



## State of New Jersey

Department of Environmental Protection

P.O. Box 402  
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James E. McGreevey  
Governor

Bradley M. Campbell  
Commissioner

September 29, 2004

The Honorable Michael O. Leavitt  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue  
Washington, DC 20460

Dear Administrator Leavitt:

I am writing to follow up on my letter to you dated August 19, 2004, regarding the proposal by the United States Environmental Protection Agency (USEPA) to modify New Jersey's recommendations for fine particulate matter (PM<sub>2.5</sub>) nonattainment area designations.

New Jersey had recommended that the USEPA designate ten counties in the northern portion of the state as nonattainment. The USEPA agreed with that recommendation, and also proposed to designate an additional three counties (Burlington, Camden and Gloucester) as nonattainment. With this letter, I am recommending that the USEPA designate Burlington, Camden, and Gloucester counties as attainment, and providing supporting information for that recommendation. I am also reiterating New Jersey's commitment that any PM<sub>2.5</sub> control measures to be implemented in the ten counties in our original recommendation will be implemented throughout the rest of the state as well. I believe this commitment is necessary to protect the health of New Jersey residents, considering the threats to public health that PM<sub>2.5</sub> poses even in concentrations below the National Ambient Air Quality Standards (NAAQS). I would be pleased to take whatever steps are necessary to make this commitment federally enforceable.

The three aforementioned counties the USEPA proposes to designate as nonattainment currently meet the PM<sub>2.5</sub> NAAQS. The Clean Air Act requires that an area meeting the NAAQS be designated attainment unless it contributes to ambient air quality in a nearby area that does not meet the NAAQS. New Jersey believes that the three southern New Jersey counties must be designated attainment, because the state respectfully disagrees

with the USEPA's conclusion that the three counties significantly contribute to PM<sub>2.5</sub> nonattainment in Philadelphia.

The USEPA based that conclusion, in part, on factors that it had not announced until after New Jersey submitted its recommendations. For example, the USEPA's analysis relied heavily on the New Jersey counties' being adjacent to the Pennsylvania county with a violating monitor. However, this proximity is trumped by the meteorology factor, one of the factors that the USEPA chose to downplay, and which shows that the prevailing winds blow the three southern New Jersey counties' air pollution away from Philadelphia. In addition to utilizing previously unannounced factors, the USEPA never announced the priority in which they would consider their original nine factors for determining PM<sub>2.5</sub> nonattainment areas, nor did they establish any tangible cutoff for most of their factors used to determine nonattainment status and boundaries. Some of these factors, such as vehicle miles traveled (VMT) and population, have a relationship to emissions. However, emissions from the counties was already one of the factors that the agency considered; separately considering VMT and population at best amounts to double counting and at worst is irrelevant. For these reasons, New Jersey believes that these factors offer a distorted view of the three counties' contribution to Philadelphia's nonattainment.

Application of the entire suite of factors has led to confusing and probably incorrect results. For example, Pennsylvania counties with stationary sources much larger than those in the three New Jersey counties appear to have a far greater contribution to nonattainment in Philadelphia, given the predominant wind directions and topography. However, the USEPA has not proposed to include those upwind counties in the Philadelphia nonattainment area.

Further analysis also shows that on high PM<sub>2.5</sub> days, the impact from Pennsylvania, Maryland, and Delaware counties affects PM<sub>2.5</sub> levels in Philadelphia far more dramatically than any impact from southern New Jersey. On those days, and most typical days, the predominant winds transport emissions from the three southern New Jersey counties away from the violating monitor in Philadelphia, undermining the case that the New Jersey counties contribute significantly to Philadelphia's problem. Additionally, the three New Jersey counties have minimal impact on Philadelphia during its high PM<sub>2.5</sub> days when the health impacts would be the greatest, and on most other days throughout the year as well.

Should the USEPA disregard this evidence and designate these counties as nonattainment, New Jersey will face an increased risk of federal sanctions even though actions taken in the three counties will be largely irrelevant to nonattainment in Philadelphia. Specifically, southern New Jersey would be expected to meet a USEPA established Rate of Progress (ROP) reduction for PM<sub>2.5</sub>. Since the USEPA has not yet released a proposed implementation rule for the PM<sub>2.5</sub> NAAQS, the severity of that ROP reduction is not known. However, based on what the NJDEP currently knows about emissions in that area of the State, significant emission reductions for the southern New Jersey area would be difficult to meet because of relatively low emissions now, and

businesses in the southern part of the State would bear a greatly disproportionate burden in the State's attempts to meet those reductions. A southern New Jersey nonattainment designation would also require the State to perform an attainment demonstration showing that this area has eliminated the three counties' significant contribution to nonattainment in Philadelphia. Since there is currently no significant contribution from the three southern New Jersey counties, we can reasonably expect that the nonattainment designation would set the stage for a very difficult negotiation over the adequacy of the attainment demonstration.

In conclusion, while we acknowledge that the Delaware River regions of southern New Jersey have air quality issues that need to be addressed, we do not agree that these counties are significantly contributing to  $PM_{2.5}$  nonattainment in Philadelphia. Also, New Jersey recognizes that  $PM_{2.5}$  significantly affects public health even at concentrations below the current NAAQS. Therefore, New Jersey is strongly committed to implementing all reasonable  $PM_{2.5}$  control measures statewide for the protection of the health and welfare of all New Jerseyans. This will improve  $PM_{2.5}$  levels statewide and ensure that the  $PM_{2.5}$  levels in southern New Jersey continue to maintain the NAAQS.

Attached is our justification for not including Burlington, Camden and Gloucester counties in the Philadelphia  $PM_{2.5}$  nonattainment area. Thank you for your consideration in this matter.

Sincerely,



Bradley M. Campbell, Commissioner

Attachment

James E. McGreevey, Governor, State of New Jersey  
Kathleen A. McGinty, Secretary, PADEP  
John A. Hughes, Secretary, DNREC  
Kendl P. Philbrick, Secretary, MDE  
Erin Crotty, Commissioner, NYSDEC  
Arthur J. Rocque, Jr., Commissioner, CTDEP  
Jeffrey Holmstead, Assistant Administrator, USEPA  
Jane M. Kenny, Administrator, Region II, USEPA  
Donald S. Welsh, Administrator, Region III, USEPA  
Peter C. Harvey, Attorney General, New Jersey  
Jack Lettiere, Commissioner, NJDOT

- bc. S. Wolfe
- W. O'Sullivan
- E. Choromanski
- C. Salmi
- S. Krietzman
- T. Key
- R. Papalski
- C. Schell
- H. Geduldig
- Environmental Regulation file
- Division of Air Quality file
- Air Quality Management file
- Bureau of Air Quality Planning file (Official SIP file)