

**The State of New Jersey
Department of Environmental Protection**

**State Implementation Plan (SIP) Revision for
the Attainment and Maintenance of the
Ozone National Ambient Air Quality Standard**

**8-Hour Ozone Attainment Demonstration
Final**

Appendix H: Public Participation

October 29, 2007

A public hearing on this proposed SIP revision was held on Wednesday, August 1, 2007 at 10:00 a.m. at the New Jersey Department of Environmental Protection, 401 E. State St., 1st Floor, Public Hearing Room, Trenton, New Jersey. This hearing was held in accordance with the provisions of Section 110(a)(2) of the Clean Air Act, 42 U.S.C. §7410; 40 C.F.R. §51.102(a)(1), the Air Pollution Control Act (1954), N.J.S.A. 26:2C-1 et seq., and the Administrative Procedure Act, N.J.S.A. 52:14 B-1 et seq. Written comments relevant to the proposal were accepted until the close of business, Wednesday, August 8, 2007. Timely notice of the hearing was published in six newspapers circulated in New Jersey at least 30 days prior to the hearing. In addition, notice of the hearing appeared in the July 16, 2007 edition of the New Jersey Register (39 N.J.R. 2659(a)). Notices of the hearing and of the availability of the SIP revision were also emailed or mailed to over 1,000 interested parties. Additional notification consisted of posting a copy of the proposal on NJDEP's website and using online resources to help the public access NJDEP's website; providing a copy to the USEPA Region 2 and several northeastern states; and mailing the proposal to nineteen public libraries throughout the State, NJDEP's four regional offices, and its public access center.

Attachment 1 contains the notice announcing the availability of the proposed SIP revision and the hearing.

Attachment 2 contains the documentation of the notices that appeared in the newspapers and the New Jersey Register.

Attachment 3 contains the response to comment document.

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Attachment 1: Notice of Availability

October 29, 2007



New Jersey Department of Environmental Protection

NOTICE OF PUBLIC HEARING AND AVAILABILITY:

State Implementation Plan (SIP) Revision for the Attainment and Maintenance of the Ozone National Ambient Air Quality Standard, 8-Hour Ozone Attainment Demonstration Proposal

Take notice that the New Jersey Department of Environmental Protection (Department) is proposing a revision to the State Implementation Plan (SIP) to meet the 8-Hour Ozone National Ambient Air Quality Standard (NAAQS). A copy of the proposal has been forwarded to the United States Environmental Protection Agency (USEPA) by June 15, 2007.

The core of this proposed SIP revision is the State's demonstration that its two multi-state 8-hour ozone nonattainment areas will attain the 8-hour ozone NAAQS by their mandatory attainment date of June 15, 2010. The remainder of the proposed SIP revision addresses the other mandatory SIP elements for 8-hour ozone and other related issues (with the exception of a Reasonable Available Control Technology (RACT) analysis, which the New Jersey Department of Environmental Protection (NJDEP) proposed on February 2, 2007 and will submit as final to the USEPA separately). Specifically, the primary components of the SIP revision proposal are:

- 1) A plausible demonstration that the two multi-state nonattainment areas, associated with the New York City and Philadelphia Metropolitan areas, associated with New Jersey will attain the 8-hour ozone health standard by their mandatory attainment date of June 15, 2010. This demonstration incorporates the latest scientific information from the University of Maryland, and is reliant upon New Jersey and the rest of the Ozone Transport Commission (OTC) states honoring their commitments to implement the "beyond on the way" control measures contained in the regional 2009 attainment modeling.
- 2) A demonstration that the State will more than meet its Reasonable Further Progress (RFP) targets for both 2008 (RFP milestone) and 2009 (attainment) using the same control measures applied in the State's 2009 attainment demonstration.
- 3) A Reasonably Available Control Measures (RACM) analysis which demonstrates that there are no other RACM that would advance the nonattainment areas' attainment date by one year.
- 4) Contingency measures for the 2008 RFP milestone and the 2009 attainment milestone.

- 5) Proposed onroad vehicle emission budgets for use by the Metropolitan Planning Organizations to ensure their plans and programs are in conformance with the SIP.
- 6) Proposed general conformity emission budgets for use by McGuire Air Force Base and Lakehurst Naval Air Station to ensure that emissions from their operations also conform to the requirements of the SIP.
- 7) A request that the USEPA make a finding that three (3) of New Jersey's four (4) associated 1-hour nonattainment areas are meeting the 1-hour standard.
- 8) A request that the USEPA, in reviewing the attainment demonstrations and all other SIP revisions from other states, take into consideration their impact on New Jersey's attainment obligations, and insure that other states are doing all they can to help the multi-state nonattainment areas attain as soon as practicable.

A copy of the proposal is now available for inspection, as described more fully below. A **public hearing** concerning the Department's proposal/proposed SIP revision is scheduled as follows:

Wednesday, August 1, 2007 at 10:00 a.m.

The NJ Department of Environmental Protection Building, Public Hearing Room (1st Floor)
 401 East State Street
 Trenton, New Jersey

This hearing is being held in accordance with the provisions of Section 110(a)(2) of the Clean Air Act, 42 U.S.C. § 7410. Written comments may be submitted by close of business **August 8, 2007**, to:

NJ Department of Environmental Protection
 Alice A. Previte, Esq.
 Attn: DEP Docket # **14-07-06**
 Office of Legal Affairs
 P.O. Box 402
 Trenton, New Jersey 08625-0402

The following are options for obtaining a copy of the proposed SIP revision:

1. Visit the Department's website at: <http://www.nj.gov/dep/>, where Air Quality Management rules, proposals, adoptions and SIP revisions are available. The Department's proposed SIP revision can be viewed or downloaded from the following url:
<http://www.state.nj.us/dep/baqp/sip/siprevs.htm>

2. Go and inspect the proposal/proposed SIP revision during normal office hours at any of these locations:

DEP Public Information Center
 401 E. State Street, 1st Floor
 Trenton, New Jersey 08625

DEP Bureau of Enforcement
 Northern Region
 1259 Route 46 East
 Parsippany, N.J. 07054-4191

DEP Bureau of Enforcement
Central Region
Horizon Center, P.O. Box 407
Robbinsville, N.J. 08625-0407

DEP Bureau of Enforcement
Metropolitan Region
2 Babcock Place
West Orange, N.J. 07052-5504

