

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

In the Matter

- of the -

PROPOSED AMENDMENT OF PART 200
OF TITLE 6 OF THE OFFICIAL COMPILATION
OF CODES, RULES AND REGULATIONS
OF THE STATE OF NEW YORK

HEARING REPORT

by

_____/s/_____
Susan J. DuBois
Administrative Law Judge

December 4, 2006

PROCEEDINGS

The New York State Department of Environmental Conservation ("Department" or "DEC") scheduled a public hearing to provide an opportunity for comment on a proposed amendment to the Department's air pollution regulations.

The Department proposes to amend the definition of "nonattainment area" found in part 200 of title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("6 NYCRR part 200"), to reflect changes due to new National Ambient Air Quality Standards ("NAAQS") for ozone and fine particulate matter ("PM2.5"). This definition is found at 6 NYCRR 200.1(av).

Nonattainment areas are areas of the state not meeting a NAAQS for a specific air contaminant. The proposed amendment would incorporate the new federal 8-hour ozone nonattainment designations, classifications and geographic boundaries, and the new federal PM2.5 designations and geographic boundaries.

Under Environmental Conservation Law ("ECL") article 8 (State Environmental Quality Review), the Department issued a negative declaration for the amendment, stating that the proposed action will not have a significant effect on the environment, and no environmental impact statement was required.

A notice of proposed rulemaking, that also included notice of the public hearing, was published in the New York State Register on October 25, 2006. A notice of proposed rulemaking and a notice of hearing were published in the Department's Environmental Notice Bulletin on October 25, 2006.

A notice of hearing was also published in the following newspapers, all on October 25, 2006: Albany Times Union, Buffalo News, Glens Falls Post-Star, New York Post, Newsday, Rochester Democrat and Chronicle, and Syracuse Post-Standard.

A clarification of the notice, to correct an editing error, was published on November 8, 2006 in the Environmental Notice Bulletin and on November 15, 2006 in the New York State Register and the newspapers listed in the preceding paragraph.

The notices provided that written comments could also be submitted concerning the proposed amendments. The deadline for receipt of such comments was December 4, 2006.

The hearing on the proposed amendments took place on November 27, 2006 at 2:00 P.M. at the DEC central office, 625 Broadway, Albany, New York, before Susan J. DuBois, Administrative Law Judge.

No members of the public attended the hearing. The only speaker at the hearing was Robert D. Bielawa, P.E., of the Department's Division of Air Resources, who read a statement describing the proposed amendment. Mr. Bielawa stated that, following the promulgation of a new NAAQS, the United States Environmental Protection Agency ("EPA") is required to designate areas as being in attainment or nonattainment of the new standard. He stated that new NAAQS promulgated for ozone and fine particulate matter have resulted in new nonattainment designations in New York State, necessitating a change in the definition of "nonattainment area" that appears at 6 NYCRR 200.1(av). Mr. Bielawa stated that DEC proposes to amend this definition to include nonattainment classifications, designations and geographic boundaries promulgated by EPA in order to avoid regulatory implementation difficulties that would arise if the Department's regulations reference outdated and undefined nonattainment areas.

Following Mr. Bielawa's statement, the hearing recessed until 2:30 P.M. in case any members of the public arrived late and wished to make a statement. There were no additional statements, and the hearing concluded at 2:30 P.M.