

Appendix 10-1: **Public Participation**

New Jersey certifies that the requirements of 40 C.F.R. §51.102(a) and (d) for public hearings and notice have been met. A public hearing on the proposed State Implementation Plan (SIP) revision was held on Tuesday, November 28, 2017 at 10:00 a.m. at the NJDEP. 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), 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, Friday, December 1, 2017.

Notice of the proposed SIP, availability and the public hearing was published on the NJDEP's website and issued on two NJDEP air quality listservs on October 27, 2017. In addition, interested parties not on the NJDEP's listservs were emailed the notice, along with air quality contacts from other states, air quality regional organizations and the United States Environmental Protection Agency (USEPA). Additional notification consisted of emailing the notice to contacts at public libraries throughout the State and to NJDEP's three regional Compliance and Enforcement offices. These notices were issued at least 30 days prior to the public hearing and close of comment period.

Attachment 1 contains documentation of the public notice including:

1. The public notice posted on the website announcing the availability of the proposed SIP revision and the public hearing;
2. The NJDEP website postings; and
3. The NJDEP listserv emails.

During the hearing and comment period, comments were received on the proposed SIP revision. The following person submitted written comments:

1. Richard Ruvo, Chief, Air Programs Branch, USEPA Region II

No persons testified at the public hearing. The submitted comments and the State's responses are summarized below. After each comment is the name of the commenter and their affiliation(s).

1. Comment: While New Jersey's proposal identifies the significant progress the State has made towards attainment, the proposed SIP does not demonstrate attainment by July 20, 2018. Based on certified ozone data from 2014-2016, the area's design value is 83 ppb. In addition, preliminary ozone data for 2017 appear to show that this area will not be able to attain the 2008 ozone NAAQS by its attainment date, nor meet the criteria for a 1-year extension of the attainment date under Clean Air Act (CAA) section 181(a)(5).

Furthermore, on November 10, 2017, the New York Department of Environmental Conservation (DEC) submitted a SIP revision which includes an attainment demonstration for the NY-NJ-CT nonattainment area. As stated in that SIP, the New York "DEC calls upon USEPA to issue a timely reclassification to serious nonattainment for the tri-state New York Metropolitan Area, and to place the affected states on a schedule that would lead to attainment by the serious area deadline of July 20, 2021 (based on 2018-2020 monitored data)." CAA section 181(b)(3) provides for states to be able to seek reclassification voluntarily for areas that cannot timely

attain the NAAQS, such as the Northern NJ-NY-CT Nonattainment Area. The statute also requires states with multi-state nonattainment areas to coordinate their attainment planning and control strategy development for a shared area (see CAA 182(j)). USEPA expects that New Jersey is closely coordinating with New York and Connecticut in its planning for this area and is therefore considering options such as also requesting a voluntary reclassification for this area.

Submitting a reclassification request at this time will give the states additional time to determine the amount of reductions necessary to reach attainment and to develop and adopt strategies to further reduce emissions. The additional time will also enable the nonattainment area to realize any additional emissions reductions that may be achieved by existing control strategies, including USEPA's Cross State Air Pollution Rule Update and Tier 3 Motor Vehicle Emission Standards. We recognize that New Jersey has already made significant progress in reducing emissions and we encourage the state to continue its efforts both individually and with other states as part of the Ozone Transport Commission. (Richard Ruvo, Chief, Air Programs Branch, USEPA Region II)

Response: Regarding the comment that multi-state nonattainment areas must coordinate their attainment planning and control strategy development for a shared area multi-state nonattainment, New Jersey agrees and has coordinated extensively with New York and Connecticut. In addition, New Jersey has worked with the Ozone Transport Region (OTR) states through the Ozone Transport Commission (OTC) workgroups. Two of the three states in New Jersey's Northern NJ-NY-CT Nonattainment Area, New Jersey and Connecticut, submitted the same approach to attainment in their SIP submittals that did not include a request for a reclassification.

USEPA commented that New Jersey should consider requesting a voluntary reclassification for this area because this will allow more time for emissions reductions that may be achieved by existing control strategies, including USEPA's Cross State Air Pollution Rule (CSAPR) Update and Tier 3 Motor Vehicle Emission Standards. New Jersey does not agree with a three-year delay associated with a reclassification for other states to adopt rules that New Jersey has had in place for some time.