Trenton Public Library
120 Academy Street
Trenton, N.J. 08608

Newark Public Library
5 Washington Street
P.O. Box 630
Newark, N.J. 07102-0630

Burlington County Library
3 Pioneer Blvd. and Woodlane Rd.
Mt. Holly, N.J. 08060

Joint Free Public Library
Morristown & Morris County
1 Miller Road
Morristown, N.J. 07960

Burlington City Library
23 West Union Street
Burlington, N.J. 08016

Perth Amboy Public Library
193 Jefferson Street
Perth Amboy, N.J. 08861

Toms River Public Library
101 Washington Street
Toms River, N.J. 08753-7625

DEP Bureau of Enforcement
Southern Region
2 Riverside Drive, Suite 201
Camden, N.J. 08103

Atlantic City Public Library
1 North Tennessee Avenue
Atlantic City, N.J. 08401

Penns Grove/Carney's Point Public Library Association
222 South Broad Street
Penns Grove, N.J. 08069

New Brunswick Free Public Library
60 Livingston Avenue
New Brunswick, N.J. 08901

Ms. Ellen Calhoun
Library of Science and Medicine, Rutgers University
P.O. Box 1029
Piscataway, N.J. 08855-1029

Freehold Public Library
28½ East Main Street
Freehold, N.J. 07728

Camden Free Public Library
418 Fredericks Street
Camden, N.J. 08103

Somerville Public Library
35 W. End Avenue
Somerville, N.J. 08876

4. Request a copy of the proposal/proposed SIP revision by calling Willa Williams at (609) 292-6722, by e-mailing her at willa.williams@dep.state.nj.us, or by mailing or faxing the attached form to her as indicated on the form.

IF YOU HAVE QUESTIONS: For more information about the Department's SIP proposal, please call our Bureau of Air Quality Planning at (609) 292-6722.

MAIL OR FAX THIS SIP PROPOSAL REQUEST FORM TO:

Ms. Willa Williams
New Jersey Department of Environmental Protection
Air Quality Planning
401 E. State Street, 7th Floor
P.O. Box 418
Trenton, N.J. 08625-0418

phone: (609) 292-6722
fax: (609) 633-6198
willa.williams@dep.state.nj.us

- Please send me a copy of **the Department's Proposed State Implementation Plan (SIP) Revision for the Attainment Maintenance of the Ozone National Ambient Air Quality Standard, 8-Hour Ozone Attainment Demonstration**

Name:

Organization:

Address:

Telephone:

- Please remove my name from the Air Quality SIP and rulemaking mailing list.

Please consider subscribing to our Air Rules Listserv to receive e-mail updates of all proposed Department rulemaking relating to air pollution control and revisions to New Jersey's State Implementation Plan. Signing up is easy through our AIRRULES LISTSERV Info Page at <http://www.state.nj.us/dep/baqp/airrules.html>.

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**Attachment 2: Documentation of the Notices that Appeared
in the Newspapers and the New Jersey Register**

October 29, 2007

This attachment includes the documentation of the notices that appeared in the newspapers and the New Jersey Register. The documentation from the newspapers is only available in hardcopy format.

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Attachment 3: Response to Comment Document

October 29, 2007

As a result of the hearing and comment period, several comments were received on the proposed State Implementation Plan (SIP) revision. The following is a summary of those comments, and the State's responses to those comments. After each comment is the name of the commenter(s) and their affiliation(s) in bold.

- 1) Comment: Several commenters thanked the New Jersey Department of Environmental Protection (NJDEP) for hosting productive stakeholder meetings to discuss the rulemakings prior to their inclusion in the SIP, particularly those regarding upcoming petroleum storage tank Reasonably Available Control Technology (RACT) rules and refinery RACT rules. **(Tony Russo, Chemistry Council of New Jersey (CCNJ), John Maxwell, New Jersey Petroleum Council (NJPC), and David H. Brogan, New Jersey Business and Industry Association, (NJBIA))**

Response: The NJDEP appreciates the commenters' recognition of its outreach and coordination efforts and intends to continue this open dialogue.

- 2) Comment: Several commenters noted that it was clear from the data presented in the proposed SIP revision that the NJDEP has made great strides toward achieving ozone attainment in New Jersey; their efforts should be commended. **(Tony Russo, CCNJ, John Maxwell, NJPC, Michael A. Egerton, New Jersey State Chamber of Commerce, and David H. Brogan, NJBIA)**

Response: The NJDEP appreciates the commenters' recognition of its efforts to attain and maintain the previous and current ozone health-based standards. New Jersey, as well as its neighboring states, has implemented numerous control strategies over time that have lowered ozone concentrations throughout the region. The benefits from the implementation of these control measures are demonstrated by the fact that three of New Jersey's four 1-hour ozone multi-state nonattainment areas are currently meeting that standard. However, ozone continues to be New Jersey's most pervasive air quality problem, with greater health effects at lower levels than previously understood, requiring the states throughout the Ozone Transport Region and beyond to do more to reduce the emissions of ozone precursors.

- 3) Comment: One commenter stated that the partnership with the NJDEP at the early stages of regulatory development afforded regulated entities the opportunity to anticipate and develop regulatory strategies that will successfully achieve all of the stakeholders' objectives. Although all of the issues have not been resolved, the commenter believed that the regulations that are borne out of the collaborative effort currently underway will best serve the many concerned interests. **(Daniel Cunningham, Public Service Enterprise Group (PSEG) Services Corporation)**

Response: The NJDEP appreciates the commenter's recognition of NJDEP's efforts to create an open and transparent control measure implementation process, and agrees that this type of process will result in better and more efficient regulations overall.

- 4) Comment: Several commenters expressed the desire for more discussion prior to the

NJDEP proposing rulemaking to implement all the proposed control measures. Some commenters stated that final rules that account for stakeholder input would be more successful in meeting the NJDEP's goal of timely attainment of the ozone National Ambient Air Quality Standard (NAAQS) than rules that do not employ all of the technical resources available to the NJDEP. **(Tony Russo, CCNJ, John Maxwell, NJPC, and David H. Brogan, NJBIA)**

Response: Over the last several years there has been unprecedented outreach to and discussion with both the general public and regulated communities regarding control measure selection and implementation, not only at a State level, but on a regional level as well. Recognizing the need to identify new control measures for many types of sources to attain the more stringent health-based ozone and fine particulate NAAQS, New Jersey launched its *Reducing Air Pollution Together* Initiative on June 29, 2005, with a large scale public workshop. As a follow-up to that Workshop, the NJDEP formed six workgroups that included representatives from the NJDEP and other state agencies, the regulated community, public interest groups, and other interested parties. These workgroups collaborated during the summer of 2005, to identify and recommend control strategies for possible inclusion in upcoming SIPs. The NJDEP then posted sixty white papers, written by the NJDEP staff, on the most promising control measures for public feedback. On May 17, 2006, the NJDEP invited interested and affected parties to a follow-up workshop to share preliminary regulatory plans.

