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Lt. Governor

BOB MARTIN
Commissioner

September 29, 2016

The Honorable Judith A. Enck
Regional Administrator
United States Environmental Protection Agency – Region 2
290 Broadway – 26th Floor
New York, New York 10007-1866

Dear Administrator Enck:

With this letter the New Jersey Department of Environmental Protection (DEP) is submitting New Jersey's designation recommendation and the boundary definitions of the nonattainment areas for the 2015 8-hour primary ozone National Ambient Air Quality Standard (NAAQS) of 70 parts per billion (ppb).[1] Section 107(d)(1)(A) of the Clean Air Act provides that each state may submit recommendations for the areas to be designated attainment, nonattainment, or unclassifiable, no later than one year after the United States Environmental Protection Agency (EPA) promulgates a new or revised NAAQS.

Currently, New Jersey has two attainment areas, Northern and Southern, respectively associated with New York City and Philadelphia. The Northern region still has challenges in meeting the ozone standards, while the Southern region is close to meeting the standard. Both regions are impacted negatively by the ozone contributions from upwind states.

New Jersey is strongly urging EPA to adopt a single nonattainment area that encompasses New Jersey, Connecticut, southeastern New York, eastern Pennsylvania, Delaware, Maryland, District of Columbia, and northeastern Virginia for the 2015 8-hour ozone NAAQS. (See Attachment 1 for specific counties in each state.) For years now, New Jersey has highlighted to EPA the negative impact of ozone contributions from upwind states to our air quality. To date, there has been little action from EPA to develop a fair and equitable solution to resolve the impact to New Jersey's air quality from out-of-state sources. New Jersey is recommending this single nonattainment area for the following reasons: 1) monitors in New Jersey are measuring ambient ozone air quality at levels above 70 ppb primarily due to sources outside New Jersey;

[1] 80 FR 65292, October 26, 2015

2) the current nonattainment boundaries are not sufficiently large enough to capture the nearby areas that are contributing to ozone levels significantly above 70 ppb; and 3) high ozone levels continue to persist in Connecticut due to significant impacts from counties outside of New Jersey because emission sources from upwind states outside of the existing nonattainment areas fail to operate air pollution controls during the ozone season.

Clean Air Act Section 107(d)(1)(A) requires states to make recommendations of nonattainment for any area that "does not meet (or that contributes to ambient air quality in a nearby area that does not meet)" the standard. Although the scope of the nonattainment boundary recommendation is broader than the previous nonattainment areas for New Jersey, it is consistent with the definition of "nearby" in that it is geographically proximate to New Jersey, includes areas that directly affect New Jersey's air quality, and includes those nearby states that are also not attaining the standard.[2] (See Attachment 2.) Additionally, the recommended single nonattainment area would provide the chance for all the states within this area to establish consistent performance standards that are based on technical feasibility and economic fairness.

In a follow-up correspondence, Francis Steitz, Director of DEP's Division of Air Quality, will provide the five-factor technical analysis pursuant to EPA's February 2016 guidance on designating ozone nonattainment areas[3]. This technical analysis will show significant contributions to New Jersey's ozone levels due to the air pollution from additional nearby counties in other states. If you have any questions regarding New Jersey's recommendations, please contact Mr. Steitz at (609) 699-8220.

Sincerely,

Bob Martin
Commissioner

Attachments

Cc: John Filippelli, EPA Region 2
Richard Ruvo, EPA Region 2
John Renella, New Jersey Office of the Attorney General
Francis C. Steitz, DEP

