Air Act § 110(a)(2)(D)

**§ 110(a)(2)(D)(i)(I) and (II) –Interstate Pollution Transport:** Each such plan shall – (D) contain adequate provisions – (i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will – (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility.<sup>14</sup>

### § 110(a)(2)(D)(i)(I)

Maryland meets the §110(a)(2)(D)(i)(I) good neighbor obligations. The regulations already in the SIP, including those specifically mentioned in the section addressing 110(a)(2)(A), help MDE meet its good neighbor requirements by prohibiting sources' emissions from being emitted at levels which would contribute significantly to nonattainment or interfere with maintenance by another state with the PM<sub>2.5</sub> NAAQS. For nonattainment areas, Maryland has implemented numerous planning requirements designed to achieve compliance with the NAAQS.

In 2006, Maryland enacted the Healthy Air Act (“HAA”), codified at §§ 2-1001-1005 of the Environment Article, Annotated Code of Maryland, and adopted implementing regulations at COMAR 26.11.27. The HAA requires reductions in total emissions of SO<sub>2</sub>, NO<sub>x</sub>, and mercury from certain electric generating plants in the state. The HAA helps to address Maryland’s emissions contribution to many downwind areas such as Pennsylvania, Delaware, Connecticut, and New Jersey. The HAA emissions reductions were based on Best Available Control Technology (BACT) rates for the affected EGU units in the state.

Maryland submitted its Regional Haze State Implementation Plan to EPA on February 13, 2012, and EPA gave final approval to the plan on July 6, 2012 (77 FR 39938), effective date August 6, 2012. Implementation of this SIP is reducing particulate matter and its precursors SO<sub>2</sub> and NO<sub>x</sub>, from Maryland’s Best Available Retrofit Technology (BART) sources.

According to EPA’s Memorandum of March 17, 2016 “Information on the Interstate Transport “Good Neighbor” Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)” and Attachment 1 (page 7), the only monitor in the eastern half of the country with projected 2017 and 2025 average/maximum future year annual PM<sub>2.5</sub> design values at or above the PM<sub>2.5</sub> 2012 NAAQS is in Allegheny County, PA.<sup>15</sup> The other monitors are located in the Western half of the country in California and Idaho and are not likely impacted by Maryland emissions. The monitor in Allegheny Co, PA is likely effected generally by local air quality issues in the western PA Allegheny County Area. See EPA’s action on designations in the January 15, 2015 federal register at 80 FR 2206 and especially the Pennsylvania TSD supporting EPA’s action making Allegheny County, PA a moderate nonattainment area for the 2012 PM<sub>2.5</sub> NAAQS which is contained in the docket # EPA–HQ–OAR–2012–0918 for this action. Thus, after reviewing EPA’s earlier action and EPA’s most recent memo, attachments, and projected modeling on the “good neighbor provisions” for this NAAQS,

<sup>14</sup> See 42 U.S. Code 7410(a)(2)(D)(i)(I) and (II).

<sup>15</sup> <https://www3.epa.gov/pm/pdfs/good-neighbor-memo.pdf>.

and Maryland concludes its sources are not significantly contributing to nonattainment nor interfering with maintenance in another state. Therefore, Maryland's SIP approved measures as mentioned for CAA 110(a)(2)(A) are adequate provisions to address CAA 110(a)(2)(D)(i)(I) and prevent Maryland sources from significantly contributing to nonattainment or interfering with maintenance in another state.

#### (D)(i)(II) Visibility and Prevention of Significant Deterioration (PSD)

As indicated below, Maryland is addressing the visibility and PSD requirements under CAA Sec. 110(a)(2)(D)(i)(II) with fully SIP approved provisions:

- Maryland's procedures for obtaining approvals of PSD sources and NSR sources, certain permits to construct, and case-by-case MACT determinations are found in COMAR 26.11.02.12.
- Maryland's PSD requirements are found in COMAR 26.11.06.14 and additional provisions implementing the EPA's final PSD and Title V Greenhouse Gas Tailoring Rule (75 FR 31514, June 3, 2010) are under COMAR 26.11.01.01, COMAR 26.11.02.01, and COMAR 26.11.02.12.
- Maryland's PSD regulations are in COMAR 26.11.06.14 and COMAR 26.11.01.01B(37) to refer to any new or modified source subject to the provisions of 40 CFR 52.21, as amended.
- COMAR 20.79, "Applications Concerning the Construction or Modification of Generating Stations and Overhead Transmission Lines," particularly the EPA SIP-approved portions of this chapter, regulate construction and modification of electric generating stations, including consideration of related air quality impacts.

The statutory provisions below establish requirements for construction and modification of generating stations, including consideration of related air quality impacts. See the EPA SIP-approved portions of the following sections of the Public Utilities Article, Annotated Code of Maryland:

- § 7-205, Electric companies -- Modification of power plant
- § 7-207, Generating stations or transmission lines -- General certification procedure
- § 7-208, Generating stations or transmission lines -- Joint construction of station and associated lines

Maryland submitted its Regional Haze State Implementation Plan to EPA on February 13, 2012, and EPA gave final approval to the plan on July 6, 2012 (77 FR 39938), effective date August 6, 2012. As per EPA's guidance, the approved regional haze plan meets visibility requirements for this portion of D(i)(II).

