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Alexander B. Grannis
Commissioner

March 12, 2009

Mr. George Pavlou
Acting Regional Administrator
United States Environmental Protection Agency
290 Broadway, 26th Floor
New York, New York 10007-1866

Dear Acting Regional Administrator Pavlou:

On March 12, 2008, EPA strengthened its national ambient air quality standard (NAAQS) for ground-level ozone. EPA revised the 8-hour "primary" ozone NAAQS to a level of 0.075 parts per million (ppm). The previous NAAQS, set in 1997, was 0.08 ppm.

The Clean Air Act requires EPA to designate areas as attainment, nonattainment, or unclassifiable after the Agency sets a new NAAQS, or revises an existing NAAQS. Consequently, states must make recommendations to EPA no later than March 2009 for areas to be designated attainment, nonattainment and unclassifiable. I am submitting New York State's designation recommendations on "behalf of Governor Paterson". We commend EPA for moving forward with appropriate actions for implementing the strengthened 8-hour ozone NAAQS as a means to protect human health and the environment.

On December 4, 2008, EPA provided information on the timeline for designating areas for purposes of implementing the 2008 revised primary and secondary ozone NAAQS. In addition, this memorandum identified important factors states should consider in making recommendations for area designations. Taking into account the nine factors needed to be considered in determining whether to recommend area boundaries that are larger or smaller than a Core Based Statistical Area (CBSA), the New York State Department of Environmental Conservation (Department) recommends the following:

New York – Northern New Jersey – Long Island, NY-NJ-PA (partial) Metropolitan Statistical Area (NYMA MSA)

The Department recommends that the NYMA Combined Statistical Area (CSA), excluding Putnam County, be designated as a non-attainment area for the 2008 ozone NAAQS. According to the United States Census Bureau, the New York State portion of this MSA includes the counties of Suffolk, Nassau, Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland and Westchester. The Department recommends that Putnam County be excluded from the NYMA nonattainment area and be included in the Poughkeepsie, NY nonattainment area for reasons cited below.

Monitoring data for the New York State portion of the NYMA MSA nonattainment area indicates that seven monitors exceed the 0.075 ppm NAAQS, with the highest design value monitor in New York State located in Riverhead, Suffolk County (0.089 ppm). Design value (DV) is defined as the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations. The design value monitor refers to the monitor with the highest design value in a defined nonattainment area.

The exceeding monitors are located in Suffolk County (Babylon, Holtsville and Riverhead), Bronx County (Botanical Garden), Queens County (Queens College 2), Richmond County (Susan Wagner) and Westchester County (White Plains). The design value monitor for the entire MSA is located in Danbury, Connecticut with the most recent design value of 0.094 ppm occurring in 2007.

Under the 1-hour and 1997 8-hour ozone NAAQS, Putnam County has been included in the Poughkeepsie, NY non-attainment area. The Department is recommending that this distinction be maintained for the following reasons: (1) The Mid- Hudson area has not changed significantly since EPA made final designations for the 1997 NAAQS in 2004; (2) an existing working relationship already exists between the counties, especially in the area of transportation planning; (3) both areas will be non-attainment and will have consistent control requirements; and, (4) New York's inclusion in the Ozone Transport Region (OTR) ensures most control requirements are implemented on a statewide rather than non-attainment area specific basis.

Finally, the NYMA MSA is a smaller part of the greater New York – Newark – Bridgeport, NY-NJ-CT-PA Combined Statistical Area (CSA). Should EPA consider making the CSA the non-attainment boundary, the Department recommends that the data from the Ocean County, NJ monitor continues to **NOT** be considered for the NYMA MSA. This monitor is located in the southernmost portion of the entire CSA and controls implemented north of Ocean County, NJ do not affect the ozone levels recorded at this monitor. This monitor is heavily influenced by upwind sources, particularly from the Philadelphia, PA area.

Poughkeepsie, NY

The Department recommends that the Poughkeepsie, NY area be designated as a non-attainment area for the 2008 8-hour ozone NAAQS. This includes the Poughkeepsie-Newburgh-Middletown, NY MSA (counties of Dutchess and Orange); the Kingston, NY MSA (Ulster County); and Putnam County. Again, Putnam County has been included in the Poughkeepsie, NY non-attainment area under the 1-hour and 1997 8-hour ozone NAAQS.

The Department also recommends that the Kingston, NY MSA (Ulster County) be designated a non-attainment area for the 2008 ozone NAAQS and included in the Poughkeepsie, NY nonattainment area. The Department makes this recommendation for the following reasons: (1) The area is geographically part of the Hudson River Valley, which essentially monitors nonattainment of the more stringent 2008 ozone NAAQS from the New York City Metropolitan area up to the lower Adirondacks; (2) Design values in recent years from the monitor located at Belleayre Mountain have fluctuated on both sides of the NAAQS, with a 2007 DV of 0.076 ppm and a 2008 DV of 0.073 ppm. Furthermore, the Belleayre monitor is part of the acid deposition monitoring network, and does not necessarily measure the highest ozone readings, which likely occur closer to the Hudson River; (3) The Ulster County Transportation Council (UCTC) is part of the Poughkeepsie-Newburgh Transportation Management Area (TMA), which also includes Dutchess and Orange Counties; and (4) The Kingston, NY MSA is part of the greater New York – Newark – Bridgeport, NY-NJ-CT-PA Combined Statistical Area (CSA) according to the United States Census Bureau.

