



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

June 28, 2011

The Honorable Mitchell Hicks
Principal Chief
Eastern Band of Cherokee Indians – Qualla Boundry
PO Box 455
Cherokee, North Carolina 28719

Dear Principal Chief Hicks:

Thank you for your recommendations submitted to the U.S. Environmental Protection Agency on January 20, 2011 (recommendation letter), on air quality designations for the revised primary National Ambient Air Quality Standard (NAAQS) for nitrogen dioxide (NO₂) for the Eastern Band of Cherokee Indians. This letter is to notify you of EPA's response to the Eastern Band of Cherokee Indians' designation recommendations, and to inform you of our approach for completing the designations for the revised NO₂ NAAQS.

On January 22, 2010, the EPA strengthened the health-based NAAQS for NO₂ by setting a new 1-hour NO₂ standard at the level of 100 parts per billion (ppb). This new standard will protect against adverse health effects associated with short-term exposure to NO₂, including respiratory effects that can result in admission to a hospital. The EPA also retained with no change, the annual average NO₂ standard of 53 ppb. This suite of standards will protect public health by limiting people's exposures to short-term peak concentrations of NO₂ and by limiting community-wide NO₂ concentrations to levels below those that have been linked to respiratory-related emergency department visits and hospital admissions in the United States. To determine compliance with the new standard, the EPA established new ambient air monitoring and reporting requirements for NO₂. In urban areas, monitors are required near major roads as well as in other locations where maximum concentrations are expected. Additional monitors will be required in some large urban areas to measure the highest concentrations of NO₂ that occur more broadly across communities.

In the preamble to the 2010 NO₂ NAAQS and in the EPA's October 2010 letters requesting designation recommendations, the Agency stated that it expected to designate most areas of the country as "unclassifiable," indicating that there are insufficient data to determine whether or not an area is attaining the revised NO₂ NAAQS. This approach took into account that the new monitoring network requirements established with the revised NO₂ NAAQS will not be effective until January 2013 and that air quality data from these new monitors would not be available to inform these initial designations.

The Agency has reviewed your recommendations and others, and intends to designate your area, as well as the rest of the country, as "unclassifiable/attainment" rather than "unclassifiable." Based on air quality data from 2008-2010, all monitored areas in the country meet the 2010 NO₂ NAAQS. While the EPA acknowledges that the existing NO₂ monitoring network does not provide adequate evidence to determine whether or not the new NAAQS is met in all areas, there currently is no evidence of violations anywhere in the country. The "unclassifiable/attainment" designation better reflects the

current air quality conditions. The EPA intends to redesignate areas, as appropriate, after sufficient air quality data from the new monitoring network are available.

If you have additional information that you want the EPA to consider with respect to the EPA's designation, please submit it to us by August 29, 2011. We are also making the EPA's preliminary designation decisions and supporting documentation available to the general public for review. We are accepting public comments on our preliminary decisions for 30 days after a notice announcing the public comment period is published in the *Federal Register*. We will review any information we receive from you and the general public by this date, and we plan to promulgate the final designations by October 31, 2011.

We look forward to a continued dialogue with you and your staff as we work together to implement the 2010 NO₂ NAAQS. Should you have any questions, please do not hesitate to call me, or have your staff contact Beverly Banister of my staff at 404-562-9077.

Sincerely,


Gwendolyn Keyes Fleming
Regional Administrator

cc: Mr. Dee Freeman
Secretary, North Carolina Department of Environment and Natural Resources

Ms. Sheila Holman
Director, Division of Air Quality

Mr. Jamie Long
Director, Environmental Department
Eastern Band of Cherokee Indians

Gina McCarthy, Assistant Administrator for Air and Radiation

Stephen D. Page, Director, Office of Air Quality Planning and Standards