#### (D) (ii) Interstate Pollution Abatement and International Air Pollution

**§ 110(a)(2)(D)(ii) –Interstate Pollution Abatement and International Air Pollution:** *Each such plan shall – (D) contain adequate provisions – (ii) insuring compliance with the applicable requirement of sections 126 and 115 (relating to interstate and international pollution abatement)*

*Interstate Pollution Abatement:*

*Sec. 126. (a) Each applicable implementation plan shall – (1) require each major proposed new (or modified) source – (A) subject to part C (relating to significant deterioration of air quality) or (B) which may significantly contribute to levels of air pollution in excess of national ambient air quality standards in any air quality control region outside the State in which such source intends to locate (or make such modification), to provide written notice to all nearby States the air pollution levels of which may be affected by such source at least sixty days prior to the date on which commencement of construction is to be permitted by the State providing notice, and (2) identify all major existing stationary sources which may have the impact described in paragraph (1) with respect to new or modified sources and provide notice to all nearby States of the identity of such sources not later than three months after the date of enactment of the Clean Air Act Amendments of 1977.*

*Section 126... (b) Any State or political subdivision may petition the Administration for a finding that any major source or group of stationary sources emits or would emit any air pollutant in violation of the prohibition of section 110(A)(2)(D)(ii) or this section. Within 60 days after receipt of any petition under this subsection and after public hearing, the Administrator shall make such a finding or deny the petition. (c) Notwithstanding any permit which may have been granted by the State in which the source is located (or intends to locate), it shall be a violation of [this section and] the prohibition of section 110(a)(2)(D)(ii) of this section, or (2) for any major existing source to operate more than three months after such finding has been made with respect to it. The Administrator may permit the continued operation of a source referred to in paragraph (2) beyond the expiration of such three-month period if such source complies with such emission limitations and compliance schedules (containing increments of progress) as may be provided by the Administrator to bring about compliance with the requirements contained in section 110(a)(2)(D)(ii) as expeditiously as practicable, but in no case later than three years after the date of such finding. Nothing in the preceding sentence shall be construed to preclude any such source from being eligible for an enforcement order under section 113(d) after the expiration of such period during which the Administrator has permitted continuous operation*

*International Air Pollution:*

*Sec. 115. (a) Whenever the Administrator, upon receipt of reports, surveys or studies from any duly constituted international agency has reason to believe that any air pollutant or pollutants emitted in the United States cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country or whenever the Secretary of State requests him to do so with respect to such pollution which the Secretary of State alleges is of such a nature, the Administrator shall give formal notification thereof to the Governor or the State in which such emissions originate. (b) The notice of the Administrator shall be deemed to be a finding under section 110(a)(2)(H)(ii) which requires a plan revision with respect to so much of the applicable implementation plans as is inadequate to prevent or eliminates the endangerment referred to in subsection (a). Any foreign country so affected by such emission of pollutant or pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable implementation plan.<sup>16</sup>*

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<sup>16</sup> See 42 U.S. Code 7410(a)(2)(D)(ii).

### **§126(a)**

Maryland has procedures for obtaining approvals of PSD sources and NSR sources in Maryland.

- In COMAR 26.11.02.12F, Maryland requires applicants for approval of PSD sources, new source review (NSR) sources, and certain permits to construct to publish a notice of the opportunity to submit public comments and to request a public hearing.
- In COMAR 26.11.16.14, Maryland identifies the CFR relevant to control PSD sources.
  - B. General Requirements maintains that a person may not construct, modify, or operate, or cause to be constructed, modified, or operated, a PSD source, which will result in violation of any provision of 40 CFR §52.21.
  - The reviewing authority is the Department instead of the Administrator unless other specified in 40 CFR §52.1116. The applicable procedures are those set forth in COMAR 26.11.02.
- Additional provisions implementing the EPA’s final PSD and Title V Greenhouse Gas Tailoring Rule (75 FR 31514, June 3, 2010) are in COMAR 26.11.01.01, COMAR 26.11.02.01, and COMAR 26.11.02.12.

### **§126(b) and (c)**

No source or sources within Maryland are subject to an active finding under section 126 of the Clean Air Act with respect to the particular NAAQS at issue.<sup>17</sup>

### **§115**

There are no final findings under section 115 of the CAA against Maryland with respect to the particular NAAQS at issue.<sup>18</sup>

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<sup>17</sup> See U.S. Environmental Protection Agency, “Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2)” for the 2008 Ozone NAAQS, the 2010 Nitrogen Dioxide NAAQS, the 2010 Sulfur Dioxide NAAQS, and the 2012 Fine Particulate Matter (PM<sub>2.5</sub>) NAAQS Memorandum from Stephen D. Page, Office of Air Quality Planning and Standards (Washington, DC: U.S. Environmental Protection Agency, September 13, 2013) (page 38).

<sup>18</sup> See U.S. Environmental Protection Agency, “Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2)” for the 2008 Ozone NAAQS, the 2010 Nitrogen Dioxide NAAQS, the 2010 Sulfur Dioxide NAAQS, and the 2012 Fine Particulate Matter (PM<sub>2.5</sub>) NAAQS Memorandum from Stephen D. Page, Office of Air Quality Planning and Standards (Washington, DC: U.S. Environmental Protection Agency, September 13, 2013) (page39).