For their part, both the Ozone Transport Commission (OTC) and the Mid-Atlantic Regional Air Management Association (MARAMA), each of which include New Jersey as a member, reached out to stakeholders to solicit their input on control measures under regional consideration. The OTC hosted four public meetings (held on 10/5/05, 1/24/06, 4/5-6/06, and 11/2/06) to discuss controls under consideration by their member states, while MARAMA provided stakeholders over two months to comment on their Technical Support Document (TSD) and model rules.

Once control measures had been identified and selected (on both a State and regional level), the NJDEP met individually with many of the regulated industries to discuss potential control options, gather additional data, and refine the draft regulations. The NJDEP found these discussions successful in helping to focus the rulemaking efforts, and make those efforts more efficient and effective. The NJDEP continues this dialogue for several source categories.

In addition to these informal discussions, the industry and other interested parties will have the opportunity to comment on the proposed rulemakings, as required by the New Jersey Administrative Procedures Act and the New Jersey Air Pollution Control Act. We appreciate the input to date and look forward to further constructive input by all parties.

- 5) Comment: One commenter was concerned with the NJDEP's intention to propose a rule for petroleum storage tanks in New Jersey. He stated that the reductions were not included in the modeling to demonstrate attainment of the 8-hour ozone NAAQS in New Jersey for 2009. He stated that the implementation schedule for the rule, with proposal by November 2007 and controls required by 2009/2010, would create significant operational impacts. He stated that, due to the United States Environmental Protection Agency's (USEPA's) new

emission estimation procedures for floating roof tanks, there was not yet a clear understanding of the emissions inventory to properly calculate the benefits for the rule. The commenter requested that the State refrain from implementing the rule until further discussion with the stakeholders. A second commenter agreed with these comments regarding the petroleum storage tank rule. **(Tony Russo, CCNJ and John Maxwell, NJPC)**

Response: Regional photochemical modeling is complex and time consuming. In order to complete the necessary modeling runs and analyze the modeling results for inclusion in the SIPs in time to meet the Federal deadline for SIP submittals, decisions on what control measures to include in those runs were made in the fall of 2006. New Jersey had not completed its internal control technology evaluation by that time, preventing New Jersey from recommending several New Jersey-specific measures (for example, the petroleum storage tank effort) for inclusion in the regional modeling runs. New Jersey's evaluation showed that this, and other measures could result in emission reductions prior to the 2010 attainment date, even though these benefits were not incorporated into the regional modeling demonstration. To capture these non-modeled benefits, and provide the USEPA and New Jersey citizens with greater certainty that New Jersey's multi-state 8-hour nonattainment areas would reach the NAAQS by 2010, the NJDEP did off-model calculations to estimate the potential additional benefits from these non-modeled measures. These benefit determinations were based on the expected implementation schedule for the rulemaking plans at the time of the proposed SIP revision.

After consideration of input from the regulated community, the State has subsequently reconsidered the implementation schedules for some of its non-modeled control measures, including petroleum storage tanks, and has adjusted the expected emission reductions for 2009 and beyond accordingly. To minimize operational disruption for petroleum storage tank modifications that require tanks to be taken out of service, the rule is expected to propose an implementation schedule over ten years, but no later than 2019, to coincide with the normal tank inspection schedule for out of service repairs. Based on this new planned implementation schedule, the NJDEP revised the 2009 emission reduction estimates for this measure from 6.0 tons per day (tpd) (referenced in Chapters 5 and 8, and Appendix D13 of the SIP revision) to 2.25 tpd Statewide in 2009 and 2.73 tpd Statewide in 2010. The explanation of the NJDEP's "off-model" calculations used to estimate benefits from petroleum storage tanks, as well as other control measures not included in the 2009 attainment modeling, have been revised in Appendix D13 and its attachments. These estimates may be refined further as part of the State's rule proposal, expected by the end of 2007. In addition to providing greater certainty that the State will attain the health standards on time, these non-modeled measures, including proposed new rules for petroleum storage tanks, are relied upon as contingency measures, in the event that either of New Jersey's multi-state nonattainment areas do not meet the required attainment date.

With respect to emissions inventory calculation procedures, the commenter is referring specifically to emissions from landing losses. Calculating landing losses and including those emissions in emission statements are the responsibility of persons operating floating roof storage tanks. Maximum expected losses can be readily calculated using scientific principles. Also, the American Petroleum Institute (API), in 2005, published a method to estimate actual losses.

Furthermore, landing losses have been addressed in California since 1987 (see South Coast Air Quality Management District's Rule 1149 (Storage Tank Cleaning and Degassing), last amended July 15, 1995).

- 6) Comment: Several commenters stated that it was communicated in the NJDEP's rulemaking stakeholder meetings that significant control measures would not be in place by 2009 and therefore, the commenters stated that the proposed SIP should not allude to any control measures that could not be in place by 2009 (e.g., Fluid Catalytic Cracking Units (FCCU) retrofits, covers for external floating roof tanks, vapor recovery systems, or any tank retrofits). Additionally, one commenter noted that a commitment to a performance or emission standard that will not be in place until 2015 for High Electric Demand Day (HEDD) units, is premature for a proposed SIP revision that requires an attainment demonstration by 2010. This commenter stated that there is time for continued collaboration among these entities to evaluate oxides of nitrogen (NO_x) reduction strategies for HEDD units that meet the shared and acknowledged goals of NJDEP, New Jersey Board of Public Utilities (NJBPU), and PSEG with respect to energy reliability and environmental protection. This same commenter also stated that the ozone attainment deadline should be a factor in identifying emission control strategies for any category of sources, such as boilers. The commenter stated that the NJDEP should commit to differentiating between new and existing sources in its emission reduction strategies, and agree that the timetable for existing sources will likely post-date the 2009 ozone season on which the 2010 ozone attainment demonstration will be based. Therefore, it is unnecessary to propose, within the current proposed SIP revision, control measures that will not be in place by 2009. **(Tony Russo, CCNJ, John Maxwell, NJPC, Michael A. Egenton, New Jersey State Chamber of Commerce, David H. Brogan, NJBIA, and Daniel Cunningham, PSEG Services Corporation)**