The 2008 design value for the recommended area is 0.080 ppm as monitored at the Valley Central monitor in Orange County. The Mt. Ninham monitor in Putnam County has a 2008 design value of 0.079 ppm.

Capital Region, NY

The Department recommends that the Capital Region, NY area be designated as a non-attainment area for the 2008 8-hour ozone NAAQS. This nonattainment area includes the counties of Albany, Rensselaer, Schenectady, Washington, Warren, Saratoga, Montgomery, Schoharie and Columbia from the Albany-Schenectady-Amsterdam, NY Combined Statistical Area, plus Greene County. The design value monitor is located in Stillwater (in northern Saratoga County) with a 2008 design value of 0.077 ppm.

The Department recommends including Greene County in the non-attainment area as it was considered part of the Albany metropolitan area for the 1997 8-hour ozone NAAQS and the Department sees no significant changes in the nine factor technical data since the previous designation was made in 2004. Greene County is part of the Hudson Valley, and the Department believes it shares the same air quality as the other Hudson Valley counties.

The Department recommends the inclusion of Warren and Washington Counties due to their proximity to a non-attaining monitor. The Stillwater monitor in northern Saratoga County exceeds the NAAQS with a design value of 0.077 ppm, and is located less than two miles to the east of Washington County and approximately 15 miles south of the City of Glens Falls in Warren County. Both counties are part of the larger Hudson River Valley non-attainment area, as well as part of the Albany-Schenectady-Amsterdam, NY CSA according to the United States Census Bureau.

The Department recommends the exclusion of Fulton County after a review of the nine factors EPA recommended for use in making the determination as it was not part of the metropolitan area for the 1997 8-hour ozone NAAQS and the Department sees no significant changes in the nine factor technical data since the previous designation was made in 2004.

Rochester, NY

The Department recommends that the Rochester, NY area be designated as a non-attainment area for the 2008 8-hour ozone NAAQS. This includes the counties of Genesee, Livingston, Ontario, Orleans, Monroe, and Wayne.

In 2004, EPA designated the Rochester, NY area as being in non-attainment of the 1997 8-hour ozone standard. That area included the counties of Genesee, Livingston, Ontario, Orleans, Monroe, and Wayne. On March 19, 2007, the Department submitted a Clean Data Petition to EPA that demonstrated that the Rochester, NY area monitored attainment of the 1997 8-hour ozone NAAQS of 0.08 ppm. EPA approved this Clean Data Petition on March 25, 2008 (73 FR 15672-15674).

However, the design value for 2008 is 0.080 ppm at the Rochester 2 monitor in Monroe County. Therefore, as stated above, the Department recommends that the counties of Genesee, Livingston, Ontario, Orleans, Monroe, and Wayne be included in the Rochester, NY non-attainment area for the 2008 8-hour ozone NAAQS.

A review of the nine factors does not warrant the expansion of the nonattainment area to include Seneca County. There is no monitor in Seneca County, and Seneca County does not border a county that contains a non-attaining monitor. Population and employment data and projections also do not warrant the inclusion of Seneca County in the nonattainment area. Seneca County has approximately 13,900 workers (2000, U. S. Census Bureau), of which 8,140 (59%) work within the county. Population projections for Seneca County show a peak of 34,750 in 2005, with a gradual decline to 29,336 in 2035.

Buffalo-Niagara Falls, NY Metropolitan Statistical Area (MSA)

The Department recommends that the Buffalo-Niagara Falls, NY MSA be designated as a non-attainment area for the 2008 8-hour ozone NAAQS. This includes the

counties of Erie and Niagara. The 2008 design value of 0.081 ppm was calculated from data measured at the Amherst monitor in Erie County. The Middleport monitor in Niagara County has a 2008 design value of 0.076 ppm.

A review of the nine factors does not warrant the expansion of the nonattainment area to include rural Cattaraugus County. The 2006 population census estimate shows that Cattaraugus County's total population (81,534) has been declining and is less than 7% of the total population of the three-county area (1,219,054) that includes Erie, Niagara and Cattaraugus counties. Population is predicted to continue to decline through 2035. The population density of Cattaraugus County is about 93% less dense than Erie County and 85% less dense than that of Niagara County. An analysis of residence county to workplace county commuter traffic shows that only 13.7% of workers travel from Cattaraugus County to Erie County and less than 0.5% travel from Erie County to Cattaraugus County.

