



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
ONE CONGRESS STREET SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

November 17, 2008

Gina McCarthy, Commissioner
Department of Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

Dear Commissioner McCarthy:

I am writing to you concerning your State Implementation Plan (SIP) for demonstrating attainment of the 8-hour national ambient air quality standard for ozone in the Connecticut portion of the New York-N. New Jersey-Long Island, NY-NJ-CT area (also referred to as the New York City area). This plan was submitted to the Environmental Protection Agency (EPA) for review on February 1, 2008. Although our staffs have extensively discussed the contents of this plan, to date we have not taken formal action to approve or disapprove the SIP.

The Clean Air Act and EPA rules for implementation of the 1997 ozone standard require that the attainment demonstration SIP for a moderate area such as the New York City area contain the State's demonstration that the SIP is capable of providing for attainment of the ozone standard by no later than June 15, 2010. This can only be done by projecting (through modeling and other analysis) that the area will achieve ozone levels consistent with the level of the ozone standard by the end of the 2009 ozone season. Such modeling demonstrations are extremely complex and contain some uncertainty in their predictions.

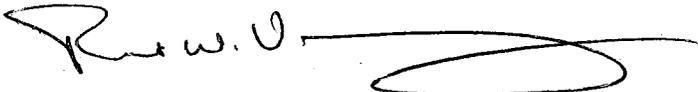
After areas reach their attainment date, achievement of the standard is determined by assessing actual monitoring data from the most recent three years. Because we are now so close to the attainment date, we now believe that attainment will not be achieved by the required moderate area deadline based on air quality measurements from the summers of 2007 and 2008 that exceed the standard by a sizeable amount. Furthermore, we believe that the area will not meet the requirements for a one-year extension of the attainment date. Therefore, if we are required to take rulemaking action on the SIP, we see no alternative to proposing disapproval of the SIP's attainment demonstration. [Please see Attachment A to this letter, which contains the air quality data which lead EPA to its conclusion.]

In cases where attainment of the ozone standard cannot be achieved by the required date, the Clean Air Act contains a provision that allows a State to seek a higher classification for the area. Section 181(b)(3) provides for States to request EPA to reclassify a nonattainment area to a higher classification and requires EPA to grant such a request. Such a reclassification will have the effect of allowing for a new attainment date for the area (based on the new classification), which would be established in the new attainment demonstration. In conjunction with EPA's action on the reclassification request, EPA will establish a date for submission of a new attainment demonstration and any other additional requirements based on the area's new classification. [It should be noted, however, that the Clean Air Act requires States to move forward to adopt and implement (to the extent measures are not yet in place) all RACT (Reasonably Available Control Technology) and other control measures needed to attain the 1997 ozone air quality standard as expeditiously as practicable. In particular, measures planned for the 2009 ozone season should not be delayed.]

Please consider making a request to reclassify the Connecticut portion of the New York City ozone nonattainment area to a higher classification. As you know, the New York State Department of Environmental Conservation has already requested a voluntary reclassification for its portion of the nonattainment area on April 4, 2008. I will need a response from you no later than December 8, 2008 if you are going to make such a request. In the absence of a reclassification request for this area, I cannot justify further delay in carrying out the duties of the Agency, and I intend to sign a proposed disapproval of your existing attainment demonstration by no later than January 9, 2009.

As always, please feel free to contact me, or David Conroy of my staff at 617-918-1661, if additional information is needed. I look forward to hearing from you regarding your decision.

Sincerely,



Robert W. Varney
Regional Administrator

Attachment

cc: Anne Gobin, Air Director, CT DEP
Marcus Peacock, EPA
Robert Meyers, EPA

Attachment A

Air Quality Data Which Leads U.S. EPA to Conclude that the New York-N. New Jersey-Long Island,NY-NJ-CT Ozone Nonattainment Area Will Not Achieve the Ozone NAAQS (0.08 ppm) by the End of the 2009 Ozone Season

Monitoring Site ID	POC	County	State	Preliminary	Did this site	Number of	2006 4th	2007 4th	2008 4th	Critical Value	
				2006-2008					meet NAAQS		Days in
				Design Value	as of	Above the	Maximum	Maximum	Value as of	November	
				as of	November	1997	Value	Value	November	12, 2008	
				November 12,	12, 2008?	Standard	(ppm)	(ppm)	12, 2008	(ppm)	
				2008 (ppm)					(ppm)	(ppm)	
090010017	1	Fairfield	Connecticut	0.089	No	5	0.097	0.084	0.088	0.083	
090011123	1	Fairfield	Connecticut	0.088	No	5	0.087	0.092	0.086	0.077	
090013007	1	Fairfield	Connecticut	0.090	No	3	0.095	0.092	0.083	0.080	
090019003	1	Fairfield	Connecticut	0.085	No	3	0.089	0.083	0.083	0.089	
090070007	1	Middlesex	Connecticut	0.087	No	1	0.089	0.093	0.080	0.082	
090090027	1	New Haven	Connecticut	0.078	Yes	1	0.079	0.082	0.075	0.098	
090093002	1	New Haven	Connecticut	0.088	No	3	0.095	0.093	0.078	0.084	
340170006	1	Hudson	New Jersey	0.086	No	2	0.086	0.092	0.081	0.082	
340190001	1	Hunterdon	New Jersey	0.086	No	3	0.087	0.088	0.084	0.083	
340230011	1	Middlesex	New Jersey	0.088	No	3	0.092	0.090	0.084	0.081	
340250005	1	Monmouth	New Jersey	0.086	No	3	0.088	0.088	0.083	0.084	
340273001	1	Morris	New Jersey	0.086	No	1	0.090	0.088	0.082	0.085	
340315001	1	Passaic	New Jersey	0.079	Yes	0	0.077	0.085	0.076	0.094	
360050110	1	Bronx	New York	0.075	Yes	0	0.072	0.076	0.077	0.102	
360810124	1	Queens	New York	0.078	Yes	3	0.078	0.075	0.083	0.097	
360850067	1	Richmond	New York	0.082	Yes	0	0.092	0.083	0.071	0.101	
361030002	1	Suffolk	New York	0.085	No	3	0.090	0.084	0.083	0.088	
361030004	1	Suffolk	New York	0.089	No	2	0.101	0.085	0.083	0.087	
361030009	1	Suffolk	New York	0.077	Yes	0	0.093	0.085	0.053	0.117	
361030009	2	Suffolk	New York	0.078	Yes	0	0.096	0.086	0.053	0.116	
361192004	1	Westchester	New York	0.086	No	3	0.083	0.095	0.082	0.078	
Number of sites exceeding the ozone NAAQS in 2006-2008					14						

Source of Data

The 2006 and 2007 monitoring results are based on data already submitted and certified by the respective monitoring agencies to U.S. EPA's Air Quality System data base. The 2008 monitoring result is based on data submitted to the AirNow data system, and is considered preliminary.

The Meaning of "Critical Value"

The critical value shown for 2009 is the magnitude of the 4th highest value in 2009 (given the 2007 and 2008 data) that would result in a conclusion that the monitor shows compliance with the ozone NAAQS for 2007-2009. For the nonattainment area to be found to attain, all monitors' 4th highest readings in 2009 must be below their respective critical values.

Condition for a One-Year Extension

To be eligible for a one-year extension of the attainment date, the 4th highest value at all monitors in the area during 2009 must be less than 0.085 ppm. EPA judges this to be highly unlikely given the concentrations observed at some monitors in 2007 and 2008.