Response: All of the measures referenced by the commenters (i.e., FCCU retrofits, covers for external floating roof tanks, vapor recovery systems, tank retrofits, and HEDD) are expected to have phased in implementation schedules that would provide for some emission reductions by 2009. The proposed ozone SIP also includes control measures (including those listed by the commenter) with partial or full implementation dates beyond the current 8-hour ozone attainment date of 2010. Including these longer term measures as part of the State's overall plan for addressing ozone precursor emissions is necessary and appropriate for the following reasons:

- To provide public health protection, especially in view of health scientists' and the USEPA scientists' recommendation for a more protective ozone NAAQS;
- To provide the USEPA and New Jersey citizens with greater certainty that New Jersey's multi-state 8-hour nonattainment areas would reach the NAAQS by 2010;
- To provide additional reductions, which would be relied upon post 2009 should the state not attain by 2010;
- To ensure that the areas will not only meet the existing NAAQS by the required attainment date, but that they will maintain that standard in the future;

- To provide the regulated community with certainty and time to identify the necessary funding to install control equipment, modify their products or usage patterns, and/or take other actions to implement pollution prevention strategies; and,
- To ensure that transported emissions from New Jersey are not significantly impacting any other area's ability to attain or maintain the current, or any future, health-based standard.

With respect to this list of reasons to continue reasonable emission reductions beyond 2009, the health concerns of ozone exposure at levels below that current standard are most important. Therefore, New Jersey is proposing measures with respect to ozone control in this proposed SIP revision under its authority in the New Jersey Air Pollution Control Act to regulate air pollution to protect public health.

- 7) Comment: Several commenters stated that the MARAMA model rules for refineries do little more than apply the facility-specific refinery initiatives on an industry-wide basis, with minimal additional environmental benefit, but at a significant cost. According to the commenters, both the New Jersey stakeholders and MARAMA agreed that there are almost no incremental emission reductions that will occur by 2009, as a result of imposing the MARAMA model rules as RACT on top of the current or pending refinery enforcement initiatives. The commenters also stated that the MARAMA model rules will not help New Jersey meet its attainment goals and therefore should not become New Jersey RACT rules. **(Tony Russo, CCNJ, John Maxwell, NJPC, Michael A. Egenton, New Jersey State Chamber of Commerce, and David H. Brogan, NJBIA)**

Response: See response to Comment # 6. Also, 42 U.S.C. § 7511a(b)(2) (Section 182(b)(2)) of the Clean Air Act requires the imposition of RACT controls for all volatile organic compound (VOC) source categories covered by a Control Technique Guideline (CTG) and for all other major stationary sources of VOC located within certain nonattainment areas with or without an area-specific demonstration by the State that the area needed the controls for attainment as expeditiously as practicable.¹ A similar interpretation can be made for 42 U.S.C. § 7511a(f) (Section 182(f)) of the Clean Air Act, requiring the imposition of RACT controls on all major sources of oxides of nitrogen (NO_x) where the plan provisions already require RACT controls for major sources of VOCs. In other words, the USEPA requires that a stationary source of the requisite type and size be subject to both NO_x and VOC RACT. The RACT requirements are meant to ensure that states review source category controls, and update them to implement what is "reasonable," in addition to any other requirements to attain the NAAQS. Therefore, even if the implementation of the refinery rulemaking is not required for the attainment of the current 8-hour ozone NAAQS, this does not exclude these measures from being implemented as RACT or for other air quality improvement purposes. States may be more stringent than minimum USEPA requirements. New Jersey's ozone SIP has multiple purposes beyond attainment of the existing ozone NAAQS. This SIP will also make progress toward the more stringent ozone NAAQS which the USEPA has proposed and most importantly will reduce ozone levels to obtain health benefits which are recognized by health experts from achieving ozone levels below the current ozone NAAQS. If by complying with the refinery enforcement settlements, a facility

¹ 72 Fed. Reg. 20611 (April 27, 2007).

also satisfies the requirements in the State's pending RACT refinery rulemaking, then no additional control would be needed. Furthermore, if the refinery enforcement settlements are reasonable, it is appropriate to presume those measures are reasonable for all similar sources, unless site specific evaluations indicate otherwise. There are provisions for site specific evaluations of emission limits in both New Jersey's NO_x and VOC rules at New Jersey Administrative Code (N.J.A.C.) 7:27-19.13 and 7:27-16.17, respectively. These provisions can result in Alternative Emission Limits (AELs) and are expected to continue to be available for the refinery limits being proposed.

As with the calculated benefits of the Petroleum Storage Tanks control measures, Appendix D13 of the proposed SIP revision explains the NJDEP's "off-model" calculations used to estimate benefits from the refinery measures. These estimates show significant tons per day reductions in NO_x, by 2009. Furthermore, additional reductions in VOC and NO_x are anticipated from the implementation of these rules post-2009. These added benefits will help the State maintain the current 8-hour standard, while continuing to reduce ozone emissions to protect public health and in anticipation of the adoption of a more stringent health-based standard in the near future (see Response to Comment # 6).

- 8) **Comment:** Commenters stated that neither the MARAMA model rules nor the NJDEP's white paper on petroleum storage tank emission controls were based on accurate, New Jersey-specific emission inventories and that good data are the foundation for rulemaking that targets appropriate subcategories of sources. These commenters further stated that of all the long term VOC reduction measures being considered for RACT, the control of VOC emissions from floating roof tank roof landing requires additional due process before RACT regulations can be written. Specific concerns regarding the floating roof tank landing proposal included the emission quantification method, which was published nine months ago (thus, inventory information is still being developed), any control measures will not be implemented in time to help achieve attainment by 2010, and economic impacts are not understood well enough to support rulemaking. One commenter requested that the NJDEP conduct a more thorough assessment, based on New Jersey specific data, prior to proceeding with the rulemaking process. All the commenters requested that the NJDEP delay RACT rules for these VOC control measures for at least one year. **(Tony Russo, CCNJ, John Maxwell, NJPC, Michael A. Egerton, New Jersey State Chamber of Commerce, and David H. Brogan, NJBIA)**

