Clean Data Determination and Redesignation

Sharon Davis, NJDEP, May 23, 2023

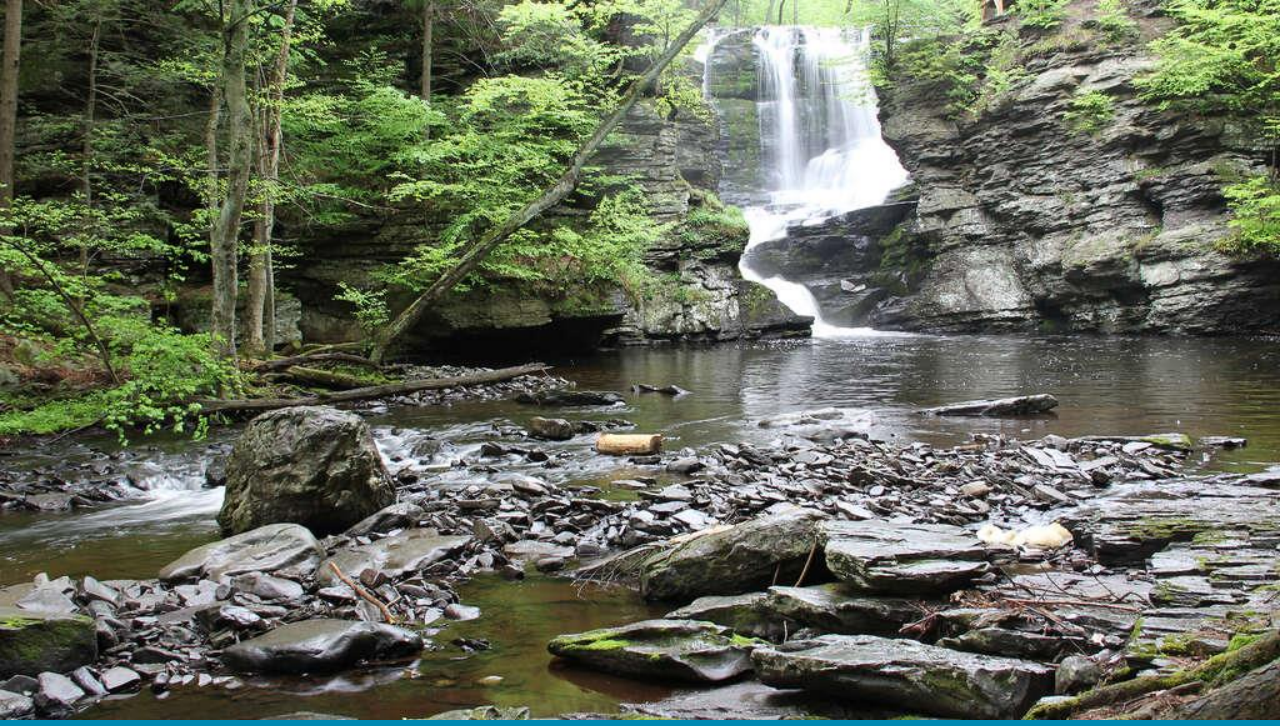
Disclosure…

- The action of making new or secret information known

EPA Website:

- Guidance
- Main Requirements
- Policy
- Info on EPA Actions

Redesignation and Clean Data Policy (CDP) | US EPA



Clean Data Determination: What It Is and What It Isn't

Delaware Water Gap, NJ side

- It is:
  - Determination issued by EPA that monitored air quality is attaining the relevant NAAQS.
  - All monitors must be clean, including in multi-state nonattainment areas
  - Issued through notice and comment rulemaking
  - Certain SIP elements related to attainment are suspended, as long as the area monitors attainment or is redesignated to attainment.
- It is NOT:
  - a redesignation to attainment,
  - linked to an attainment deadline, and
  - "necessarily" equivalent to a determination that an area attained the standard by its applicable attainment deadline, e.g., under section 181(b).

