

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
625 Broadway
Albany, New York 12233-1550

In the Matter

- of the -

PROPOSED REVISION TO THE
STATE IMPLEMENTATION PLAN
FOR CARBON MONOXIDE

HEARING REPORT

- by -

/s/

Susan J. DuBois
Administrative Law Judge

August 13, 2007

PROCEEDINGS

The New York State Department of Environmental Conservation (Department or DEC) proposes to revise the State Implementation Plan (SIP) for carbon monoxide (CO). The revision concerns removal from the CO SIP of any reference to a limited off-street parking program imposed and enforced by the City of New York, and the Department's demonstration of non-interference with the National Ambient Air Quality Standard (NAAQS) for CO.

The Department scheduled a public hearing on this proposed SIP revision. The notice of hearing was published in the June 6, 2007 on-line Environmental Notice Bulletin (ENB). A corrected notice, in which two typographical errors were corrected, was published in the ENB on June 13 and 20, 2007.

The notice of hearing was also published on June 13, 2007 in the following newspapers: New York Post, Newsday, Albany Times Union, Glens Falls Post Star, Syracuse Post-Standard, Rochester Democrat and Chronicle, and the Buffalo News.

The hearing took place on July 17, 2007, at 6:00 P.M., at the Department's Region 2 Office annex, 11-15 47th Avenue, Long Island City, New York. In addition to the hearing, the notice provided that comments on the proposed SIP revision could be submitted in writing on or before July 24, 2007.

In addition to Department Staff, four persons attended the hearing, three of whom presented comments. Following the statements, a recess was taken in case anyone arrived late. The hearing concluded at 6:57 P.M., with no additional statements.

The hearing had originally been scheduled for May 23, 2007. Due to a problem with the arrangements for the hearing, the May 23 hearing was cancelled and the hearing was held, instead, on the July 17 date. Four written comments dated May 23, 2007 were included in the record. These comments were from Manhattan Community Board 4; Matthew Roth, of Transportation Alternatives' NYC Streets Renaissance Campaign; Hell's Kitchen Neighborhood Association; and Clinton/Hell's Kitchen Pedestrian Safety Coalition. In addition, a June 19, 2007 letter from Senator Thomas K. Duane was included in the record. The Office of Hearings and Mediation Services received the hearing transcript on August 9, 2007.

Public Hearing

DEC Staff was represented at the hearing by Robert D. Bielawa, P.E., Environmental Engineer 2, Bureau of Air Quality

Planning, Division of Air Resources. Mr. Bielawa stated the Department is proposing to clarify commitments identified in its November 15, 1992 state implementation plan for carbon monoxide in the New York City metropolitan area. He stated the proposed revision provides the Department's demonstration of noninterference with the CO NAAQS by submitting air quality data showing that removal of references to a limited off-street parking program imposed and enforced by the City of New York will not jeopardize attainment of the CO standard. Mr. Bielawa stated that ambient CO levels are well below the NAAQS and are trending downward. He added that the Department took no tonnage reductions in the 1992 CO attainment demonstration or the 1999 re-designation and maintenance plan, both of which were approved by the United States Environmental Protection Agency in 2002.

Kyle Wiswall, General Counsel of the Tri-State Transportation Campaign (Campaign), described his organization as an independent, non-profit policy and advocacy group promoting sustainable transportation policies in the New York metropolitan area. He stated the Campaign strongly opposes the proposed revision because it would result in increased air pollution and traffic congestion, noting that increased access to parking induces an increase in vehicle trips. He stated that adding nearly 23,000 new, publicly-accessible parking spaces in the Hell's Kitchen neighborhood would dramatically worsen traffic conditions, in an area that is already badly congested, as well as allowing more parking capacity in other areas of the central business district. He identified extension of the #7 subway line and construction of Moynihan Station as alternative ways of meeting development goals of the Hudson Yards area. Mr. Wiswall stated the Spitzer administration's proposed SIP revision would be contrary to efforts to reduce traffic congestion in Manhattan and in the city as a whole, and that the state is putting outmoded development concepts ahead of the well-being of New Yorkers.

Daniel Gutman, who did not identify himself as representing any organization, stated that the proposed SIP revision would undermine a lawsuit that seeks to enforce the SIP provision. He discussed the history of the limitation on off-street parking, stating it was contained in the 1973 SIP as part of implementing the Clean Air Act of 1970. Mr. Gutman stated that, following a lawsuit concerning 17 air pollution control measures, settlement of the lawsuit in 1979 left the parking limitation as the only one of these measures that would be implemented. He stated that, after additional years, New York City had adopted a zoning ordinance related to the limitation but had tried to abandon this commitment a couple years ago.

Mr. Gutman stated that environmental impacts of the proposed revision need to be evaluated under the State Environmental Quality Review Act (SEQRA),¹ in addition to considering attainment of the NAAQS for CO. He described the Department's negative declaration under SEQRA as a conclusory statement based on no analysis. He stated that even if the proposal has no impact on the metropolitan area's ability to meet the CO standard, more traffic will mean more air pollutants such as particulate matter, ozone precursors and carbon dioxide, which the Department should evaluate in addition to CO. Mr. Gutman stated the Department should prepare an environmental impact statement concerning the proposed SIP revision. He also stated a parking management study that New York City and Department were going to conduct was never completed, and that lack of this study was the reason why DEC took no CO reduction credits for the parking limitation.

Matthew Roth, of Transportation Alternatives, added to his written statement by expressing consternation at the approach DEC is taking and astonishment that Commissioner Grannis, who he described as having an excellent environmental record, would wish to have this proposal as his legacy. Mr. Roth noted similar surprise concerning what he identified as Mayor Bloomberg's views on the proposal. Mr. Roth stated the proposed SIP revision contradicts PLANYC 2030's goal of reducing the City's carbon footprint. Mr. Roth criticized the Department for looking only at CO in proposing this revision, and recommended that the Department and the City look at how other cities are revising their land use and transportation policies.

¹ Environmental Conservation Law article 8.