Response: See Response to Comment # 7. Also, contrary to the commenters' assertions, all of NJDEP white papers, as well as the MARAMA model rule effort, were based on New Jersey-specific inventories and data available at the time these materials were developed. With respect to the white papers, the NJDEP reviewed its own 2002 emissions inventory as the basis for focusing its analysis. This inventory includes actual emissions data reported by major stationary sources located in New Jersey through the Emission Statement program. With respect to the MARAMA model rule effort, the states relied upon the 2002 and 2009 regional modeling inventories, both of which contained data and inputs from New Jersey. Also, the State reviewed emission data, rules, and other information from other states to ensure it was focused on appropriate source categories. For example, in developing regulations for petroleum storage

tanks, the NJDEP reviewed the control efforts of California and Texas. Finally, all of NJDEP rule proposals take into consideration implementation timing and impact on the regulated community, and the ozone rules proposal is no exception. The NJDEP met with the regulated community prior to the proposal of this SIP revision, and has continued meeting with industry prior to proposing the ozone rules in order to more fully understand and address their concerns.

The State not only conducted its own internal analysis, but also participated in a Regional control measure analysis, and in many cases these two independent efforts identified the same source categories for future controls. The identification of these source categories for control was further supported by the recommendations made to New Jersey by the State's control measure workgroups through its *Reducing Air Pollution Together* Initiative, which again identified sources for control which overlapped with those already identified through the State internal and regional efforts. Based on these analyses, the NJDEP is confident that it has targeted the most appropriate subcategories of sources for its rulemaking efforts.

With respect to data on petroleum storage tank emissions, the NJDEP understands that the current emission inventory data reveal greater emissions than previously known, particularly with respect to the data on floating roof landing² emissions. This is because many facilities have either not reported their emissions from roof landings or considerably underreported these emissions. This underestimation of emissions data has skewed historically pertinent data. In November of 2006, the USEPA formally adopted a methodology for calculating roof landing emissions as an amendment to Air Pollutant (AP)-42. The AP-42 methodology is based on an API Methodology that was issued in draft form in 1997 and finalized in 2005. Hence, industry has recognized this failure to adequately include roof landing emissions for at least 8 years. The USEPA publication of a methodology in AP-42 is not a pre-requisite for reporting emissions. See N.J.A.C. 7:27-21 where AP-42 is listed as one of several means to estimate emissions.

Based on the emissions reported to the NJDEP by companies using the API methodology in 2006,³ the NJDEP estimates that the emissions from floating roof landings are in the thousands of tons per year statewide. Based on this estimation, the NJDEP is confident that this rulemaking should proceed on the same schedule as the other control measures, and that delay is not necessary or appropriate. The sooner this rule is proposed and adopted by the NJDEP, the sooner facilities can implement the necessary controls to reduce ozone. To further support this rulemaking effort, the NJDEP, as part of its review of the 2007 emission statements, is sending deficiency letters to any facility that fails to fully report their petroleum storage tank emissions, including those emissions from roof landings. So far, several facilities have addressed this identified deficiency in its resubmitted emission statement, and reported over 1,200 additional

² A roof landing is an event where the liquid level in a floating roof tank is lowered to (and beyond) the point where the floating roof is resting on its legs or is supported from above by cables or hangers, and is no longer floating on the surface of the stored liquid.

³ Some companies were using the API methodology to report emissions prior to 2006, consistent with New Jersey's Emission Statement program guidance. Together, those companies reported over 900 tons of VOC emissions from their VOC storage tanks for 2002, and over 900 tons again for 2006. When the USEPA formally adopted the roof landing methodology into AP-42, another company disclosed over 1,000 tons from roof landings for 2006.

tons of emissions from roof landings.⁴ The NJDEP expects more emissions to be reported for petroleum storage tanks as facilities correct their emission statements and that facilities will take steps to reduce and minimize those emissions immediately, independent of rulemaking. In the meantime, it is not appropriate to delay rulemaking because of industry failure to fully report significant emissions. If anything, the increased emissions are added reason to proceed with, not delay, rules to lower those emissions.

- 9) Comment: Some commenters noted that the NJDEP appropriately factored in the real emission reductions from the refinery enforcement initiative into its 2010 attainment modeling. (**Tony Russo, CCNJ, John Maxwell, New Jersey NJPC, Michael A. Egenton, New Jersey State Chamber of Commerce, and David H. Brogan, NJBIA**)

Response: The commenter is correct that the 2010 attainment modeling included the benefits expected by 2010 from various USEPA, state, and local Consent Decrees negotiated, or in the process of being negotiated, with the major refineries on the East Coast to elicit emission reductions from five major refinery processes. The processes are FCCUs and Fluid Coking Units (FCUs), Process Heaters and Boilers, Flare Gas Recovery, Leak Detection and Repair (LDAR), and Benzene/Wastewater. The New Jersey refineries impacted by the settlements include Sunoco, Conoco Phillips, Valero, and Citgo Asphalt Refining Company.

While these Consent Decrees will result in significant emission reductions from these facilities, they do not preclude the State from implementing more stringent controls on those same sources by rulemaking. The very nature of Consent Decrees does not ensure that the remedies are RACT (that is, the implementation of all that is “reasonable” regardless of its need for attainment). Instead, Consent Decrees are negotiated agreements that require neither an extensive technology review nor any ambient air quality modeling. Such agreements include a weighing of the litigation risk by both sides, which factors in the evidence concerning the alleged violations. No Consent Decree could prevent the adoption of rules for other purposes, and these Consent Decrees do not. The purpose of the Consent Decrees was settlement of alleged past New Source Review (NSR) violations, while the purpose of the ozone SIP and rules is to satisfy current Clean Air Act requirements and air quality needs. In addition, some of the federal consent decrees reflect a “company wide” settlement that may or may not include emission reductions from equipment at New Jersey facilities.

