

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

**State Implementation Plan (SIP) Revision for
the Attainment and Maintenance of the
Fine Particulate Matter (PM_{2.5}) National Ambient Air
Quality Standard**

**PM_{2.5} Attainment Demonstration
Final**

Appendix F: Public Participation

March 24, 2009

A public hearing on this proposed SIP revision was held on Friday, August 8, 2008 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, Friday, August 15, 2008. 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 August 4, 2008 edition of the New Jersey Register (40 N.J.R. 4630(b)). 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

March 24, 2009



New Jersey Department of Environmental Protection

NOTICE OF PUBLIC HEARING AND AVAILABILITY:

State Implementation Plan (SIP) Revision for the Attainment and Maintenance of the Fine Particulate Matter (PM_{2.5}) National Ambient Air Quality Standard, PM_{2.5} 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 1997 Annual Fine Particulate Matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS). A copy of the proposal was forwarded to the United States Environmental Protection Agency (USEPA) by July 8, 2008.

The purpose of this proposed SIP is to demonstrate that New Jersey's two (2) associated multi-state nonattainment areas will attain the 1997 PM_{2.5} annual NAAQS by the attainment date, April 5, 2010. The proposal also addresses the other mandatory SIP elements associated with the 1997 annual PM_{2.5} NAAQS. Specifically, the primary components of the SIP revision proposal are:

- 1) A 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 1997 health-based annual PM_{2.5} NAAQS by their mandatory attainment date of April 5, 2010. This demonstration is based on the Ozone Transport Commission-wide regional 2009 air quality modeling used in the State's recent 8-hour ozone attainment demonstration submittal. The demonstration relies upon New Jersey and the rest of the OTC states honoring their commitments to implement the "beyond on the way" control measures contained in the regional 2009 attainment modeling.
- 2) A Reasonably Available Control Technology (RACT) analysis which demonstrates the need for additional reductions from source categories including refineries, fugitive dust emissions at major stationary sources, #6 fuel oil from boilers, and stationary diesel engines.
- 3) A Reasonably Available Control Measures (RACM) analysis which demonstrates that there are no other reasonable control measures available that would advance the nonattainment areas' attainment date by one year.
- 4) Contingency measures that provide additional emission reductions should New Jersey fail to attain the annual PM_{2.5} standard by April 5, 2010.

- 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) 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:

Friday, August 8, 2008 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 15, 2008**, to:

NJ Department of Environmental Protection
Alice A. Previte, Esq.
Attn: DEP Docket # 08-08-06
Office of Legal Affairs
P.O. Box 402
Trenton, New Jersey 08625-0402

The Department of Environmental Protection (Department) requests that commenters submit comments on disk or CD as well as on paper. Submittals on disk or CD must not be access-restricted (locked or read-only) in order to facilitate use by the Department of the electronically submitted comments.

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

DEP Bureau of Enforcement
Northern Region
7 Ridgedale Avenue
Cedar Knolls, N.J. 07927

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

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

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

Penns Grove/Carney's Point Public Library

222 South Broad Street
Penns Grove, N.J. 08069

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

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

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

Ms. Ellen Calhoun
Library of Science and Medicine, Rutgers

P.O. Box 1029
Piscataway, N.J. 08855-1029

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

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

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

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

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

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

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

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

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 Fine Particulate Matter (PM_{2.5}) National Ambient Air Quality Standard, PM_{2.5} 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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Appendix F: Public Participation

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

March 24, 2009

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

March 24, 2009

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Attachment 3: Response to Comment Document

During the hearing and comment period, 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: One commenter stated that the Clean Air Interstate Rule (CAIR) was vacated by the United States Court of Appeals on July 11, 2008. The USEPA is currently reviewing the decision and determining the next steps to take in response to the decision. The commenter stated that since New Jersey's proposed PM_{2.5} SIP relies on CAIR for the contingency measures and also included CAIR reductions in the photochemical modeling, New Jersey should consider how the CAIR vacatur will impact the final PM_{2.5} SIP. The commenter stated that New Jersey's PM_{2.5} SIP may need to be modified to reflect the absence of the emission reductions from this program. **(Richard Ruvo, United States Environmental Protection Agency (USEPA) Region 2)**