Clean Data Policy Elements

- **Suspended elements may include**:
  - reasonable further progress (RFP) requirements;
  - attainment demonstrations;
  - Reasonably Available Control Measures (RACM);
  - contingency measures; and
  - other state planning requirements related to attainment of the NAAQS.
- **SIP Elements NOT Suspended may include:**
  - Inventory
  - New Source Review (NSR)

Clean Data Policy Regulations

Carol M. Browner
1/22/1993 – 1/19/2001

40 CFR 51.918 for nonattainment areas of the 1997 8-hour ozone standard

Stephen L. Johnson
5/2/2005 - 1/20/2009

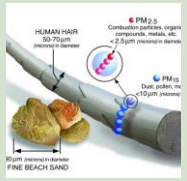
40 CFR 51.1118 for nonattainment areas of the 2008 ozone standard

Lisa P. Jackson
1/26/2009 – 2/14/2013

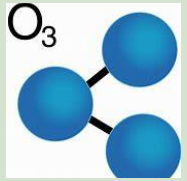
40 CFR 51.1015 for nonattainment areas of the PM2.5 standard

EPA Policy Guidance

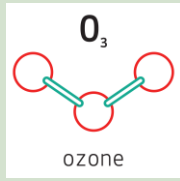
Federal Register Notices



EPA provided guidance in the Final Rule for the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements; 81 FR 58009, August 24, 2016 (PDF) (154 pp, 1 MB)



EPA's statutory interpretation of the Clean Data Policy is described in the Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2 (Phase 2 Final Rule) 70 FR 71612, Nov. 29, 2005 (PDF)(95 pp, 5 MB)

