

US EPA ARCHIVE DOCUMENT



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SECRETARY

February 28, 2012

Mr. Shawn M. Garvin  
Regional Administrator  
U.S. Environmental Protection Agency, Region III  
1650 Arch Street (Mail Code: 3RA00)  
Philadelphia, PA 19103-2029

Dear Mr. Garvin:

Thank you for your December 9, 2011, letter concerning the U.S. Environmental Protection Agency's (EPA) "preliminary response" to the Commonwealth of Pennsylvania's designation recommendations for the 2008 ozone national ambient air quality standard (NAAQS). The Commonwealth's initial recommendations were submitted to EPA on March 17, 2009 and subsequently revised on November 22, 2011.

In response to the designation recommendations for the 2008 ozone NAAQS, you have proposed the following nonattainment area boundaries, based on 2008-2010 monitoring data:

- Bucks, Chester, Delaware, Montgomery and Philadelphia counties in the Pennsylvania portion of the Philadelphia area plus counties in New Jersey, Delaware and Maryland
- Allegheny, Armstrong, Beaver, Butler, Fayette, Washington and Westmoreland counties in the Pittsburgh-Beaver Valley area
- Carbon, Lehigh and Northampton counties in the Allentown-Bethlehem-Easton area
- Lancaster County
- Berks County

Your December 9, 2011, letter also stated that EPA intends to designate all other areas of the state as unclassifiable/attainment. You also advised that any additional information that the Commonwealth would like EPA to consider should be provided by February 29, 2012.

Based on certified ambient ozone monitoring data for 2009-2011, the DEP recommended smaller nonattainment areas for the Philadelphia, Pittsburgh-Beaver Valley and Allentown-Bethlehem-Easton areas. Although we recommended nonattainment boundaries only for counties with monitors violating the ozone standard, we recognize that use of the same nonattainment area boundaries, based primarily on the same metropolitan statistical areas as for the 1997 and 2008 ozone standards, should preserve continuity of planning for both the DEP and the regional transportation planning agencies. However, we request that EPA base its final designations on Pennsylvania's 2009-2011 ozone monitoring data, which was certified and submitted to EPA November 2011.

On December 20, 2011, EPA published notice of the availability of its December 9, 2011, preliminary responses to state and tribal designation recommendations for the 2008 ozone standard. (76 Fed. Reg. 78,872). In that notice, EPA requested comments on its preliminary responses to state and tribal designation recommendations. The American Lung Association (ALA) submitted comments in response to EPA's preliminary responses expressing support for the creation of a "super-regional nonattainment area" consistent with the recommendations of the State of Delaware and other states, including Connecticut and Maryland. The Environmental Integrity Project (EIP) also submitted comments in support of a large ozone nonattainment area. Additionally, the Sierra Club agreed with, adopted and incorporated by reference the arguments of the ALA and EIP concerning the creation of a "large regional nonattainment area in the Eastern United States."

In your preliminary responses to the States of Delaware and Maryland, you concluded that a large multi-state nonattainment area is "not in keeping with a plain reading of the CAA section 107(d) related to the contribution in a 'nearby' area." You further concluded that the "CAA has other provisions to address regional transport." The DEP agrees with EPA's conclusion-- the creation of large multi-state nonattainment areas is contrary to the plain reading of Section 107(d) of the CAA, 42 U.S.C. § 7407(d). Your conclusion is also supported by the court's ruling in *Commonwealth of Pennsylvania v. EPA*, 429 F.3d 1125, in which the court gave deference to EPA's reasonable interpretation of the term "nearby" in 42 U.S.C. § 7407(d)(1)(A)(i) to "require locally-based nonattainment areas."

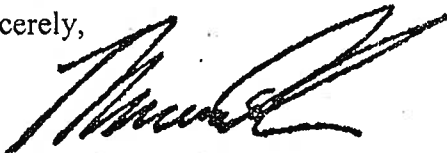
We also want to mention our support of EPA's acceptance of our recommendations in the following areas:

- Proposed designation of a stand-alone Berks County area
- Unclassifiable/attainment designation for Pike County
- Unclassifiable/attainment designation for Lawrence County

To this end, additional information which explains our support of EPA's preliminary response to the Commonwealth's designation recommendations for the 2008 ozone standard is enclosed for your information and reference.

Should you have questions or need additional information, please contact Joyce E. Epps, Director of the Bureau of Air Quality, by e-mail at [jeepps@pa.gov](mailto:jeepps@pa.gov) or by telephone at 717-787-9702.

Sincerely,



Michael L. Krancer  
Secretary

**Enclosure:**  
**Technical Information Regarding Proposed Designations in Pennsylvania for the  
2008 Ozone National Ambient Air Quality Standard**

On December 20, 2011, the U.S. Environmental Protection Agency provided notice and requested comments on its preliminary responses to state and tribal designation recommendations for the 2008 zone National Ambient Air Quality Standards (76 Fed. Reg. 7882). The Department of Environmental Protection is providing the information set forth below in response to the comments.