## Clean Air Act §§ 110(a)(2)(E)

**§ 110(a)(2)(E), Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies:** Each such plan shall – (E) provide (i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by an provision of Federal or State law from carrying out such implementation plan or portion thereof), (ii) requirements that the State comply with the requirements respecting State boards under section 128, and (ii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.<sup>19</sup>

### (E)(i) Adequate Resources (Legal, Personnel, and Funding)

#### Legal

The following statutory provisions authorize MDE, along with the PSC, to develop and implement the Maryland PM<sub>2.5</sub> SIP:

- Authority for MDE to obtain federal and state funds available for purposes within the scope of Title 2, “Ambient Air Quality,” of the Environment Article of the Annotated Code of Maryland: §2-103(a), Environment Article.
- MDE’s jurisdiction over emissions into the air and ambient air quality in the State, responsibility for monitoring ambient air quality in the State, and coordinating all State agency programs on ambient air quality control: Environment Article, §§2-103(b)(1)-(3), Annotated Code of Maryland.
- Authority for MDE to advise the Governor when an air pollution emergency exists: Environment Article, §2-105, Annotated Code of Maryland.
- Authority for MDE to adopt regulations that establish standards and procedures to be followed whenever pollution of the air reaches an emergency condition: Environment Article, §2-301(a)(2), Annotated Code of Maryland.
- Air Quality Control Advisory Council which is used as a consultation advice for MDE regarding proposed regulations: Environment Article, §§ 2-201-206, Annotated Code of Maryland.
- Authority for MDE to adopt rules and regulations for the control of air pollution in the State, including testing, monitoring, record keeping, and reporting requirements: Environment Article, §2-301(a)(1), Annotated Code of Maryland.

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<sup>19</sup> See 42 U.S. Code 7410(a)(2)(E)(i), (ii), and (iii).

- Authority for MDE to set emission standards and ambient air quality standards for each air quality control area in the State: Environment Article, §2-302 (a)-(d), Annotated Code of Maryland.
- Authority for MDE to enforce the standards and impose penalties: Environment Article, §§2-601-614, Annotated Code of Maryland.
- Authority for the Public Service Commission to supervise and regulate public service companies (such as electric and gas companies), including consideration of the preservation of environmental quality: §§ 2-112, 2-113, 2-117, and 2-121 of the Public Utilities Article, Annotated Code of Maryland.
- Authority for the Maryland Department of Natural Resources to establish the Power Plant Research Program; also establishes the purview of PPRP's work which includes, for example, research regarding the impacts of air pollutants from power plants on public health and welfare and related modeling, and an environmental evaluation of power plant sites proposed for future development and expansion: § 3-303 of the Natural Resources Article, Annotated Code of Maryland.

### **Personnel**

Maryland Department of the Environment's (MDE) Air and Radiation Management Administration (ARMA) currently has 43 personnel on staff in its air and support/operational services programs involved with carrying out various aspects of the SIP with respect to PM<sub>2.5</sub> requirements. This staff carries out various requirements of the PM<sub>2.5</sub> SIP.

### **Funding**

Maryland's descriptions of resources needed to carry out the plan are detailed below. During the 5 year period following the submission of this i-SIP, the following projects are the anticipated sources of the extent to which resources will be accrued at 1-, 3-, and 5-year intervals.

#### **1-, 3-, and 5- Year Funding**

- Maryland receives Section 105 and 103 grants annually. These grants include funds for implementation of the PM<sub>2.5</sub> SIP, including SIP development and PM<sub>2.5</sub> monitoring. The State and EPA negotiate the 105 grants each year, and the state is required to carry out certain obligations for the 105 grant, including providing matching funds.
- Title V permit fees are collected under the authority § 2-403 of the Environment Article, Annotated Code of Maryland and pursuant to COMAR 26.11.02.16, .17, and .19. These fees are used to fund programs such as the permitting of new and existing sources of air pollution, compliance and enforcement of sources of air pollution, and monitoring of ambient air quality in the State. This includes program development and PM<sub>2.5</sub> plan implementation.
- MDE receives annual funding from the State of Maryland's Environmental Trust Fund via the Maryland Department of Natural Resources (DNR), which administers the fund. These funds are used if Maryland needs to conduct air quality modeling.

- The Power Plant Research Program (PPRP) at the Maryland DNR is financed by the Environmental Trust Fund, which is comprised of the revenues from an environmental surcharge that is assessed on all electricity consumers. PPRP conducts a technical review of applications for citing and modification of power plants and conducts research regarding the impacts of power plants on air quality.
- The Maryland Public Service Commission collects application fees for Certificates of Public Convenience and Necessity (CPCN) for power plants. These fees pay the cost of the PSC program to regulate the power plants.

#### (E)(ii) Boards

Maryland does not have any board or body which approves air quality permits or enforcement orders; these are the sole responsibility of the Maryland Department of the Environment, except in the case of Certificates of Public Convenience and Necessity (CPCN). These are the pre-construction permits for utility installations which are issued by the Maryland Public Service Commission, an independent agency of the State.

Maryland's SIP at 40 CFR Part 52 Subpart V meets the provisions of CAA §§ 110(a)(2)(E)(ii) and section 128 related to the disclosure of potential conflicts of interest of the officials who may issue permits and/or enforcement orders at the Maryland Department of the Environment and the Maryland Public Service Commission.