Allowing more time for fleet turnover from Tier 3 to reduce emissions is not a valid reason for an extension of time for past due commitments. New York has not completed its commitments from its 84 ppb attainment demonstration dated February 2008, which should be done as expeditiously as practical, and not extended three years. In its 2008 SIP, New York committed to a High Electric Demand Day (HEDD) rule and a Distributed Generation (DG) rule that would reduce emissions approximately 50 tons per day on a HEDD day.

Furthermore, the CSAPR update was a partial remedy, not a full remedy, as described by USEPA. It does not even require or guarantee that states with controls on electric generating units (EGUs) will be required to operate the controls. New Jersey has controlled its EGUs and does not need more time to do so.

2. Comment: New Jersey identifies a number of additional measures that they feel should be adopted by USEPA and surrounding states that would aid in attainment of the 2008 ozone NAAQS in the NY-NJ-CT Nonattainment Area. New Jersey should provide supporting technical analyses that support that assessment. (Richard Ruvo, Chief, Air Programs Branch, USEPA Region II)

Response: The Good Neighbor provision of the Clean Air Act requires upwind states to address their contribution to downwind nonattainment within three years of a revised NAAQS. This timeframe is ahead of the requirement for nonattainment areas to submit an attainment demonstration plan for meeting the attainment deadline associated with the assigned classification (three years from final designation.) For the 2008 75 ppb ozone NAAQS, the deadline for States to comply with the Good Neighbor requirements was March 2011. To date, these requirements have not been met by USEPA for the 2008 75 ppb ozone NAAQS. By requiring nonattainment areas to demonstrate attainment without control measures from upwind sources to address transported ozone, USEPA is over-controlling New Jersey, essentially requiring New Jersey to create emission reductions in-state to offset the pollution created upwind of their state borders. In the instance of the Northern NJ-NY-CT nonattainment area, this would equate to the tri-state area being accountable for ozone pollution created by 14 upwind states.

USEPA defined a 4-step framework for addressing interstate transport to apply to the 75 ppb ozone NAAQS.¹ Step 3 of this framework included the identification of “upwind emissions that significantly contribute to nonattainment...,” and the quantification of “upwind reductions in ozone precursor emissions and apportioning upwind responsibility.” To date, the USEPA has not quantified the reductions or responsibilities of the significant states that contribute to nonattainment in the Northern NJ-NY-CT nonattainment area. Without this quantification, the reductions could not be incorporated into the SIP modeling to demonstrate the ozone reductions that could have been achieved by the July 20, 2018 attainment date.

USEPA performed modeling that projected the 2017 ozone contributions by individual states to the Northern NJ-NY-CT nonattainment area’s design value monitor of Westport, CT monitor (Sherwood Island Connector – Fairfield Co., CT Monitor ID No. 090019003). The data associated with the USEPA modeling is included in the technical support document for the final CSAPR², dated August 2016. The 2016 design value for the Westport monitor is 83 ppb, based on recent monitoring data and air quality modeling. Table 10-1 contains the contributions from states that contribute significantly (>0.75 ppb) to the ozone levels measured at the Westport monitor. The individual state ozone contributions on a percentage basis were obtained from the USEPA’s “Data File with Ozone Design Values and Ozone Contributions.”³ These percentages were applied to the Westport 2016 ozone design value of 83 ppb to estimate the state contributions expressed as ppb of ozone.

¹ https://www.epa.gov/sites/production/files/2017-06/documents/final_finalcsaprur_factsheet.pdf (December 6, 2017).

² 81 FR 74504 (October 26, 2016).

³ Ibid.

**Table 10-1 - Significant Contributors to the Controlling Monitor (Westport Connecticut)
in the NNJ-NY-CT Nonattainment Area**

	Ozone Transport Region (OTR) States Ozone Contribution to Monitor (ppb)					Non-OTR States* Ozone Contribution
	CT	NJ	NY	PA	MD	
State Percent Contributions to the Westport Monitor Ozone Levels (%)	5%	12%	23%	12%	3%	8%
State Contributions to the Westport Monitor Scaled to the 2016 Preliminary Design Value of 83 ppb (ppb Ozone)	4.2	10.4	18.8	10.1	2.3	7.0

*Includes Indiana, Michigan, Ohio, Virginia, and West Virginia.