**Reading**

Comments were submitted to EPA recommending that the agency include Reading (Berks County) in the nonattainment area that includes the greater Philadelphia area because Reading is part of the Philadelphia-Camden-Vineland Consolidated Statistical Area (CSA). The Commonwealth disagrees with this suggestion and supports EPA's proposal to designate Berks County as a single county nonattainment area for the following reasons.

- The Commonwealth's recommendation and EPA's preliminary response are consistent with the Office of Management and Budget (OMB) definition. The OMB defines the Reading metropolitan statistical area as an area that consists of only Berks County. Although the OMB added Berks County to the Philadelphia CSA in 2006 because of increasing commuting ties to the larger area, Berks County traditionally has its own planning functions, including its own countywide transportation planning organization. The EPA designated Berks County as a single-county nonattainment area for the 1-hour ozone standard, the 1997 8-hour ozone standard and the 1997 fine particulate matter standard.
- Analysis of the most current work destination data for Berks County<sup>1</sup> indicates that in 2009, 57.7 percent of the employment of Berks County residents was in Berks County.
- The Reading Air Basin, defined in 25 Pa. Code §121.1 and codified in 40 CFR 52.2020, covers portions of Berks County and no other county.
- Based on the 2008 National Emissions Inventory shown below, VOC and NOx emissions (tons per year) in Berks County are low compared to emissions in the 5-county Philadelphia Area. The five Pennsylvania counties (Bucks, Chester, Delaware, Montgomery and Philadelphia) are part of a much larger CSA, which in turn is only part of the proposed four-state Philadelphia-Wilmington-Atlantic City nonattainment area. Therefore, the inclusion of Berks County in the Philadelphia-Wilmington-Atlantic City area is unlikely to have a significant effect on the area attaining the standard.

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<sup>1</sup> U.S. Census Bureau Longitudinal Household Employer Dynamics at <http://lehd.did.census.gov/led/>

	NOx	VOC
Berks	18,908	15,918
5-county Philadelphia Area	118,577	95,920

- Controls will continue to operate in adjacent counties. The Commonwealth recommended that most of the counties adjacent to Berks County be included in other nonattainment areas, as was done for the 1997 ozone NAAQS. Bordering nonattainment areas for the 1997 ozone NAAQS include: Harrisburg-Lebanon-Carlisle area to the west, Lancaster to the southwest, the Philadelphia area to the southeast, and the Allentown-Bethlehem-Easton area to the northeast. To the extent that emissions from adjacent counties may contribute to ozone concentrations in Berks County or that emissions from Berks County contribute to ozone concentrations downwind, the contribution will be lessened by controls put in place in those separate nonattainment areas and statewide.

**Pike County**

Comments were submitted to EPA recommending that Pike County be designated as nonattainment because it is part of the CSA for New York-Newark- Bridgeport. The Commonwealth disagrees with the commentator and supports EPA’s proposal to designate Pike County as unclassifiable/attainment for the following reasons.

- Compared to the population of the rest of the New York-Newark-Bridgeport CSA– the most populous area in the United States -- Pike County’s population is very small, with only 57,369 people<sup>2</sup>. There are no major facilities in the county. Therefore, the ozone precursor emissions in Pike County are an insignificant contribution to the CSA.
- About 63 percent of the employment of Pike County residents is in Pennsylvania.<sup>3</sup> Pike County is not part of the transportation planning area for areas in New York, New Jersey or Connecticut, but is part of the Northeast Pennsylvania Rural Transportation Planning Organization with four other rural Pennsylvania counties.

**Lawrence County**

Comments were submitted to EPA recommending that Lawrence County be designated as nonattainment because it is part of the CSA for Pittsburgh and New Castle. The Commonwealth disagrees and supports EPA’s proposal to designate Lawrence County as unclassifiable/attainment for the following reasons.

- Lawrence County is a single county micropolitan statistical area adjacent to the greater Pittsburgh-Beaver Valley area. The county’s micropolitan statistical area status indicates a lower level of social and economic ties to the Pittsburgh metropolitan area counties than counties included in the metropolitan statistical area. EPA did not include Lawrence

<sup>2</sup> U.S. Census Quick Facts at <http://quickfacts.census.gov/qfd/states/42000.html>

<sup>3</sup> U.S. Census Bureau Longitudinal Household Employer Dynamics at <http://lehd.did.census.gov/led/>

County in the Pittsburgh-Beaver Valley nonattainment area for the 1997 ozone standard designations.

- The Upper Beaver Valley Air Basin, defined in 25 *Pa. Code* §121.1, and codified in 40 CFR 52.2020, covers portions of Lawrence County and no other county.
- The air quality monitor located in Lawrence County indicates ambient air quality that attains the standard, with a 2009-2011 design value of 67 parts per billion.