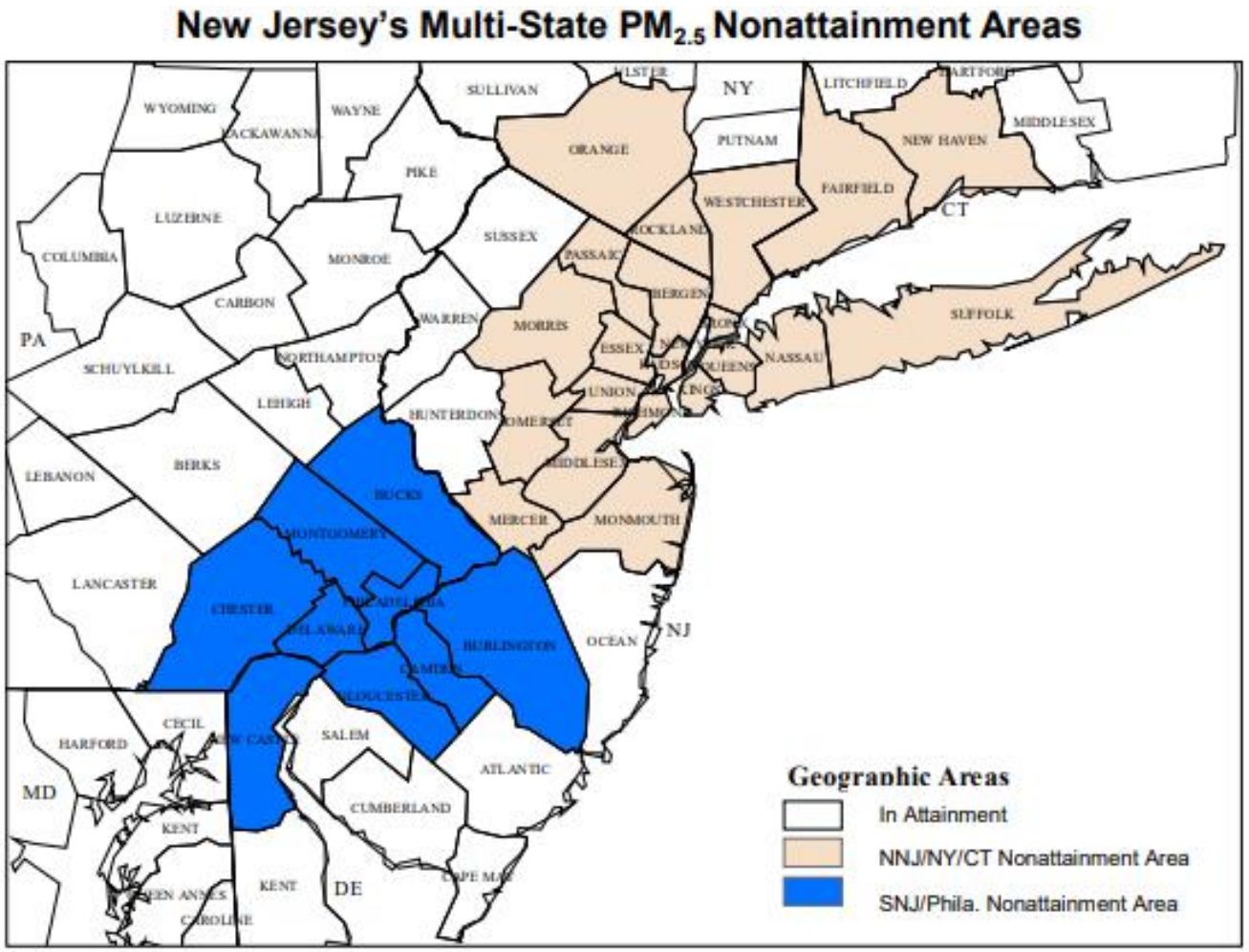


Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard: May 10, 1995 memorandum from John S. Seitz

Example of Clean Data Request

New Jersey: PM2.5

- October 5, 2011: NJDEP Requests CDD
  - Two Multi-State Shared NAAs
  - NNJ-NY-CT NAA - 2006 24-hour PM2.5 NAAQS
  - SNJ-PA-DE NAA - 1997 Annual NAAQS and 2006 24-hour PM2.5 NAAQS
- Summarized Control Measures (PM, NOx and SO_2)
  - State and Federal
  - Real, Quantifiable, Enforceable, Measurable, Permanent
- Certified Monitoring Data for All States in NAAs
- Monitoring Trends Analysis for New Jersey



- Submitted Redesignation to Attainment Plan on December 26, 2012; Approved September 13, 2013

