UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

DEC - 3 2003

Ms. Erin M. Crotty
Commissioner
New York State Department of Environmental Conservation
Albany, NY 12233-1010

Dear Commissioner Crotty:

Thank you for making recommendations on 8-hour ozone air quality designations. Your letter is an important step in providing citizens of New York with information on air pollution levels where they live and work. Concentrations of ground-level ozone, a major constituent of smog, have improved significantly since the Clean Air Act was amended in 1990, at which time 135 areas were designated as not attaining the federal health-based standard for 1-hour ozone concentrations. Since that time nearly half those areas (67) have cleaned up their air to meet the 1-hour ozone standard and have been redesignated as attaining that standard. However, many areas have still not met the 1-hour ozone standard and, in 1997, the United States Environmental Protection Agency (EPA) promulgated a more stringent 8-hour ozone national ambient air quality standard. Thus, much work remains to be done. Under the Clean Air Act, EPA is required to promulgate designations for new or revised standards, such as the 8-hour ozone standard and will do so by April 15, 2004.

We have reviewed your letter dated July 15, 2003, submitting New York's recommended air quality designations for the 8-hour ozone standard. Consistent with section 107(d)(1) of the Clean Air Act, this letter is to inform you that, based upon the information contained in your letter, and in the absence of additional substantiation for your recommendations, EPA intends to make modifications to New York's recommended designations and boundaries. EPA's modifications are included in the enclosure to this letter. If you would like to provide additional information about the areas in question, please provide this information by February 6, 2004. We will continue to work with your office as we move forward to make final designations.

The Clean Air Act defines a nonattainment area as any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. EPA guidance indicates that states should use the larger of the Consolidated Metropolitan Statistical Area (CMSA), Metropolitan Statistical Area (MSA), or the 1-hour ozone nonattainment area as the presumptive boundary for 8-hour ozone nonattainment areas. The guidance provides 11 factors that states should consider in determining whether to modify the presumptive boundaries. We have relied on this guidance in arriving at our findings.

In addition, EPA has been tracking 2003 ozone monitoring data and their impact on preliminary 2001-2003 design values. In some cases, preliminary 2001-2003 ozone monitoring data indicate that an area's attainment status will differ from New York's recommendation, which was based on 2000-2002 monitoring data. It is critical for New York to expedite submittal of quality assured 2003 data to EPA in order to accurately reflect an area's most recent air quality status. In addition, the monitoring bureau should submit an official letter with the monitors' design values for the 1- and 8-hour standards, as well as the number of expected exceedances of the 1-hour standard, to Raymond Werner, Chief of the Air Programs Branch of my staff by December 15, 2003.

We look forward to working with you to finalize the designations for the 8-hour ozone standard. We appreciate your efforts and will review any future supporting information that New York wishes to submit on these recommendations. If you have any questions, please do not hesitate to contact me at 212 637 5000 or have your staff contact Walter Mugdan, Director of the Division of Environmental Planning and Protection at 212 637 3724.

Sincerely,

Jane M. Kenny
Regional Administrator

Enclosure

cc: Arthur J. Rocque, Commissioner
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Enclosure

The following table identifies the individual areas and counties comprising those areas within New York State that EPA intends to designate as nonattainment. Following the table is a description of areas where EPA intends to modify New York's recommendations and the basis for such modification. EPA intends to designate as attainment/unclassifiable all counties (or parts thereof) not identified in the table below.

Area	**New York's Recommended Nonattainment Counties**	**EPA Recommended Nonattainment Counties**
Jamestown, NY	Chautauqua	Chautauqua
Buffalo- Niagara Falls, NY	Erie, Niagara	Erie, Niagara
Rochester, NY	Monroe, Orleans, Wayne, Genesee, Livingston, Ontario recommended as unclassifiable	Monroe, Orleans, Wayne, Genesee, Livingston, Ontario
Syracuse, NY	Recommended as attainment. Note: Preliminary data for 2003 indicates nonattainment.	Onondaga, Oswego, Madison, Cayuga
Jefferson County, NY	Jefferson	Jefferson
Essex County, NY	Whiteface Mountain above 4,000 foot elevation recommended as unclassifable.	Whiteface Mountain in Essex County above 1,900 foot elevation based on violations in 2003's preliminary data.
Albany Metropolitan Area, NY	Recommended as attainment. Note: Preliminary data for 2003 indicates nonattainment.	Albany, Saratoga, Rensselaer, Schnectady, Montgomery, Schoharie, Greene.

New York City Metropolitan Area, New York's portion of the NY-NJ-CT-PA area	New York (Manhattan), Bronx, Kings, Queens, Richmond, Westchester, Rockland, Nassau, Suffolk.	New York (Manhattan), Bronx, Kings, Queens, Richmond, Westchester, Rockland, Nassau, Suffolk; plus three counties recommended by NY as a separate nonattainment area: Orange, Dutchess and Putnam
Orange-Putnam-Dutchess Counties, NY	Orange, Putnam, Dutchess	Include in NYC nonattainment area.