Jamestown, NY

The Department recommends that the Jamestown, NY area (Chautauqua County) continue to be designated as a non-attainment area for the 2008 8-hour ozone NAAQS. The 2008 design value for this area is 0.084 ppm at the Dunkirk monitor. The Dunkirk monitor was sited to determine ozone transport from Pennsylvania, Ohio and Indiana. Additionally, the Westfield monitor has a 2008 design value of 0.077 ppm.

Whiteface Mountain, Essex County, NY

The Department recommends that Whiteface Mountain, Essex County, NY be designated as an attainment area for the 2008 8-hour ozone NAAQS. This recommendation is based on design values for 2006 (0.071 ppm), 2007 (0.074 ppm) and 2008 (0.073 ppm) at the base monitor, which are all below 0.075 ppm and in attainment of the NAAQS. While design values at the summit are slightly above the 2008 NAAQS (0.076 ppm), both monitors are located above the planetary boundary layer (approximately 3,000 ft elevation). The planetary boundary layer is an invisible zone above which air masses are more affected by regional weather and pollution than by localized mixed air. Low-elevation ozone concentrations usually rise at midday when temperatures and solar radiation are highest and ozone formation occurs faster than ozone elimination. At high elevation, ozone levels remains relatively constant throughout the day with little elimination since air is less mixed above the planetary boundary layer. This suggests that emissions from sources primarily in Canada, western New York and the Midwestern United States have the most influence on both of the Whiteface monitors. From a practicality standpoint, there are no stationary sources on Whiteface Mountain, industrial or otherwise; and very few mobile sources that could be controlled to reduce emissions of compounds that contribute to ozone formation. Consequently, nothing can be done locally to impact ozone levels at this location.

Jefferson County, NY

The Department recommends that Jefferson County be designated as an attainment area for the 2008 8-hour ozone NAAQS. This recommendation is made for the following reasons: (1) The 2008 design value for this area is 0.075 ppm at the Perch River monitor, which was sited to determine the impacts from Toronto, other large cities in Ontario and Michigan; and (2) The area, which is also currently an approved clean data area (March 25, 2008; 73 FR 15672-15674) monitoring attainment of the 1997 ozone NAAQS of 0.08 ppm, has not changed significantly since EPA made final designations for the 1997 ozone NAAQS in 2004.

Syracuse-Auburn, NY Combined Statistical Area (CSA)

The Department recommends that the Syracuse-Auburn, NY CSA be designated as an attainment area for the 2008 8-hour ozone NAAQS. This recommendation is made for the following reasons: (1) The design value for 2008 is 0.074 ppm at the East Syracuse and Fulton monitors; and, (2) The area, which is also currently designated as being in attainment of the 1997 ozone NAAQS of 0.08 ppm, has not changed significantly since EPA made final designations for the 1997 ozone NAAQS in 2004.

The remainder of the state is in compliance with the 8-hour ozone NAAQS.

We believe that each of these recommendations is consistent with Section 107(d) of the Clean Air Act.

Should you have any questions regarding these recommendations, please do not hesitate to contact me at (518) 402-8537 or David J. Shaw, Director of the Department's Division of Air Resources, at (518) 402-8452.

Sincerely,

J. Jared Snyder
Assistant Commissioner
Office of Air Resources, Climate Change
& Energy

Enclosure

cc: D. Shaw
J. Higgins
R. Sliwinski
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NEW YORK STATE
DESIGNATION RECOMMENDATIONS FOR
OZONE NATIONAL AMBIENT AIR QUALITY STANDARD
(0.075 PARTS PER MILLION)

AREA NAME For 0.075 ppm Ozone NAAQS	**DESIGN VALUE** (PPM)	**YEARS**	**AIRS MONITOR LOCATION**
New York-Northern New Jersey-Long Island, NY-NJ-PA MSA Counties of Bronx, Kings, Nassau, New York, Queens, Richmond, Rockland, Suffolk and Westchester	0.089 (NYS only)	2006-2008	Suffolk County (Riverhead)
Poughkeepsie, NY Counties of Dutchess, Orange, Putnam and Ulster	0.080	2006-2008	Orange County (Valley Central)
Capital Region, NY Counties of Albany, Columbia, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Warren and Washington	0.077	2006-2008	Saratoga County (Stillwater)
Rochester, NY Counties of Genesee, Livingston, Monroe, Ontario, Orleans and Wayne	0.080	2006-2008	Monroe County (Rochester 2)
Buffalo-Niagara Falls, NY Counties of Erie and Niagara	0.081	2006-2008	Erie County (Amherst)
Jamestown, NY Chautauqua County	0.084	2006-2008	Chautauqua County (Dunkirk)
Essex County, NY Essex County (Whiteface Mtn. Above 4500 ft)	0.073 Attainment	2006-2008	Essex County (Whiteface Base)
Jefferson County, NY Jefferson County	0.075 Attainment	2006-2008	Jefferson County (Perch River)
Syracuse-Auburn, NY CSA Counties of Cayuga, Madison, Onondaga and Oswego	0.074 Attainment	2006-2008	Oswego County (Fulton/Granby and East Syracuse)

CSA – Consolidated Statistical Area
MSA – Metropolitan Statistical Area