#### (E)(iii) Reliance on Local Units of Government

Maryland does not rely on local or regional government agencies or instrumentality for specific SIP implementation.

**Clean Air Act § 110(a)(2)(F)**

**§ 110(a)(2)(F), Stationary Source Monitoring and Reporting:** *Each such plan shall – (F) require, as may be prescribed by the Administrator – (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Chapter, which reports shall be available at reasonable times for public inspection.<sup>20</sup>*

**(F)(i) Stationary Source Monitoring Equipment**

The following Maryland statutory provisions give MDE authority for requiring air emissions monitoring by sources in the State of Maryland and adopting regulations to control air pollution, including testing, monitoring, record keeping, and emissions reporting requirements:

- §2-103 Environment Article, Annotated Code of Maryland.
- §2-301 Environment Article, Annotated Code of Maryland.

The following Maryland regulations require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by stationary sources to monitor their emissions:

<b>COMAR Subtitle/Chapter</b>	<b>Chapter/Regulation Name</b>	<b>PM<sub>2.5</sub> and Precursors of PM<sub>2.5</sub></b>
COMAR 26.11.01	Testing and Monitoring & Continuous Emissions Monitoring (CEM) Requirements	.04, .10
COMAR 26.11.09	Control of Particulate Matter & Control of NOx Emissions from Major Stationary Sources	.06, .08
COMAR 26.11.09	Standards for Biomass Fuel-Burning Equipment Equal to or Greater Than 350,000 Btu/hr.	.12
COMAR 26.11.10	Testing and Observation Procedures.	.07
COMAR 26.11.27	Monitoring and Reporting Requirements.	.05

<sup>20</sup> See 42 U.S. Code 7410(a)(2)(F).

#### (F)(ii) Stationary Source Monitoring Reports

The Maryland SIP regulations below (approved under 40 CFR 52.1070(c), unless otherwise noted) include stationary source emissions monitoring and periodic emissions reports. These regulations address the requirements under 40 CFR Part 51.211, “Emissions reports and recordkeeping”; 40 CFR 51.212, “Testing, inspection, enforcement, and complaints”; and 40 CFR Part 51, subpart A, “Air Emissions Reporting Requirements.”

- COMAR 26.11.01.04, “Testing & Monitoring”
- COMAR 26.11.01.05, “Records and Information”
- COMAR 26.11.01.05-1, “Emission Statements”
- COMAR 26.11.01.07, “Malfunctions & Other Temporary Increases in Emissions”
- COMAR 26.11.01.10, “Continuous Emission Monitoring (CEM) Requirements”
- COMAR 26.11.03.03, “Information Required as Part of Application for a Part 70 Permit.” This regulation is not included in Maryland’s SIP-approved regulations but is included here for reference.
- COMAR 26.11.27.05, Emissions Limitations for Power Plants, Monitoring and Reporting Requirements

#### (F)(iii) Reports, State Role, and Public Notification

The Maryland provisions below address these requirements to make reports with emission limitations or standards available to the public. Note that EPA has SIP-approved the provisions below unless otherwise indicated.

- §2-103(b), Environment Article, Annotated Code of Maryland, gives MDE statutory authority over emissions into the air, ambient air quality, and ambient air quality monitoring. This statute has not been SIP approved and is mentioned here for reference purposes only.
- COMAR 26.11.01.05, “Records and Information,” requires sources to establish and maintain records, for purposes such as allowing MDE to determine compliance with an emissions standard.
- COMAR 26.11.01.04, B(4) states, “All records and reports submitted to the Department or the control officer required under this regulation [“Testing and Monitoring”] shall be available for public inspection.”
- Criteria pollutant emissions-related data in Maryland is available to the public for inspection upon request, in accordance with 40 CFR 51.116, “Data Availability.” This regulation states the following:
  - (c) Each plan must provide for public availability of emission data reported by source owners or operators or otherwise obtained by a State or local agency. Such emission data must be correlated with applicable emission limitations or other measures. As used in this paragraph, correlated means presented in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions allowable under the applicable emission limitations or other measures.

## Clean Air Act § 110(a)(2)(G)

**§ 110(a)(2)(G), Emergency Powers:** *Each such plan shall – (G) provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority.*<sup>21</sup>

Below are the statutory and regulatory provisions that provide authority comparable to that of the EPA Administrator under section 303.

- Environment Article, §2-105, Annotated Code of Maryland: provides the authority to address activities causing imminent and substantial endangerment to public health or welfare, or the environment.
- §2-301 of the Environment Article, Annotated Code of Maryland provides the authority to adopt rules and regulations in an air quality emergency condition.
- “Air Pollution Episode System” and “Standby Emission Reduction Plans,” in COMAR 26.11.05.03 and COMAR 26.11.05.04, respectively, in the Maryland SIP under 40 CFR 52.1070(c) provide the authority to activate emergency episode stages, and to initiate standby emission reduction plans, respectively.
- Environment Article, §2-604 (Administrative corrective order authority) and § 2-609 (a) (Civil injunctive authority), Annotated Code of Maryland provides the authority regarding accidental or other releases that are not authorized by statute, regulation or permit or occur in conjunction with violations of existing regulatory requirements.