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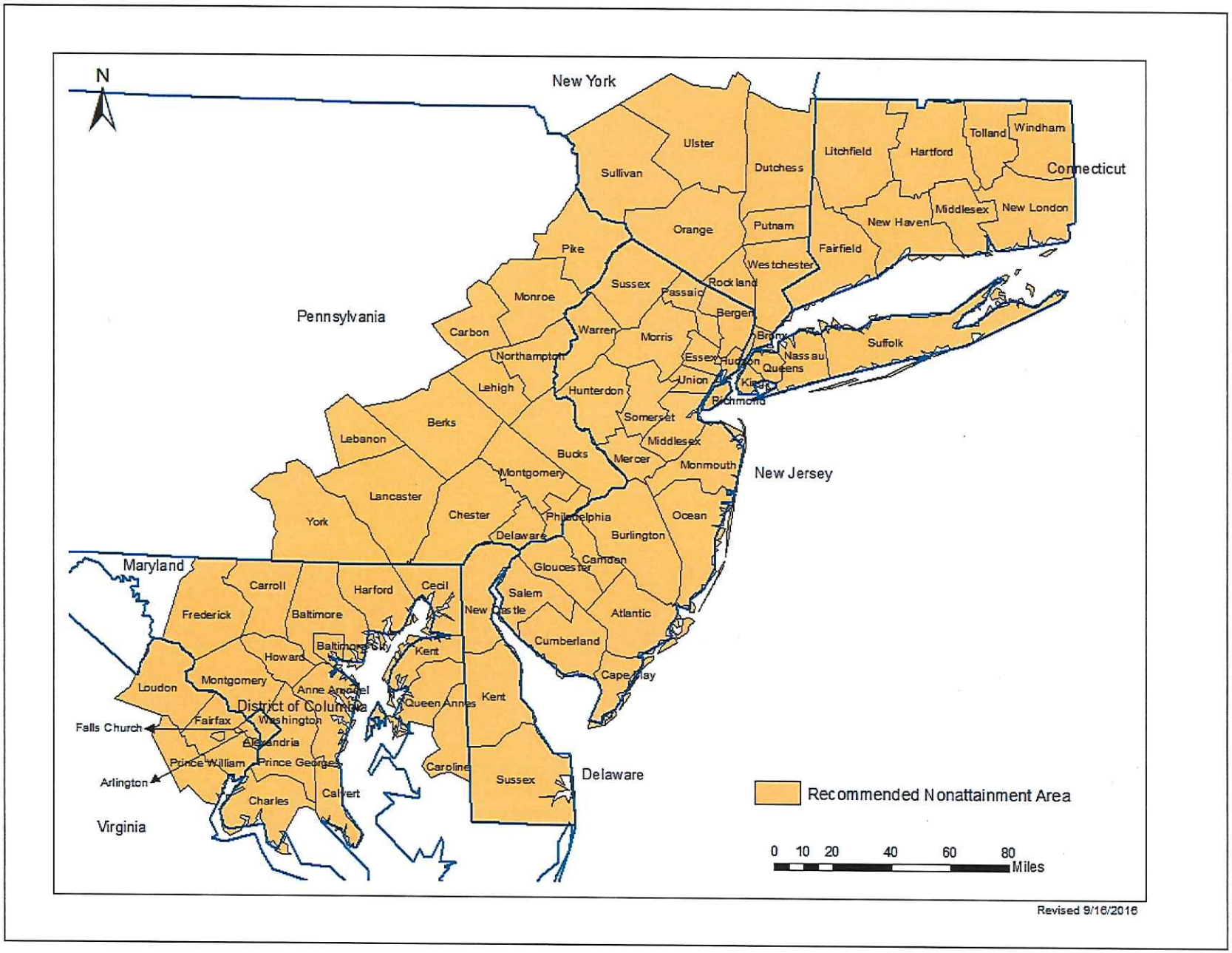
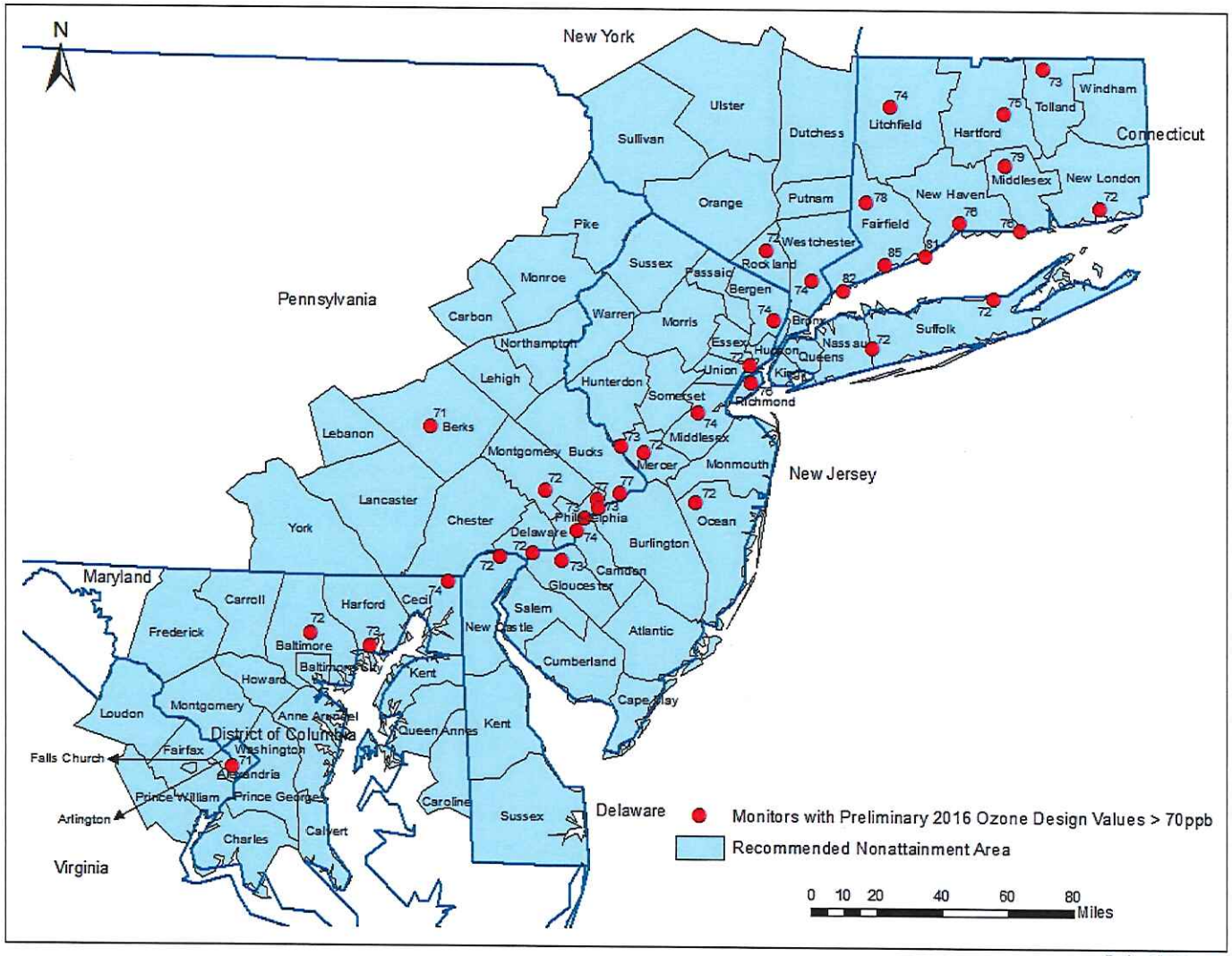
[2] *Miss. Comm'n on Envtl. Quality v. EPA*, 790 F.3d 138, 160 (D.C. Cir. 2015)

[3] February 25, 2016, Memorandum from Janet G. McCabe, Acting Assistant Administrator on "Area Designations for the 2015 Ozone National Ambient Air Quality Standards."

Attachment 1: New Jersey's Recommended Nonattainment Area for the 2015 Ozone National Ambient Air Quality Standard



Attachment 2: Monitored Design Values (2014 – Preliminary 2016) within New Jersey's recommended ozone nonattainment area that are greater than 70 parts per billion.



Revised 9/20/2016