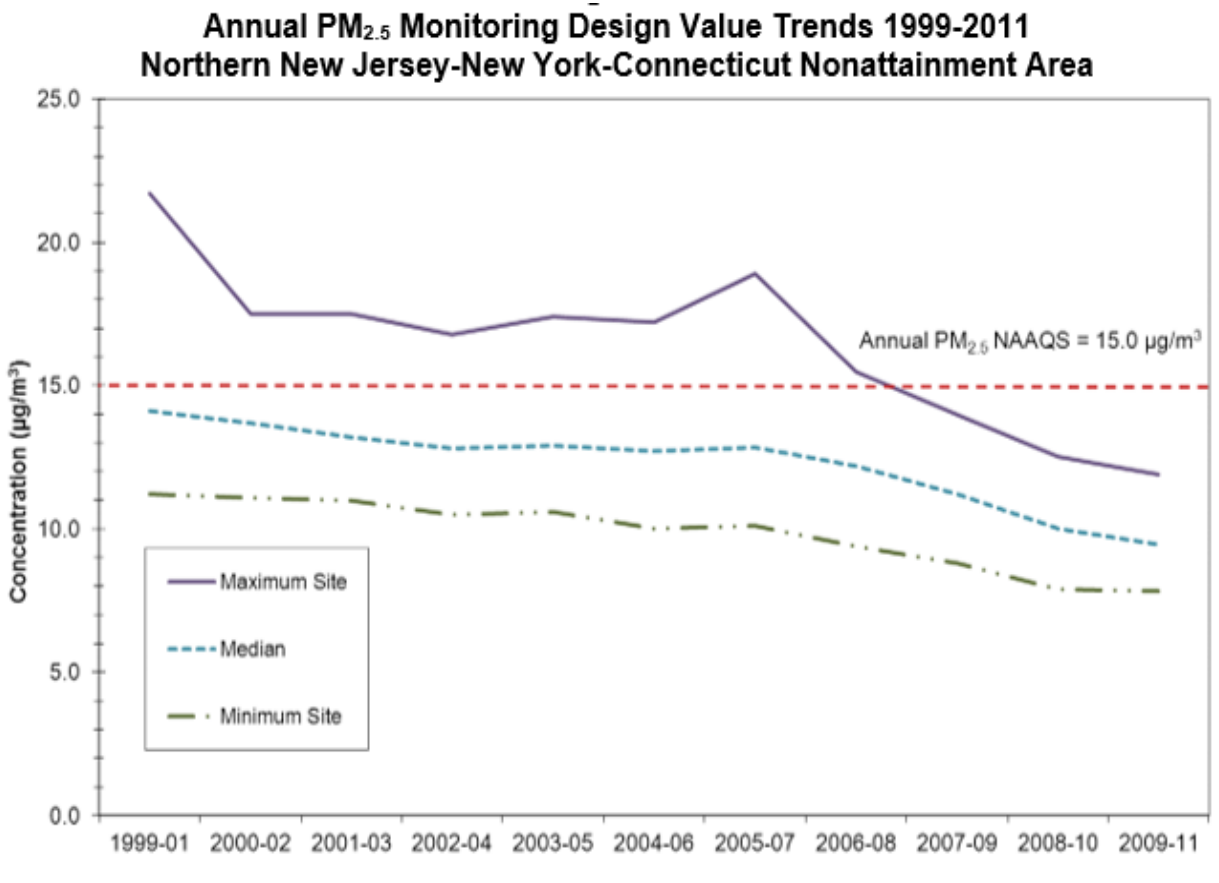
Redesignation to Attainment: What It Is

Cape May, NJ Lighthouse

- It is:
  - SIP Revision requesting reclassification of a Nonattainment Area to Attainment
  - Demonstration that monitored air quality is attaining the relevant NAAQS.
  - Includes an initial and second Plan to Maintain the NAAQS for 10 years.
  - State must satisfy 5 requirements of CAA Section 107(d)(3)(E)
  - Maintenance Plan Requirements per CAA Section 175A
- **Final approval by EPA redesignates an area from nonattainment to attainment**
  - Codified in Part 52 (SIP revision) and Part 81 (change in designation)

Main Requirements of Redesignation

Clean Air Act § 107(d)(3)(E))



- EPA determines ambient air monitors measure attainment (ie DV of NAAQS)
- All monitors in NAA, including multi-state
- Infrastructure SIP is approved per CAA § 110(k)
- Clean air quality due to permanent and enforceable emissions reductions in a SIP
- CAA § 110 and Part D Plan applicable requirements have been met
- Conformity must be met
- EPA fully approves a maintenance plan (10 years), including contingency plan, per CAA § 175A
- Requirements for a Second Maintenance Plan for 10-year period (CAA § 175A)
- May relieve certain SIP requirements (depending on pollutant)
- See Procedures for Processing Requests to Redesignate Areas to Attainment

Redesignation to Attainment: Approval…

Ringwood State Park, NJ

- Benefits of a redesignation to attainment may include:
  - Prevention of Significant Deterioration (PSD) permitting rules apply rather than Nonattainment New Source Review (NNSR)
  - NSR emission offsets no longer required (See Below for Ozone Transport Region)
  - New or modified major sources no longer need to meet Lowest Achievable Emission Rate (LAER) but Best Achievable Control Technology (BACT).
  - 185 Penalty Fee Program no longer required
  - Good news for public health , good public relations,
- Ozone Transport Region requirements still apply
  - CAA Section 184 sets out specific requirements even if you meet the ozone NAAQS, e.g NSR offsets, RACT
  - Discuss with EPA Regional Office

New Jersey Redesignation Example: PM2.5

Justification for Redesignating to Attainment

- Current monitoring data that show compliance with the NAAQS
- Historical monitoring data shows a decreasing trend
- Existing control measures established over last 10 years
- Submitted Redesignation on December 26, 2012;
- Approved September 13, 2013

New Jersey Redesignation to Attainment SIP Revision

- Annual standard 15 µg/m^3
- Daily standard 35 µg/m^3

SIP Revision included:

- Northern NJ NAA (NJ, NY, CT) and Southern NJ NAA (NJ, PA, DE)
- Based on 2009 attainment year
- Contingency Plan to Address Exceedances
  - Commitment to continue monitoring
  - Evaluate cause of violation if one occurs
  - Reliance on existing measures not yet effective
  - If necessary, further evaluation of new measures
- Maintenance Plan includes a projected emissions inventory for PM2.5, NO_x and SO_2
  - Continued downward trend through 2025
  - Longer than 10 years – add in time for approval

