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Senate of Pennsylvania

January 3, 2020

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Honorable Patrick McDonnell
Secretary
Department of Environmental Protection
400 Market Street
16th Floor, Rachael Carson Office Bldg.
Harrisburg, PA 17105

RE: Proposed State Implementation Plan Revision; Second Maintenance Plan for the Johnstown (Cambria County) Area Public Hearing

Dear Secretary McDonnell:

Thank you for the opportunity to present testimony today at this public hearing on the Proposed State Implementation Plan (SIP) Revision; Second Maintenance Plan for the Johnstown (Cambria County) Area 1997 9-Hour Ozone Nonattainment Area.

I am cognizant of the impetus for this public hearing. I am familiar with the litigation and subsequent decision borne out of South Coast Air Quality Management Distr. v. EPA et al., 882 F.3d. 1138 (D.C. Cir. 2018). I understand that the court vacated the Environmental Protection Agency's final implementation rule for the 2008 ozone National Ambient Air Quality Standards (NAAQS) thereby reinstating submission of a second 10-year maintenance plan SIP revision for "orphan maintenance areas" under the 1997 standard.

Likewise, I am aware of the long procedural history of Cambria County's involvement with enhanced I/M inspection and emissions standards dating back to the 1990s. As you are aware, Cambria County at that time was designated a marginal nonattainment region. In 2007, Cambria was redesignated to attainment, where it has remained for over 12 years. In fact, per your own documents "concentrations are expected to remain below this level over the next decade" (Proposed SIP Revision, November 2019).

Therefore, and consistent with legislation that I have introduced, namely Senate Bill 744, it is time to revise the SIP to remove Cambria County from these onerous requirements. And, contrary to correspondence from your department, Cambria County can be removed pursuant to all applicable law.

The Department of Environmental Protection (DEP) relies on language in 40 C.F.R. Section 51.350(a)(1) which reads:

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(1) States or areas within an ozone transport region shall implement enhanced I/M programs in any metropolitan statistical area (MSA), or portion of an MSA, within the State or area with a 1990 population of 100,000 or more as defined by the Office of Management and Budget (OMB) regardless of the area's attainment classification. In the case of a multi-state MSA, enhanced I/M shall be implemented in all ozone transport region portions if the sum of these portions has a population of 100,000 or more, irrespective of the population of the portion in the individual ozone transport region State or area.

Additionally, within that Section is subsection (c) which provides a remedy to remove Counties from emissions testing if appropriate standards can be met. That section reads in pertinent part as follows:

(c) Requirements after attainment. All I/M programs shall provide that the program will remain effective, even if the area is redesignated to attainment status or the standard is otherwise rendered no longer applicable, until the State submits and EPA approves a SIP revision which convincingly demonstrates that the area can maintain the relevant standard(s) without benefit of the emission reductions attributable to the I/M program. The State shall commit to fully implement and enforce the program until such a demonstration can be made and approved by EPA. At a minimum, for the purposes of SIP approval, legislation authorizing the program shall not sunset prior to the attainment deadline for the applicable National Ambient Air Quality Standards (NAAQS).

This section only permits removal of the emissions program when it can be convincingly demonstrated that the area can maintain the relevant standards. Cambria County has and will continue to meet the NAAQS for the foreseeable future.

Accordingly, the provisions within the US Code dealing with the interplay of the OTR and I/M maintenance program are not in conflict with any provision of 40 CFR Section 51.350. Thus, there exists a mechanism for removal of Cambria County through a revised SIP. Respectfully, I request that the SIP recommend removal of Cambria County from one small facet of regulation –the I/M maintenance program.

Sincerely,



WAYNE LANGERHOLC, JR.
State Senator
35th Senatorial District