



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
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Mr. James Salvaggio, Director
Bureau of Air Quality Control
Pennsylvania Department of Environmental Protection
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December 22, 1999

Dear Mr Salvaggio:

The purpose of this letter is twofold. First it is to withdraw my letter to you dated October 26, 1999, thereby withdrawing the U.S. Environmental Protection Agency's (EPA) prior final action as to the adequacy of the motor vehicle emission budgets submitted by the Commonwealth in its "Proposed State Implementation Plan for the Attainment and Maintenance of the NAAQS for Ozone Meeting the Requirements of the Alternative Ozone Attainment Demonstration Policy - Phase II Ozone SIP Submittal" SIP dated April 30, 1998 and supplemented on August 21, 1999. Second, today's letter serves to take a new final Agency action with regard to the adequacy of those same motor vehicle budgets contained in the Commonwealth's SIP submittal.

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in Environmental Defense Fund (EDF) v. Environmental Protection Agency (EPA), No. 97-1637, that the EPA must make an affirmative determination that the submitted motor vehicle emission budgets contained in SIPs are consistent with applicable requirements for attainment of the National Ambient Air Quality Standards (NAAQS) before they are used to test the conformity of Transportation Improvement Programs (TIPs) or Long Range Transportation Plans. In addition, EPA agreed to make these submitted budgets available for public comment and respond to those comments when announcing our determination of their adequacy.

On April 30, 1998, EPA received the "Proposed State Implementation Plan for the Attainment and Maintenance of the NAAQS for Ozone Meeting the Requirements of the Alternative Ozone Attainment Demonstration Policy - Phase II Ozone SIP Submittal" SIP. On August 2, 1999, the availability of the SIP and the motor vehicle emission budgets was posted on EPA's conformity WEB site for the purpose of soliciting public comment. The comment period closed on August 31, 1999, and no comments were received.

We have reviewed the motor vehicle budgets for the Philadelphia area in accordance with the procedures and criteria for review in the following sections of the Conformity Rule: 40CFR Part 93, Sections §93.118(e)(4)(I) through (e)(4)(vi). The results of this review are detailed in Tables 1 and 2, enclosed. Based upon its review, EPA is finding the motor vehicle emissions budgets in the attainment plan inadequate. However, we are concurrently finding the motor

vehicle emission budgets in the 1999, 2002, and 2005 Rate of Progress (ROP) Plans adequate. Among other things, the attainment budgets, when considered together with all other emission reductions, must be consistent with applicable requirements for attainment as required in 40 CFR Part 93, Section §93.118(e)(4)(iv). In making our adequacy determination, EPA is preliminarily concluding that the submitted attainment SIP does not fully provide for attainment. This preliminary determination will be subject to notice and comment rulemaking in the context of the proposed action on the attainment SIP.

As required in EPA's agreement with EDF, we will be posting today's findings on the motor vehicle budgets on EPA's WEB site and we will also announce today's determinations on the motor vehicle budgets in the Federal Register. That announcement will be published in the next couple of weeks. The finding of inadequacy of the motor vehicle emissions budgets submitted in the attainment plan SIP and the finding of adequacy of the budgets in the ROP plans will become effective 15 days after the Federal Register announcement. However, our withdrawal of the October 26, 1999 determination is effective immediately.

In the Notice of Proposed Rulemaking (NPR) published on December 16, 1999 (64 FR 70428), EPA has proposed that additional measures are needed to support the attainment test for the Philadelphia-Wilmington-Trenton ozone nonattainment area. This is a proposed rulemaking action, and we welcome and invite comment on all matters raised in the notice, including the need for additional local measures. The Commonwealth has raised concerns that the text found in the NPR at section II.B.3 entitled, Motor Vehicle Emissions Budget, forms a basis to conclude that EPA took final Agency action in the October 26, 1999 letter to find that additional measures to reduce emissions are required in the Philadelphia-Wilmington-Trenton to support the attainment test. By withdrawing the October 26, 1999 final action as to the adequacy of the motor vehicle emission budgets submitted by the Commonwealth in its attainment plan for the Philadelphia-Wilmington-Trenton nonattainment area, reissuing it today with clarifications to Table 1, and by clarifying that any final action which occurred on October 26, 1999 has now been superceded, EPA believes it has addressed the Commonwealth's concern .

We intend to amend the official record for the December 16, 1999 NPR to clarify that the October 26, 1999 adequacy findings were withdrawn and reissued on December 22, 1999. Moreover we intend to clarify that the effective date of these findings is 15 days from the date we announce today's determinations on the motor vehicle budgets in the Federal Register. We shall clarify that the text found at section II.B.3 of the NPR does not mean that EPA has made a final agency finding with regard to the need for additional measures in the attainment plan to support the attainment test, but is presented to explain the need to find the motor vehicle budgets submitted as part of an attainment demonstration SIP adequate in order to ultimately approve that attainment demonstration SIP itself.

As we have discussed in the many meetings held between our agencies on the one-hour attainment demonstration SIPs, EPA stands ready to assist the Commonwealth in order that your revised, and soon to be submitted, motor vehicle budgets can be found adequate. We remain