Modifications to New York State's Recommendations

Orange - Putnam - Dutchess Counties

EPA intends to modify the State's recommendation to split the New York City Metropolitan Nonattainment area into two separate nonattainment areas. We believe the counties of Orange, Putnam and Dutchess should be part of the New York City nonattainment area. The State recommended splitting the area because most of this area was a separate nonattainment area under the one-hour standard, and these counties have emissions densities and population densities that distinguish them from the rest of the NYC nonattainment area. However, the NYC CMSA is one airshed and EPA's evaluation of the 11 factors reveals that overall Orange, Putnam and Dutchess Counties are strongly linked to the rest of the NYC area. Therefore, EPA believes the designation should reflect these facts.

Additional factors that justify keeping these areas combined with the rest of the CMSA include positive growth rates and commuting to other parts of the CMSA. Also, the area includes five percent of the population, emissions and VMT in the NYC CMSA. Putnam County has over 50% of its workers commuting to other parts of the NYC nonattainment area. EPA also believes it should keep these three counties in the NYC area due to the combined impact they have on downwind nonattainment areas.

Rochester, NY MSA

New York State recommended that the Rochester MSA be designated as "unclassifiable" for the eight-hour ozone standard. We intend to modify the State's recommendation to designate the Rochester MSA as nonattainment. EPA has carefully examined the technical information provided by New York State and regional planning organizations in the Rochester area in light of the CAA definition of nonattainment and determined that the Rochester area is not attaining the health standard for ozone and is contributing to ozone nonattainment in at least one downwind area that violates the standard.

Monitoring data collected in the Rochester area show that air quality is in violation of the health standard. Both the urban monitor and the monitor downwind of Rochester are violating the standard, based on the preliminary design values for 2001 - 2003. Local agencies have raised questions about the siting of these monitors. EPA has concluded that the urban monitor may be affected by interference by nearby trees, in which case ozone concentrations in this area would be <u>higher</u> than actually recorded. Thus, the ozone in urban Rochester may be more in violation of the health standard than the data show, since trees tend to reduce nearby ozone concentrations.

The monitor located further downwind is also violating the ozone standard. Therefore, the population around it is exposed to unhealthful air quality and the area must be designated as not attaining the standard. New York State is addressing concerns that additional monitoring may be needed downwind of Rochester in order to record the maximum impact of the City's emissions on ozone formation. In 2003, NYS began operating a monitor further downwind of Rochester, in Oswego County. The Oswego County monitor recorded more days over the health standard than the monitor in Wayne County. Air quality downwind of Rochester may be worse than recorded at the monitor in Wayne County.

Also, analysis by NYSDEC to determine the sources of ozone at the Perch River site in Jefferson County shows that the Rochester area contributes to ozone violations at Perch River. NYSDEC submitted this analysis with its July 15, 2003 letter to EPA. On days when violations occurred at Perch River in 2002, air flows passed through the Rochester MSA more often than through any other metropolitan area in New York State. On about half of the days when ozone violations occurred at Perch River in 2002 the air passed through the Rochester metropolitan area.

All of this information supports the conclusion that air quality in the Rochester area is not attaining the national health standard for ozone. In fact, air quality is likely to be more unhealthy than recorded by the existing monitors. Based on the Clean Air Act, areas that are violating or contributing to ozone violations must be designated by EPA as nonattainment. Rochester both violates and contributes to violations of the standard and must be designated as nonattainment for the ozone health standard.

Whiteface Mountain, over 1,900 foot elevation, NY

Monitoring data collected in Essex County at Whiteface Mountain show that air quality at the summit is in violation of the standard. An area in violation of the standard or an area that is contributing to an area that is in violation of the standard is defined by the CAA as nonattainment and, thus, must be designated by EPA as nonattainment. New York State wants Whiteface Mountain to be designated as unclassifable since it is a remote area and its violations are unaffected by local sources. However, the CAA does not have a transport designation. EPA will work with the State in the classification process and implementation of the new standard to consider the effect of transport on this area.

Based on 2003 data, the monitor at an altitude of 1,965 feet on Whiteface Mountain is also violating the standard. Monitors in neighboring counties at lower elevations are attaining the standard, so EPA believes the violations are due to high-altitude transport into and across New York. Consequently, we will replace the State's recommended "unclassifiable" designation with a mountain top nonattainment area of the portions of Whiteface Mountain in Essex County above 1,900 foot elevation.

Syracuse MSA. NY

EPA intends to modify the State's recommendation to include the Syracuse MSA as a nonattainment area because air quality data from 2003 has produced a violation of the ozone health standard in this area. The area includes the counties of Onondaga, Oswego, Madison, and Cayuga. This area contains a violating monitor so the presumption is that the entire MSA would be designated nonattainment. It is important for New York to expedite submittal of 2003 data in order to accurately reflect the air quality in this area because it is critical to the designation and classification process.

Albany MSA, NY

EPA intends to modify the State's recommendation to include the Albany MSA as a nonattainment area because air quality data from 2003 has produced violations of the ozone health standard in this area. The area includes the counties of Albany, Saratoga, Rensselaer, Schnectady, Montgomery, Schoharie, and Greene. This area contains two monitors violating the standard. The presumption is that the entire MSA would be designated nonattainment. It is important for New York to expedite submittal of 2003 data in order to accurately reflect the air quality in this area because it is critical to the designation and classification process. Since the MSA and the one-hour nonattainment areas are different, we invite New York to provide information on the extent of the final nonattainment area using the 11 factors provided by EPA.