EPA has not set levels for the priority areas and has not set a significant harm level for any PM<sub>2.5</sub> NAAQS. However, for the 24-hour 2006 PM<sub>2.5</sub> NAAQS, EPA recommended these levels through guidance.<sup>22</sup> In the September 25, 2009 Guidance for the 2006 PM<sub>2.5</sub> NAAQS, EPA suggested that states that had monitored and recorded 24-hour PM<sub>2.5</sub> levels greater than 140.4 µg/m<sup>3</sup>, using the most recent three years of data, should develop emergency episode plans for the areas with the monitored values. EPA also suggested that, if these levels had not been exceeded, states could certify that they had adequate general emergency authority to address PM<sub>2.5</sub> episodes. Based on a review of the most recent certified data for the years 2012-2014, Maryland continues to meet this recommended criterion for PM<sub>2.5</sub>. The maximum 24 hour level of PM<sub>2.5</sub> in the entire state during that time period was 45.7 µg/m<sup>3</sup> which occurred at the Hagerstown, Washington County monitor (AQS #240430009) on December 3, 2013. Since the PM<sub>2.5</sub> levels are below 140.4 µg/m<sup>3</sup>, the state does not need an emergency episode plan and has adequate general emergency authority to address any PM<sub>2.5</sub> episodes.

<sup>21</sup> See 42 U.S. Code 7410(a)(2)(G).

<sup>22</sup> See Memorandum from William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, Regions I through X, “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS).” (September 25, 2009 Guidance). This guidance can be found at this link: [http://www.epa.gov/ttn/caaa/t1/memoranda/20090925\\_harnett\\_pm25\\_sip\\_110a12.pdf](http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf).

## Clean Air Act § 110(a)(2)(H)

**§ 110(a)(2)(H), SIP Revisions:** *Each such plan shall – (H) provide for revision of such plan – (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attain such standard and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirement established under this chapter.*<sup>23</sup>

Maryland's SIP is essentially a compilation of regulations, source-specific provisions and plans to meet the National Ambient Air Quality Standards (NAAQS). The authority to develop or revise a SIP is based on the authority to adopt new regulations and revise existing regulations to meet the NAAQS (§2-301(a)(1) Environment Article, Annotated Code of Maryland), and more, specifically in §2-302 of the Environment Article, Annotated Code of Maryland (authority to set emission standards and air quality control areas, as well as ambient air quality standards).

Nothing in Maryland's statutory or regulatory authority prohibits the State from revising the SIP when the NAAQS are revised by EPA.

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<sup>23</sup> See 42 U.S. Code 7410(a)(2)(H).

## Clean Air Act § 110(a)(2)(J)

### **§ 110(a)(2)(J), Consultation with Government Officials, Public Notification, and PSD and Visibility**

**Protection:** Each such plan shall – (J) meet the applicable requirement of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection)

#### **(J) Consultation with identified officials on certain actions:**

*Sec. 121. In carrying out the requirement of this Act requiring applicable implementation plans to contain – (1) any transportation controls, air quality maintenance plan requirements or preconstruction review of direct sources of air pollution, or (2) any measure referred to – (A) in part D (pertaining to nonattainment requirements), or (B) in part C (pertaining to prevention of significant deterioration), and in carrying out the requirements of section 113(d) (relating to certain enforcement orders), the State shall provide a satisfactory process of consultation with general purpose local governments and any Federal land manager having authority over Federal land to which the State plan applies, effective with respect to any such requirement which is adopted more than one year after the date of enactment of the Clean Air Act Amendments of 1977 as part of such plan. Such process shall be in accordance with regulation promulgated by the Administrator to assure adequate consultation. The Administrator shall update as necessary the original regulations required and promulgated under this section (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to ensure adequate consultation. Only a general purpose unit of local government, regional agency, or council of government adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection may petition for judicial review of such action on the basis of a violation of the requirements of this section.<sup>24</sup>*

#### (J) Consultation with Identified Official on Certain Actions:

Maryland has formal consultation procedures in place that are adapted to serve multiple pollutants and processes. These processes address the consultation requirements for the purposes of §121 of the Clean Air Act.

COMAR 26.11.26 provides the structure for a consultation process between the Maryland Department of the Environment (MDE), Maryland Department of Transportation (MDOT), and Metropolitan Planning Organizations (MPOs). This consultation process is for analyzing the conformity of transportation plans and projects with the State Implementation Plan, and for giving transportation agencies the opportunity to provide comment on the SIP. Overall, the MPOs provide a forum for consultation with local governments. Maryland's MPOs located in nonattainment areas are as follows:

- Baltimore Regional Transportation Board (BRTB)
- National Capital Transportation Planning Board (TPB) for the Washington region
- Wilmington Area Planning Council (WILMAPCO)
- Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO)

Maryland also addresses the consultation requirements of CAA §121 through the regulatory and statutory provisions listed under “(J) Public notification,” below, as addressing CAA §127. This

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<sup>24</sup> See 42 U.S. Code 7410(a)(2)(J).

includes the provisions shown below for public hearings, public notices, and public notifications of air quality alerts and warnings.