As shown in Table 10-1, the interstate transport of pollutants from significantly contributing upwind states make up 23% of the ozone contribution at the Westport, CT monitor. It is unreasonable for USEPA to expect the states within the Northern NJ-NY-CT nonattainment area to account for and determine additional control measures for ozone contributions beyond their jurisdiction to meet the 75ppb ozone standard. New Jersey's 2017 NO_x summer day inventory consists of 31% NO_x emissions from stationary sources (point and area sources) and 69% NO_x emissions from mobile sources (onroad and nonroad sources). Theoretically, if New Jersey were to reduce all NO_x emissions from stationary sources to zero, it would only result in a reduction in ozone design value of about 3.2 ppb at the Westport monitor (31% of 10.4 ppb). Even in this extreme scenario, the Westport monitor would still be significantly above the 75 ppb standard (83 ppb – 3.2 ppb = 80 ppb). This simple technical analysis supports New Jersey's contention that attainment of the 75 ppb ozone NAAQS will occur when USEPA and surrounding states implement additional control measures necessary to account for ozone transport in the NJ-NY-CT nonattainment area.

Regarding emission reductions from New York EGUs and distributed generation, New York estimated in their February 2008 Ozone Attainment Demonstration that rules addressing HEDD and distributed generation (DG) would result in an estimated NO_x reduction of 50 tons per day on a HEDD day. This estimate is consistent with New Jersey's estimate for New Jersey's HEDD rule, which was implemented in 2009 (Phase I) and 2015 (Phase II). Actual reductions from New York HEDD and DG rules may achieve more than 50 tons per day. New Jersey also implemented EGU rules, which set standards for coal, gas and oil-fired boilers serving EGUs that were effective in 2012. Due in large part to these rules, New Jersey's ozone design values had significant decreases ranging from two to 10 ppb in New Jersey's monitors in the NJ-NY-CT nonattainment area. A decrease from two to 12 ppb in New Jersey's monitors in the NJ-PA-DE-MD nonattainment area from 2011 to 2016 was also observed. Preliminary 2017 data is also consistent with this pattern with even larger decreases in some monitors. These decreases are even greater from the 2012 and 2013 design values (four to 15 ppb), because the low 2011 design values were influenced by the lower than average values in 2009 due to a cooler than normal summer. The New York monitors directly downwind of New Jersey have also shown significant decreases from 2011 to preliminary 2017 monitoring data ranging from one to nine ppb. As discussed in New Jersey's and New York's SIPs, the combined effect of EGUs on HEDD days and monitors located on the coastline of the bay cannot be modeled accurately, however, the monitoring data contained within the SIP demonstrates the results of New Jersey's EGU rules.

Summary of Agency-Initiated Changes:

New Jersey made the following non-substantive and/or editorial changes to the SIP as follows:

- Added Appendix 10-1 to document the public participation and notice procedures conducted by New Jersey.
- Updated the SIP to include New Jersey rule adoptions for four CTGs, stationary gas turbines and engines, Phase I (unloading and loading) and Phase II (refueling) gasoline vapor recovery systems and emission offsets.
- Incorporated the USEPA September 21, 2017 approval of New Jersey's 2011 Inventory SIP dated June 11, 2015 on page 4-7.
- Incorporated the USEPA October 24, 2017 approval of New Jersey's Exceptional Event demonstration dated May 31, 2017 in the air monitoring chapter and in tables and figures containing monitoring data.
- Minor updates to the inventory trends charts in Figures 4-1 and 4-2 for prescribed burning, EGUs, portable fuel containers and refueling emissions.
- Reorganized the modeling inventory in Appendix 4-4 to remove refueling from onroad emissions into its own worksheet, and subsequently moved into area sources for summary and graphing purposes in Figures 4-1 and 4-2. USEPA includes refueling in onroad emissions in their modeling platforms, upon which New Jersey's modeling platform is based, because they use the MOVES model to calculate the emissions. However, refueling emissions are stationary area sources.
- Clarified in Table 4-2 the location of emissions for airports, Phase I (unloading and loading) and Phase II (refueling) at gasoline service stations in the modeling files.
- Clarified in Appendix 4-5 and Appendix 4-5, Attachment 6, that Stage II refueling emissions in the area source inventory have been renamed to Gasoline Service Stations/Refueling (Phase II and ORVR: Total) to clarify that the emissions are from refueling controlled by both ORVR and Phase II vapor recovery systems.
- Changed Stage I and Stage II to Phase I and Phase II to be consistent with New Jersey's adopted rule.
- Added additional discussions regarding the decreases in ozone monitored design values in New Jersey as shown in Figure 2-7 and Appendix 2-1.

Attachment 1:
Public Notice Documentation