- 10) Comment: One commenter concurred with the NJDEP that the best approach to achieving attainment with the ozone NAAQS in New Jersey is through the multiple regional efforts that are currently in place, or soon to be implemented, that will achieve real reductions in NO_x emissions, especially during the ozone season (i.e., NO_x budget, Clean Air Interstate Rule (CAIR), beyond CAIR (OTC initiative), etc.). However, the commenter encourages the State to continue to press sources upwind from New Jersey, especially outside the OTC region, to reduce emissions beyond its currently anticipated on-the-books and on-the-way measures. The commenter stated that this is especially important in light of current

⁴ 1,000 of these additional tons of emissions resulted from an enforcement self disclosure (Kinder-Morgan), while the remaining 200 tons resulted from the emission statement effort.

recommendations by medical and science professionals and as the USEPA considers making the health standards more stringent. **(Daniel Cunningham, PSEG Services Corporation)**

Response: The NJDEP agrees with the comment that regional NO_x reduction programs, such as the NO_x budget program, have been extremely successful in reducing overall ozone emissions, and should be continued. The NJDEP is working with the OTC, Mid-Atlantic/Northeast Visibility Union (MANE-VU), and other regional planning organizations (RPOs) to identify and implement other broad regional emission control programs. The NJDEP also acknowledges a local component to its ozone and PM problems that requires more direct attention. Therefore, it is vital that the NJDEP review its existing rules and other existing and potential sources to ensure that all reasonable action is being taken to attain and maintain the health-based standards. The NJDEP also agrees with the commenter that given the significance of the regional component to both its ozone and fine particle nonattainment (as well as regional haze), it is appropriate that the other states in and upwind of the OTR take action to improve requirements that are at least as stringent as New Jersey's requirements. For this reason, New Jersey included as part of this proposed SIP revision a request to the USEPA that in reviewing the attainment demonstrations and all other SIP revisions from other states, the USEPA take into consideration their impact on New Jersey's attainment obligations and ensure that upwind states are doing all that is needed to bring New Jersey's associated multi-state nonattainment areas into attainment as soon as practicable.

- 11) Comment: PSEG Fossil commented on potential control measures targeting HEDD electric generating units (EGUs). These HEDD units are used not only to provide electricity during peak demand in New Jersey, but also serve to provide quick-start capabilities that assist in grid stabilization and congestion management. The commenter commended the NJDEP for identifying the most important goals of the Energy Master Plan (EMP) in its proposed SIP revision and stated that any control measures associated with HEDD must likewise meet the stated goals of the EMP and must: 1) allow for secure, safe, and reasonably priced energy supplies and services, 2) allow for economic growth and development, and 3) consider environmental protection and impact. **(Daniel Cunningham, PSEG Services Corporation)**

Response: The NJDEP fully supports the creation and implementation of the EMP, has been active in its development, and will continue to participate in its implementation. The issues surrounding the development of HEDD rules have been an integral part of the NJDEP's EMP discussions. The NJDEP's goal is to bring about needed emission reductions to benefit the environment and public health without causing undue cost or disruption of electricity supply.

- 12) Comment: One commenter stated that the proposed SIP revision failed to include potential control measure options for HEDD units, including those mentioned in the Memorandum of Understanding (MOU) among the OTC states such as regulatory caps, State/generator HEDD partnerships agreements, energy efficiency programs, demand response programs, controls for beyond-the-meter generators, and/or adjustment of the NO_x retirement ratio to provide reductions on HEDDs. He specifically recommended that the NJDEP continue to

work with stakeholders to explore a performance or emission standard that addresses HEDD units in a collective manner consistent with a cap-type regulation. **(Daniel Cunningham, PSEG Services Corporation)**

Response: The OTC MOU addresses the commitment the states have made to secure emission reductions from HEDD units beginning with the 2009 ozone season. During the regional stakeholder process, these were referred to as short-term reduction goals. As stated by the commenter, the OTC MOU lists several mechanisms identified during the stakeholder process for the short-term reduction goals. The OTC MOU does not limit the potential reduction strategies to those listed in the document, and each state may select a strategy or combination of strategies to meet their 2009 reduction goals. As stated in the SIP, "...power generators in New Jersey will be responsible for securing these [2009] reductions and will be required to submit a plan on how they will reduce NO_x. The generators will have flexibility in securing the 2009 reductions." Although performance standards are one of the mechanisms listed in the OTC MOU that states can choose for meeting their 2009 reduction goal, New Jersey has chosen not to establish performance standards in the 2009 timeframe to provide more flexibility for short-term measures. The specific mechanisms to be included in New Jersey's 2009 HEDD unit reduction program will be included in New Jersey's HEDD rule and will be consistent with the OTC MOU.

For the long-term, the OTC MOU states that "states will continue to work to establish long-term standards and programs to address emissions on HEDDs..." Although some mechanisms to meet the short-term 2009 reduction goals, for example energy efficiency, are also included in the long-term goals to address emissions on HEDD, the long-term vision for addressing HEDD is "development of long-term performance standards that will ensure reliable, clean future generation." Given the magnitude of NO_x emissions from HEDD units on high electrical demand days and their impact on public health, New Jersey has decided to move forward to establish long-term performance standards for HEDD units for 2015.

With respect to the commenter's specific request that the NJDEP explore a performance or emission standard that addresses HEDD units in a collective manner consistent with a cap-type regulation, the NJDEP agrees that cap-and-trade programs have been successful in reducing NO_x emissions, not only in New Jersey but regionally, during the ozone season. However, as the stakeholders learned during the HEDD regional process, "using a cap and trade mechanism alone to provide sufficient financial incentives to cause the clean up of HEDD units would need an 18:1 retirement ratio and such a strategy would consume 74% of all available CAIR allowances for 12 HEDD days."⁵ Therefore, a cap-and-trade program does not appear practical for addressing daily or hourly emissions. Also, performance standards and cap-and-trade programs are compatible.

13) Comment: The proposed SIP revision refers to a first step in the HEDD regulatory process

⁵ Memorandum of Understanding Among the States of the Ozone Transport Commission Concerning the Incorporation of High Electrical Demand Day Emission Reduction Strategies into Ozone Attainment State Implementation Planning. Ozone Transport Commission, March 2, 2007.

in which generators can submit a plan for meeting the 2009 reduction goals. One commenter stated that these plans should allow innovative strategies for New Jersey to meet the 19.8 tpd NO_x reduction commitment in the MOU, and that likewise align with the EMP goals. **(Daniel Cunningham, PSEG Services Corporation)**

Response: In consideration of the fact that the short-term goals for the HEDD program need to obtain emission reductions from this source category by 2009, the NJDEP intends to provide significant flexibility to the generators by allowing them to submit their own plans for meeting those goals in a way which would result in the most efficient and effective means of control. The NJDEP agrees with the commenter that this flexibility could result in more innovation from the regulated community to meet the short-term goal, and that given the timing of the Energy Master Plan (EMP) (draft scheduled to be released in the fall of 2007), will allow for these reductions to occur in time to benefit that effort as well.