#### (J) Public Notification

**(J) Public Notification:**

*Section 127. (a) Each State plan shall contain measure which will be effective to notify the public during any calendar [year] on a regular basis of instances or areas in which any national primary ambient air quality standard is exceeded or was exceeded during any portion of the preceding calendar year to advise the public of the health hazards associated with such pollution, and to enhance public awareness of the measure which can be taken to prevent such standards from being exceeded and the ways in which the public can participate in regulatory and other efforts to improve air quality. Such measures may include the posting of warnings signs on interstate highway access point to metropolitan areas or television, radio, or press notices or information. (b) The Administrator is authorized to make grants to States to assist in carrying out the requirements of subsection (a)*<sup>25</sup>.

Public hearings on proposed Maryland regulations are held in accordance with the following statutory provisions, not currently in the Maryland SIP:

- Section 2-303(b), Environment Article, Annotated Code of Maryland; this requires public hearings to be held before adopting air quality regulations.
- Subtitle 1 of Title 10, State Government Article, Annotated Code of Maryland; this sets forth the administrative procedure requirements for adopting or modifying regulations, including public notification and participation requirements.
- Public hearings on proposed Maryland regulations are also held in accordance with EPA requirements under 40 CFR §51.102.

Public notice is addressed in the following regulatory and statutory provisions:

- COMAR 26.11.02, “Permits, Approvals, and Registration.”
- The Maryland SIP-approved portions of COMAR 26.11.02.11, “Procedures for Obtaining Permits to Construct Certain Significant Sources.”
- COMAR 26.11.02.12, “Procedures for Obtaining Approvals of PSD Sources and NSR Sources, Permits to Construct, Permit to Construct MACT Determinations On a Case-by-Case Basis in Accordance with 40 CFR Part 63, Subpart B, and Certain 100-Ton Sources.”
- The EPA SIP-approved portions of the statutory provisions, § 7-207, “Generating stations or transmission lines -- General certification procedure,” and § 7-208, “Generating stations or transmission lines -- Joint construction of station and associated lines,” Public Utilities Article, Annotated Code of Maryland, establish requirements for construction and modification of generating stations. This includes consideration of related air quality impacts, and including requirements for the Commission to provide public notices.

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<sup>25</sup> See 42 U.S. Code 7410(a)(2)(J).

Public notification of air quality alerts and warnings is provided in the following regulations:

- COMAR 26.11.04.02, “Ambient Air Quality Standards, Definitions, Reference Conditions, and Methods of Measurement,” adopts 40 CFR 58.50, “Index reporting,” which reports air quality to the public several times a day.
- COMAR 26.11.05.03, “Air Pollution Episode Criteria,” in the chapter “Air Pollution Episode System,” which justify the proclamation of a Standby Watch, Health Advisory, Alert Warning, or Emergency.

Maryland also provides public access to all air monitoring data via the Internet, as required under Section 2-103, Environment Article, Annotated Code of Maryland.

#### (J) PSD and Visibility Protection

***(J) PSD and Visibility Protection*** requires states to meet applicable requirements of Part C [of Title I of the Clean Air Act] related to prevention of significant deterioration and visibility protection.<sup>26</sup>

- Maryland's PSD requirements are found in COMAR 26.11.06.14. Additional provisions implementing the EPA's final PSD and Title V Greenhouse Gas Tailoring Rule (75 FR 31514, June 3, 2010, amending 40 CFR Parts 51, 52, 70, and 71) are under COMAR 26.11.01.01, COMAR 26.11.02.01, and COMAR 26.11.02.12.
- In 2013, Maryland revised its “PSD sources” regulations in COMAR 26.11.06.14 and COMAR 26.11.01.01B(37) to refer to any new or modified source subject to the provisions of 40 CFR 52.21, as amended.
- COMAR 20.79, “Applications Concerning the Construction or Modification of Generating Stations and Overhead Transmission Lines,” particularly the EPA SIP-approved portions of this chapter, regulate construction and modification of electric generating stations, including consideration of related air quality impacts. This chapter also incorporates by reference Maryland's PSD regulations found in COMAR 26.11. See COMAR 20.79.01.06.

The statutory provisions below establish requirements for construction and modification of generating stations, including consideration of related air quality impacts. See the EPA SIP-approved portions of the following sections of the Public Utilities Article, Annotated Code of Maryland:

- § 7-205, Electric companies -- Modification of power plant
- § 7-207, Generating stations or transmission lines -- General certification procedure
- § 7-208, Generating stations or transmission lines -- Joint construction of station and associated lines

The EPA believes that there are no new visibility protection requirements under part C as a result of a revised NAAQS. Therefore, there are no newly applicable visibility protection obligations

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<sup>26</sup> See 42 U.S. Code 7410(a)(2)(J).

pursuant to Element J after the promulgation of a new or revised NAAQS. Air Agencies do not need to address the visibility subelement J in an infrastructure SIP submission. Therefore, there are no newly applicable visibility protection obligations pursuant to Element J after the promulgation of a new or revised NAAQS.<sup>27</sup>

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<sup>27</sup> See U.S. Environmental Protection Agency, “Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2)” for the 2008 Ozone NAAQS, the 2010 Nitrogen Dioxide NAAQS, the 2010 Sulfur Dioxide NAAQS, and the 2012 Fine Particulate Matter (PM<sub>2.5</sub>) NAAQS Memorandum from Stephen D. Page, Office of Air Quality Planning and Standards (Washington, DC: U.S. Environmental Protection Agency, September 13, 2013), page 34.

