



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 5 2005

THE ADMINISTRATOR

Harold D. Miller, Director
Southwestern Pennsylvania Growth Alliance
425 Sixth Avenue, Suite 1100
Pittsburgh, PA 15219

Dear Mr. Miller:

By letter dated March 4, 2005, you filed a Petition To Stay ("the Petition") the effective date of the Environmental Protection Agency's (EPA's) January 5, 2005 Final Rule, which promulgated designations and boundaries for areas of the United States, including Southwestern Pennsylvania, with respect to implementation of the fine particles (PM 2.5) National Ambient Air Quality Standards (NAAQS), promulgated in accordance with the requirements of the Clean Air Act (CAA) (the "PM2.5 NAAQS Designations Final Rule"). See 70 *Federal Register* 944. The Petition requested that EPA stay its nonattainment designation pertaining to specific parts of Southwestern Pennsylvania. By this letter, EPA is denying your request for a stay of the effective date of the PM2.5 NAAQS Designations Final Rule.

The Petition raises specific concerns regarding the implementation of the CAA mandated New Source Review ("NSR") permitting process prior to finalization of revisions to Pennsylvania's State Implementation Plan ("SIP") incorporating Pennsylvania's PM2.5 NAAQS attainment implementation plan ("Pennsylvania's PM2.5 SIP revisions"). The Petition asserts that the requested stay is appropriate until "EPA issues guidance which will permit new or expanding sources in Southwestern Pennsylvania to go through permitting while the (Clean Air Interstate Rule) CAIR and Pennsylvania's PM2.5 SIP revisions are being promulgated." In addition to requesting such a stay, the Petition also asserts that during such period of time (while Pennsylvania's PM2.5 SIP revisions are being promulgated), "(i)t will not be sufficient to allow the states to use PM10 as a surrogate for PM2.5 in the (NSR) permitting process."

EPA issued the guidance you sought concerning interim application of NSR on April 6, 2005 and is entitled "*Implementation of New Source Review Requirements in PM 2.5 Nonattainment Areas.*" The purpose of such guidance was to provide direction to States as to what criteria they should use in the process of reviewing NSR permits for the construction and major modifications of major stationary sources located in any nonattainment area pending issuance of the PM 2.5 NAAQS implementation rule. This guidance finalized, and provided EPA's rationale supporting, EPA's determination that: ". . . until we promulgate the PM-2.5 major NSR regulations, States should use a PM-10 nonattainment major NSR program as a surrogate to address the requirements of

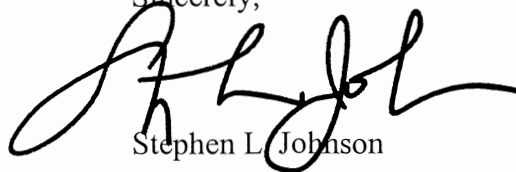
nonattainment major NSR for the PM-2.5 NAAQS.” Such guidance is sufficient to ensure that, prior to the finalization of Pennsylvania’s PM2.5 SIP revisions, new or expanding sources in Southwestern Pennsylvania are able to proceed through the federally mandated NSR permitting process. Therefore, a stay of the effective date is not necessary in order to allow interim implementation of the NSR permitting process prior to the finalization Pennsylvania’s PM2.5 State Implementation Plan (SIP) revisions.

Although States have until April 2008 to submit PM2.5 SIP revisions to EPA, in order to assist States in their immediate efforts to begin developing such revisions, EPA has issued guidance on many aspects of the PM2.5 SIP revisions planning process, including transportation conformity and emission inventory. Most recently, on November 1, 2005, EPA issued proposed rules describing the requirements that each such PM2.5 SIP revision must meet. When finalized, this PM 2.5 implementation rule will provide additional guidance to the States as they develop PM 2.5 SIP revisions. EPA has been working with, and looks forward to continuing its work with, Pennsylvania representatives in order to assist them in developing necessary and appropriate PM2.5 SIP revisions.

The Petition also asserts that a stay of the effective date of the PM2.5 NAAQS Designations Final Rule is appropriate because, with the exception of a single nonattainment area, the Southwestern Pennsylvania Growth Alliance believes that future implementation of CAIR should be sufficient in order to achieve attainment of the PM2.5 NAAQS in the Southwestern Pennsylvania areas designated as nonattainment areas. EPA agrees that CAIR will provide an important part of the solution to the nonattainment problems in Southwest Pennsylvania and elsewhere. CAIR is designed to address the impacts of interstate transport throughout the region. However, implementation of CAIR is not projected to result in the attainment of the PM2.5 NAAQS in all designated nonattainment areas. Under the Clean Air Act, States are obligated to attain the NAAQS expeditiously and to develop PM 2.5 SIP revisions that meet the requirements of the statute. EPA’s PM 2.5 implementation rule will help states develop more effective plans. We encourage you to participate in the rulemaking process as we develop the final PM 2.5 implementation rule.

For the above reasons, EPA is denying your Petition requesting a stay of the effective date of the PM2.5 NAAQS Designations Final Rule.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Johnson", is written over the typed name.

Stephen L. Johnson

cc: Kathleen McGinty, Secretary, Department of Environmental Protection