



MARYLAND DEPARTMENT OF THE ENVIRONMENT
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Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Kendl P. Philbrick
Secretary

Jonas A. Jacobson
Deputy Secretary

Mr. Donald Welsh
Regional Administrator (3RA00)
U.S. Environmental Protection Agency Region III
1650 Arch Street
Philadelphia, PA 19103-2023

SEP 08 2004

Dear Mr. Welsh:

Pursuant to your June 29, 2004 letter to Governor Robert L. Ehrlich, Jr., the Maryland Department of the Environment (MDE) would like to open a dialogue regarding differences in Maryland's and the EPA's recommendations on the proposed PM2.5 nonattainment boundaries. The EPA has recommended a nonattainment designation for several counties in Maryland that otherwise could have escaped the cloud of nonattainment based on a different interpretation of the designation process and how emission controls could be applied in the region.

Maryland has worked with state legislators, the business community, numerous environmental organizations and local governments during this designation process. Carroll, Charles, Frederick, Harford, Howard, Montgomery and Washington Counties, have expressed a strong desire for the MDE to request that they be excluded from Maryland's nonattainment areas as proposed in your June 29, 2004 letter. Recently, the MDE held an Attainment Plan Task Force meeting (our stakeholder process for numerous air quality issues) and the counties mentioned above, again asked the MDE to work with EPA Region III, on possible means by which their counties could avoid a nonattainment designation. At the same time, these counties are willing to support the PM2.5 planning process.

In our original recommendation letter to EPA Region III, we offered two options on possible nonattainment boundaries (enclosed with this letter is a copy of our February 23, 2004 recommendation letter). The first option was Metropolitan Statistical Area (MSA) based and the second option revolved around the concept of transport and emission control regions. In this second option, only the counties that have monitors showing nonattainment would be designated as nonattainment but the remaining counties in the MSA would be required to control their emission sources at the same level as the connected nonattainment areas. Since the inception of this concept we have worked with stakeholders and explored the possibility of establishing a Memorandum of Understanding (MOU) or some other federal enforceable mechanism to ensure that all counties within the MSA are part of the regional solution. Feedback from the locals requesting their removal from the nonattainment area have been positive on the MOU concept.

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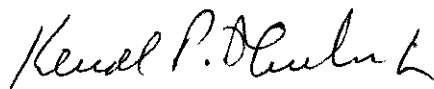
The MDE would like to take this opportunity to request that EPA consider our "option 2" recommendation and conduct an open dialogue with MDE staff on the subject. The MDE is hoping this dialogue will conclude with a resolution that will meet the expectations of the EPA, the MDE, and the Maryland counties that have expressed their concerns.

Enclosed with this cover letter is a more detailed description of some of our concerns with the designation process and some of our solutions on how EPA can make the process more equitable, while still tackling the largest issue, which is to solve our air quality problems.

Guidance on how the PM2.5 standard will be implemented has yet to be released by the EPA, making recommendations on nonattainment area boundaries difficult to discuss with the Governor and stakeholders. The MDE strongly requests that this guidance be completed and published as soon as possible to allow states to examine the real costs and impacts of implementing the PM2.5 standard.

The MDE still believes that our "option 2" scenario works in the structure of the designation process and we have buy-in from the impacted counties. The MDE understands the pressures being placed on the timing for final designations and MDE would be willing to work as quickly as possible with the EPA staff on any of the comments and issues presented in this letter. If you have any questions regarding this letter please contact Thomas C. Snyder, Director of MDE's Air and Radiation Management Administration, at 410-537-3255, toll free at 800-633-6101 x3255 or email at tsnyder@mde.state.md.us. Thank you for the opportunity to comment on your designation recommendation.

Very truly yours,



Kendl P. Philbrick
Secretary

Enclosures

cc: Thomas C. Snyder, Director, Air and Radiation Management Administration
George (Tad) Aburn, Program Manager Air Quality Monitoring & Planning Program
Judith Katz, Director, U.S. EPA, Region III
Makeba Morris, U.S. EPA, Region III