## Clean Air Act § 110(a)(2)(K)

**§ 110(a)(2)(K), Air Quality Modeling and Submission of Modeling Data:** *Each such plan shall – (K) provide for – (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.*<sup>28</sup>

### Air Quality Modeling and Data:

- Authority under §2-103 and §2-302 of the Environment Article, Annotated Code of Maryland.
- Authority under EPA SIP-approved portions of §§ 7-205, 7-207, 7-207.1, and 7-208 of the Public Utilities Article, Annotated Code of Maryland.
- COMAR 26.11.06.14, “Control of PSD Sources,” Maryland’s PSD program, is consistent with the federal PSD requirements and accordingly, addresses the PSD modeling requirements under §110(a)(2)(K).
- The EPA SIP-approved portions of COMAR 20.79.01, .02, and .03, in the subtitle, “Applications Concerning the Construction or Modification of Generating Stations and Overhead Transmission Lines,” establish, for example, requirements for the calculation of increases in air emissions related to modifications of facilities at power plants. COMAR 20.79.01.06 incorporates by reference Maryland’s PSD regulations found in COMAR 20.79.03.02 which establishes requirements for applications, regarding construction and modification of generating stations, to demonstrate compliance with environmental restrictions. This includes providing the following information to show the impact on air quality: (1) ability of the generating station to comply with PSD and NSR provisions; and (2) the impact on PSD areas.
- As Maryland has done in the past, it can provide a modeling analysis to assess the effect of the state's air emissions on the NAAQS. Past examples include modeling for 8-hour ozone and other PM<sub>2.5</sub> SIPs.

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<sup>28</sup> See 42 U.S. Code 7410(a)(2)(K).

## Clean Air Act § 110(a)(2)(L)

**§ 110(a)(2)(L), Permitting fees:** *Each such plan shall – (L) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover – (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator’s approval of a fee program under subchapter V of this chapter.*<sup>29</sup>

Maryland's Title V program is found under COMAR 26.11.03, with regulations on the collection of fees located under COMAR 26.11.02.16, “Permit Fees” in the chapter “Permits, Approvals, and Registration Authority.” EPA approved Maryland’s Title V program, effective February 14, 2003 (see 68 Fed. Reg. 1974, January 15, 2003). Maryland’s Title V program fulfills the requirements of § 110(a)(2)(L), superseding the individual requirements of § 110(a)(2)(L)(i) and (ii), above. The Title V program fees cover reasonable costs to review and act on permits and enforce terms and conditions of any such permit. Note that COMAR 26.11.03 is not part of Maryland’s EPA-approved SIP and is mentioned here for reference purposes only.

§ 2-403 – “Permits or registration - Fees,” Environment Article, Annotated Code of Maryland also addresses the requirements §110(a)(2)(L).

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<sup>29</sup> See 42 U.S. Code 7410(a)(2)(L).

## Clean Air Act § 110(a)(2)(M)

***§110(a)(2)(M), Consultation and Participation by Affected Local Entities:*** Each such plan shall – (M) provide for consultation and participation by local political subdivisions affected by the plan.<sup>30</sup>

The statutory authority is located under §2-103 and §2-302 of the Environment Article, Annotated Code of Maryland.

Maryland has formal consultation procedures in place that are adapted to serve multiple pollutants and processes. These processes address the consultation requirements for the purposes of §121 of the Clean Air Act.

COMAR 26.11.26 provides the structure for a consultation process between the Maryland Department of the Environment (MDE), Maryland Department of Transportation (MDOT), and Metropolitan Planning Organizations (MPOs). This consultation process is for analyzing the conformity of transportation plans and projects with the State Implementation Plan, and for giving transportation agencies the opportunity to provide comment on the SIP. Overall, the MPOs provide a forum for consultation with local governments. Maryland's MPOs located in nonattainment areas are as follows:

- Baltimore Regional Transportation Board (BRTB)
- National Capital Transportation Planning Board (TPB) for the Washington region
- Wilmington Area Planning Council (WILMAPCO)
- Hagerstown/Eastern Panhandle Metropolitan Planning Organization (HEPMPO)

Public hearings on proposed Maryland regulations are held in accordance with the following statutory provisions, not currently in the Maryland SIP:

- Section 2-303(b), Environment Article, Annotated Code of Maryland; this requires public hearings to be held before adopting air quality regulations.
- Subtitle 1 of Title 10, State Government Article, Annotated Code of Maryland; this sets forth the administrative procedure requirements for adopting or modifying regulations, including public notification and participation requirements.
- Public hearings on proposed Maryland regulations are also held in accordance with EPA requirements under 40 CFR §51.102.

Public notice is addressed in the following regulatory and statutory provisions:

- COMAR 26.11.02, “Permits, Approvals, and Registration.”
- The Maryland SIP-approved portions of COMAR 26.11.02.11, “Procedures for Obtaining Permits to Construct Certain Significant Sources.”

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<sup>30</sup> See 42 USC 7410(a)(2)(M).