- 14) Comment: A commenter agreed with the NJDEP that the modeling may have underestimated the benefits from regional NO_x controls. The commenter said that recognizing the modeling's shortcomings is key to developing strategies for further reductions in ozone precursors and is further support that certain pollutants such as NO_x are best regulated on a regional basis. **(Daniel Cunningham, PSEG Services Corporation)**

Response: The NJDEP noted in its proposed SIP revision that “[w]hile the USEPA attainment demonstration guidance emphasizes a single design value from a single modeling simulation as the core of any attainment demonstration, it also supports, in conjunction with the Clean Air Act Advisory Committee (CAAAC), those states utilizing a multi-analysis approach to their 8-hour ozone attainment demonstrations. This is because the principles of atmospheric science acknowledge that, in using models, all of the uncertainties and biases need to be considered.” The NJDEP agrees with the commenter that a broader analysis than one limited to reliance on photochemical modeling results is needed to more accurately demonstrate attainment.

- 15) Comment: A commenter said that, given that the Energy Master Plan (EMP) initiatives will be rolled out during the 2008-2010 timeframe, any rulemakings and policies related to clean distributed generation and energy efficiency that place less demand on HEDD units should be evaluated prior to committing to traditional emission standards for HEDD units. The commenter committed to continue dialogue and information-sharing with the NJDEP to work toward a flexible, market-based solution to control measures for HEDD units. **(Daniel Cunningham, PSEG Services Corporation)**

Response: The EMP is expected to support measures that reduce the demand for electricity, including the demand for electricity on high electrical demand days. This should result in less demand for HEDD units which will be consistent with both the 2009 and 2015 strategies to reduce NO_x because the generation of electricity using these higher emitting units could be reduced or eliminated. As noted in the response to Comment #13, given the magnitude of increased emissions from HEDD units on high electrical demand days and their impact on public health, it is necessary to move forward and establish longer term emission standards which will ensure clean future generation.

16) Comment: The NJDEP's RFP demonstration highlighted the significant contribution of onroad and nonroad mobile sources to the overall NO_x emissions in New Jersey. One commenter stated that while New Jersey's efforts to reduce these emissions should be applauded, mobile sources will still account for over 80 percent of the total annual NO_x emissions in the State by 2008. He said that the most substantial reductions, and air quality benefits, should be made from mobile sources. **(Daniel Cunningham, PSEG Services Corporation)**

Response: The NJDEP is aware of the significant contribution mobile sources make to New Jersey's overall emissions inventory. It is for this reason that the NJDEP has implemented mobile source programs such as its inspection and maintenance (I/M) programs for both gasoline and diesel vehicles and requirements for Low Emission Vehicles (LEVs). New Jersey is currently working to update and enhance both its gasoline and diesel I/M programs, and is one of the most active states in implementing diesel initiatives, including enhanced idling regulations and retrofit requirements. In addition, New Jersey and the rest of the OTC states recommended that the USEPA propose new nonroad spark-ignition engine standards comparable to California's standards (which the states were pre-empted from adopting), which the USEPA did this past May. The NJDEP encourages the stationary source community to continue to be a stakeholder in mobile source initiatives, both at the state and national level. One of the State's most effective ozone control strategies was the NO_x budget program, which demonstrated the significant impact of stationary sources on air quality. The HEDD units are particularly important for ozone reductions because they operate disproportionately on high ozone days, frequently doubling the NO_x emissions from electric generating units on high ozone days.

20) Comment: One commenter noted that the 2008 and 2009 ozone budgets for the North Jersey Metropolitan Planning Organization (MPO) of the North Jersey Transportation Planning Authority (NJTPA) were developed using the newly developed model (NJRTME). However, due to a time constraint, the model version available at the time of the analysis was not the final version. The model has subsequently gone through further refinements to achieve better validation results. Therefore, he recommended that the NJDEP revisit the ozone budgets when the final model becomes available and amend the budgets, if necessary. **(James R. DeRose, New Jersey Department of Transportation (NJDOT))**

Response: The NJDEP has reviewed the onroad activity data generated by the most recent version of the NJTPA transportation demand model as provided by NJDOT. Very small changes to the 2008 transportation conformity budgets were necessary. These changes resulted in a small net decrease in the sum of VOC and NO_x emission projections for 2008 and are considered to be technical adjustments. There were no changes to the 2009 budgets. The tables containing the Reasonable Further Progress (RFP) calculations were also updated to maintain their consistency with the 2008 transportation conformity budgets. The conclusions of the RFP analysis are not affected by this technical adjustment.

21) Comment: The commenter understands that the NJDEP intends to issue new regulations that establish a maximum NO_x emission rate for glass furnaces at 4.0 pounds emitted per ton of

glass pulled. They further understand that this emission limit will be applicable on a furnace-by-furnace basis and only immediately after a furnace is rebrick/rebuilt. The comment supports the establishment of this emission limit, applicable only after furnace rebuild. (**W. Todd Ruff, Durand Glass Manufacturing Company, Inc.**)

Response: The NJDEP appreciates the commenter's support of its proposed plan to reduce emissions from glass furnaces. The commenter's outline of the current proposed plan is accurate; that is, the NJDEP plans to propose regulations establishing a maximum NO_x emission rate of 4.0 pounds emitted per ton of glass pulled after furnace rebuilds. This plan was formulated after input/discussion with affected parties who provided the NJDEP with additional information and data in order to help determine how to best reduce NO_x emissions from this industry. The NJDEP expects to propose its new glass furnace regulations by the end of 2007, and reminds the commenter that this proposal will be subject to public comment.

22) Comment: The commenter (who is the only member of the tableware glass industry segment operating in New Jersey) said that the State of the Art Manual for the Glass Industry recognizes that tableware glass is a discrete glass industry segment and the NJDEP has officially recognized that glass tableware is a different source category from other types of glass such as container glass, flat glass, and specialty glass (see N.J.A.C. 7:27-19). The commenter further listed a number of distinctions between tableware glass and other glass categories, which included the following:

- Tableware glass recipes use higher purity materials and include sodium nitrate, which affects NO_x emission levels.
- Tableware furnaces are much smaller, have an end-port design, and have both a longer retention time for molten glass in the furnace and a higher refining temperature to achieve the necessary product quality.
- Tableware soda-lime glass furnaces usually maintain a higher air to gas ratio within the furnace to achieve the necessary optical product quality.