Clean Data Determination vs. Redesignation to Attainment

Brigantine National Wildlife Refuge, NJ

- **Clean Data Determination**
  - Ambient air monitors measure attainment (ie DV for the NAAQS)
  - Ahead of Attainment Deadline
  - All monitors in attainment area (including shared multi-state nonattainment area)
  - Initiated by EPA or request from States
  - Areas still designated as nonattainment
- **Redesignation to Attainment (SIP Revision)**
  - Reclassification from nonattainment to attainment
  - State must meet requirements of section 110 and Part D
  - SIP Revision with 10-year Maintenance Plan and Contingency Plan;
  - Planning requirements remain due until EPA completes final action approving a redesignation request.
  - 2nd 10-year maintenance plan requirements

CONTACT US

Nonattainment Areas for Criteria Pollutants (Green Book)

Information About EPA Actions on Redesignation and Clean Data Policy

- USEPA Green Book provides nonattainment area information for criteria pollutants, including:
  - Current area, state and county nonattainment and classification status,
  - Clean data determinations,
  - Redesignations,
  - Links to associated Federal Register Notices, GIS maps, and downloadable shapefiles and data exports.

Work with your EPA Regional Office

Contact

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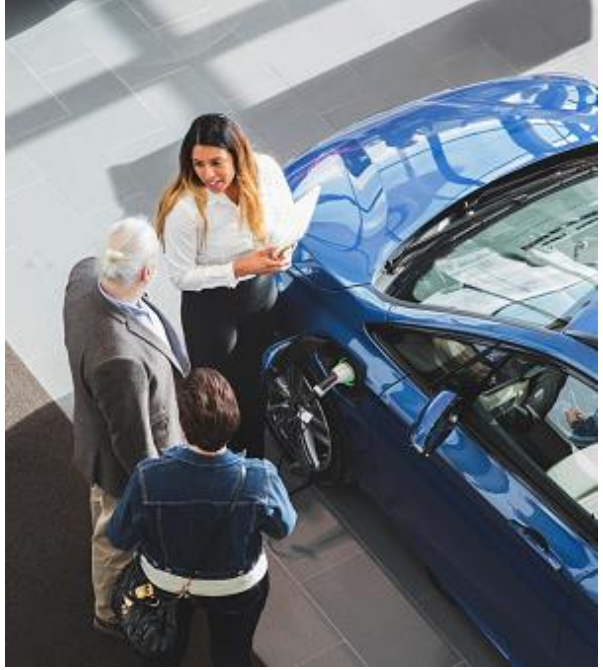

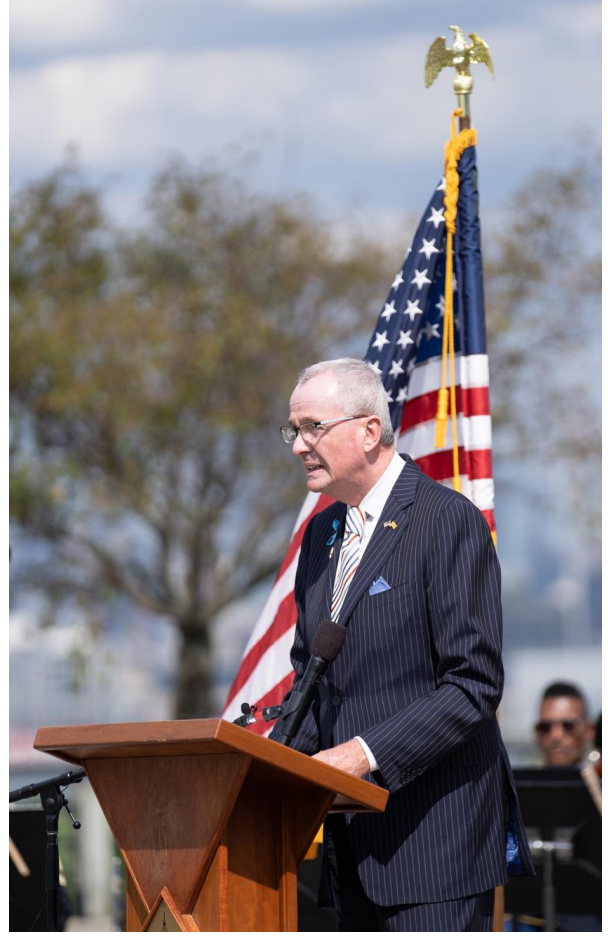

Thank you!

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