- COMAR 26.11.02.12, “Procedures for Obtaining Approvals of PSD Sources and NSR Sources, Permits to Construct, Permit to Construct MACT Determinations On a Case-by-Case Basis in Accordance with 40 CFR Part 63, Subpart B, and Certain 100-Ton Sources.”
- The EPA SIP-approved portions of the statutory provisions, § 7-207, “Generating stations or transmission lines -- General certification procedure,” and § 7-208, “Generating stations or transmission lines -- Joint construction of station and associated lines,” Public Utilities Article, Annotated Code of Maryland, establish requirements for construction and modification of generating stations. This includes consideration of related air quality impacts, and including requirements for the Commission to provide public notices.

The regulations below, under the chapter “Permits, Approvals, and Registration - Title V Permits,” COMAR 26.11.03. Note that these regulations are cited here for reference purposes only. They are not included in Maryland’s SIP-approved regulations.

- .01, “Applicability and General Requirements”
- .07, “Public Participation Procedures”
- .08, “Review by Affected States of Part 70 Permits,”
- .17, “Significant Permit Modifications”

Public notification of air quality alerts and warnings is provided in the following regulations:

- COMAR 26.11.04.02, “Ambient Air Quality Standards, Definitions, Reference Conditions, and Methods of Measurement,” adopts 40 CFR 58.50, “Index reporting,” which reports air quality to the public several times a day.
- COMAR 26.11.05.03, “Air Pollution Episode Criteria,” in the chapter “Air Pollution Episode System.”
- Maryland also provides public access to all air monitoring data via the Internet, as required under Section 2-103.2(b), Environment Article, Annotated Code of Maryland.

## **Conclusion**

Based on the information provided above, Maryland fully complies with the applicable requirements of §110(a)(2)(A) through §110(a)(2)(M). Therefore, no implementation plan to correct deficiencies is needed.

***Maryland State Implementation Plan for Clean Air Act Section 110(a)(2)  
for the PM2.5 National Ambient Air Quality Standards***

**Appendices**

*For Information Purposes Only*

**Appendix A:** Annotated Code of Maryland (See CD)

**Appendix B:** Letter from EPA Regional Administrator Shawn Garvin regarding the approval of MDE's July 1, 2015 annual ambient air monitoring network plan.

**Appendix C:** PM2.5 24 Hour Average 2012-2014 Data

## **Appendix A: Annotated Code of Maryland<sup>31</sup>**

*Please see attached CD titled: "MDE\_Appendix A."  
The file name is titled: "MDE Appendix A\_PM2.5 i-SIP\_CD\_201 FINAL.pdf."*

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<sup>31</sup> From Matthew Bender and Company, Inc., a member of the LexisNexis Group, Copyright 2016, providing free public access to the Code of Maryland laws, <http://www.lexisnexis.com/hottopics/mdcode/>.

## Appendix B: Approval Letter

EPA Regional Administrator, Shawn Garvin to MDE regarding the approval of MDE's July 1, 2015 annual ambient air monitoring network plan.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

NOV 12 2015

The Honorable Benjamin H. Grumbles, Secretary  
Maryland Department of the Environment  
1800 Washington Boulevard  
Baltimore, Maryland 21230

Dear Secretary Grumbles: *Ben*

By letter and enclosures dated July 1, 2015, the Maryland Department of Environmental (MDE) submitted to the U. S. Environmental Protection Agency (EPA) an annual ambient air monitoring network plan in accordance with the regulatory requirements of 40 CFR Part 58 - Ambient Air Quality Surveillance. Based on our review, EPA hereby approves MDE's July 1, 2015 annual ambient air monitoring network plan on the basis that the plan meets the requirements of 40 CFR Part 58.10.

Additionally, 40 CFR Section 58.11(c) requires any changes to the air monitoring network or design of the following air monitoring systems be approved by the EPA Administrator:

- a) Photochemical Assessment Monitoring Systems (PAMS)
- b) Particulate Matter Speciation Trends Network (STN)
- c) The National Core Monitoring Network (NCORE)

EPA determined that MDE's July 1, 2015 annual ambient air monitoring network plan does not require approval from the EPA Administrator because there were no changes to any of the air monitoring systems listed above.

If you have any questions please do not hesitate to contact me or have your staff contact Mr. Matthew Colip, EPA's Maryland Liaison, at (215) 814-5439. For questions regarding this approval action, your staff may contact Mr. David L. Arnold, Acting Director, Air Protection Division, at (215) 814-2172.

Sincerely,

Shawn M. Garvin  
Regional Administrator

cc: Mr. George S. Aburn, Jr., MDE

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Customer Service Hotline: 1-800-438-2474

## Appendix C: Maryland Maximum 24-Hour PM<sub>2.5</sub> Values

Year	County	Maximum 24-Hr PM <sub>2.5</sub> Values <sup>32</sup>
2012	Hagerstown, Washington County	38.3 µg/m <sup>3</sup>
2013	Hagerstown, Washington County	45.7 µg/m <sup>3</sup>
2014	Hagerstown, Washington County	35.3 µg/m <sup>3</sup>

### Maryland Maximum 2012-2014 24-Hour Design Value

County	24-Hour PM <sub>2.5</sub> Design Value <sup>33</sup>
Hagerstown, Washington County	26 µg/m <sup>3</sup>

<sup>32</sup> [http://www3.epa.gov/airdata/ad\\_rep\\_mon.html](http://www3.epa.gov/airdata/ad_rep_mon.html)

<sup>33</sup> <http://www3.epa.gov/airtrends/values.html>