Given these distinctions, the tableware glass industry is particularly sensitive to the potential imposition of Oxyfuel requirements, which are inconsistent with the special performance requirements of tableware glass furnaces. Oxyfuel is not a technically valid method of reducing emissions from tableware glass furnaces, particularly for end-port fired furnaces. The commenter notes that its end-port fired furnaces already have inherently low NO_x emissions due to actions taken in the past. The presence of sodium nitrate and the higher air ratios required in tableware glass furnaces significantly eliminate a large portion of Oxyfuel's theoretical NO_x emission reductions. Therefore, the commenter endorsed the NJDEP's proposal to establish an industry-wide emission limit, as opposed to a requirement mandating any specific control technology or technique (such as oxyfire). (**W. Todd Ruff, Durand Glass Manufacturing Company, Inc.**)

Response: Where feasible the NJDEP prefers to establish an industry-wide emission performance limit, rather than require the use of a specific control technology. The NJDEP appreciates the commenter's endorsement of this plan.

23) **Comment:** The commenter requested that to the extent that the proposed limit for glass furnaces is not necessary as part of a SIP amendment, the NJDEP consider further case-by-case flexibility for a facility to address NO_x emissions. **(W. Todd Ruff, Durand Glass Manufacturing Company, Inc.)**

Response: On June 15, 2007, the NJDEP submitted its proposed 8-hour Ozone Attainment Demonstration SIP revision to the USEPA for their review and consideration. The core of this proposed SIP revision provides a plausible demonstration that its two multi-state 8-hour ozone nonattainment areas (one associated with the New York City Metropolitan Area, and a portion of New York and Connecticut in the North; the other associated with the Philadelphia Metropolitan Area, all of Delaware, and portions of Pennsylvania and Maryland in the South) will attain the 8-hour ozone NAAQS by their mandatory attainment date of June 15, 2010. To make this demonstration, the NJDEP, and its neighboring states, considered the impact of implementing numerous control measures prior to the 2010 attainment data. These control measures were included as part of a modeling run to demonstrate attainment of the health-based standard (hereafter referred to as the 2009 attainment demonstration modeling).

Because the glass manufacturing control measure, as outlined in Comment #21, has a phased-in implementation schedule based on furnace rebuilds, the emission reductions from that measure were not anticipated until after the 2010 attainment date. This measure was not included in the 2009 attainment demonstration modeling. Its benefits were, however, included in a 2012 modeling run, and the results from this modeling exercise were referenced in Chapters 5 and 8 (Attainment Demonstration and Contingency Measures) of the proposed SIP revision. These additional air quality benefits are further evidence of the State's, and the Ozone Transport Region's, continued efforts toward maintaining the current 8-hour ozone NAAQS, providing added public health and environmental protection to address adverse impacts of ozone below the current NAAQS, and making longer term progress toward attaining a future, more stringent NAAQS, which has been proposed by the USEPA.

24) **Comment:** PSEG Fossil committed to “achieving dramatic further reductions in NO_x emissions, as well as particulate matter (PM) and sulfur dioxide (SO₂) emissions, from its coal-fired EGUs and the peaking units in its New Jersey fleet.” **(Daniel Cunningham, PSEG Services Corporation)**

Response: The NJDEP commends PSEG Fossil for its commitments to further reduce NO_x, PM, and SO₂ emissions from its coal-fired EGUs and peaking units. It is only with this kind of cooperation from the regulated community that the State can achieve its attainment goals and, most importantly, protect the health and welfare of those who live, work, and play in New Jersey.

Department-initiated Changes

In addition to non-substantive minor and/or stylistic edits (i.e., correcting typos, adjusting spacing, ensuring consistency, etc.), the NJDEP made more substantive changes when finalizing

the document and its appendices for submittal to the USEPA. Those changes are described here.

Preliminary ozone data was used in the proposed SIP revision. Subsequently, the ozone data for 2006 were finalized. These final ozone data were incorporated into the final SIP revision.

The RACT SIP was finalized on August 1, 2007. As such, all references to the RACT SIP revision were updated to reflect its adoption.

In Chapter 4 (Control Measures), some of the descriptions for New Jersey RACT controls were clarified to reflect the most current draft rulemakings in progress. In addition, based on discussions with the USEPA, on page 4-11 (top paragraph) the text, “NLEV Program starting with model year 2006” was corrected to “NLEV Program *ending* with model year 2006.”

In Chapter 5 (Attainment Demonstration), Table 5.2 was updated to reflect New Jersey’s commitment to the 2009 beyond on the way (BOTW) control measure for Industrial, Commercial and Institutional (ICI) boilers, 100-250 MMBtu/hr. The notes to Table 5.11 were corrected to match the appropriate control measures, and the control measure descriptions were revised to match those used in Chapter 4 (Control Measures). In addition, based upon discussions with the USEPA, Figure 5.9 was revised to only show the monitors with the highest 2002 and 2009 8-hour design values, rather than incorporating the averaged design values for the New Jersey portions of the Northern New Jersey/New York/Connecticut and Southern New Jersey/Philadelphia nonattainment areas. The associated text was also revised to reflect the change in the figure. Finally, based upon discussions with the NJBPU, the description of energy savings and alternative energy strategies in Chapter 5 was clarified. It was also revised to more accurately reflect the coordination between the NJDEP and the NJBPU on quantifying benefits for SIP credit.

In Chapter 6 (Reasonable Further Progress (RFP)), changes in Tables 6.1-6.3, 6.11-6.16, and Figures 6.1-6.2 were made corresponding to the technical adjustment referenced above in comment 20. In addition, minor tabulation errors were resolved in Tables 6.1 through 6.3. Inventory numbers referenced in other chapters of the SIP revision were also updated to reflect these changes.

Emission reductions estimated for control measures included in Appendix D13 and used for some of the contingency measures in Chapter 8 were revised to reflect the most current draft rulemaking proposals.

In Chapter 10 (Conformity), changes in Table 10.1 were made corresponding to the technical adjustment referenced above in comment 20.

In Chapter 12 (Consideration of a New 8-Hour Ozone Health Standard), the text was updated to reflect the publication of the USEPA’s proposal for the new 8-hour ozone NAAQS (72 Fed. Reg. 37818 (July 11, 2007)).