Response: On December 23, 2008, the court remanded the CAIR to the USEPA without vacatur of CAIR "so that EPA may remedy CAIR's flaws in accordance with" the court's July 2008 opinion vacating CAIR. The court gave no deadline for the USEPA rulemaking, but it said:

"[W]e remind EPA that we do not intend to grant an indefinite stay of the effectiveness of this court's decision. Our opinion revealed CAIR's fundamental flaws, which EPA must still remedy. Further, we remind the Petitioners that they may bring a mandamus petition to this court in the event that EPA fails to modify CAIR in a manner consistent with our July 11, 2008 opinion." (Order at 1, Dec. 23, 2008.)

Therefore, the anticipated vacatur no longer applies since a mandate by the court was never issued on the July 11, 2008 opinion (*State of North Carolina v. Environmental Protection Agency*, 531 F.3d 896 (D.C. Cir. 2008)). In light of the court decisions made after the proposal of the SIP revision, CAIR remains in full effect.

However, New Jersey has grave doubts that the implementation of CAIR alone will be sufficient to address interstate transport issues, especially for the Northeastern and Mid-Atlantic United States. According to 2010 CAIR modeling, transported emissions from six states contribute significantly to New Jersey's PM_{2.5} nonattainment. In addition, CAIR focuses solely on Electric Generating Units (EGUs), and does not address interstate transport of emissions from other sectors (non-EGU, mobile, area).

Other states' failure to address their contribution to the New Jersey associated multi-state nonattainment areas' air quality problems could result in New Jersey's associated multi-state nonattainment areas' inability to meet their attainment goal. New Jersey relies on the USEPA to ensure sufficient progress in securing upwind emission reductions in accordance with Section 110(a)(2) of the Clean Air Act to provide for expeditious attainment of the PM_{2.5} NAAQS. New Jersey is relying upon the USEPA to provide sufficient emission reductions from upwind sources

coupled with the interstate reductions provided in this plan to bring the multi-state nonattainment areas into attainment with the 1997 PM_{2.5} health standards and maintain them.

In response to the anticipated vacatur, the SO₂ emission reductions from the CAIR that were being used as a Contingency Measure (Chapter 6) were replaced by the emission reductions from a Consent Decree for the Hudson Generating Station (Unit 2). New Jersey did not reverse these changes due to the recent court decisions as both measures will provide sufficient emission reductions to meet contingency requirements.

We continue to rely on the USEPA requiring sufficient reductions from out of state EGUs with the court ordered improvements to CAIR.

The following changes were made to the SIP based on this comment:

In Chapter 4 (Control Measures), “Controls from EGU Consent Decrees (PSE&G Mercer and Hudson)” were added as control measures in Section 4.3.1.5.5. These control measures were also added to Table 4.5.

In Chapter 5 (Attainment Demonstration), on page 5-43, CAIR was removed as a contingency measure and replaced with Controls from EGU Consent Decree (PSE&G Hudson SO₂). On page 5-43, language about the 2002 consent decrees was moved to Chapter 4. On Page 5-46, references to the CAIR NO_x trading program were removed.

In Chapter 6 (Contingency Measures), the CAIR contingency measure was removed from Tables 6.1 and 6.2 and the list of contingency measures. “Controls from EGU Consent Decrees (PSE&G Hudson SO₂)” were added to Table 6.1 and to the contingency measures list.

In Chapter 9 (Commitments and Requests for Future Action), the CAIR contingency measure was removed from Table 9.1 and replaced with SO₂ Controls from EGU Consent Decrees (PSE&G Hudson SO₂).

In Appendix C (Contingency Measure Calculations), the CAIR contingency section was removed and replaced with a section describing SO₂ Controls from EGU Consent Decrees. Additionally, CAIR was removed from the list of contingency measures and replaced with Controls from EGU Consent Decree (PSE&G Hudson SO₂).

2) Comment: One commenter stated that MOBILE6.2 does not estimate any emission credit for diesel inspection and maintenance programs, and the USEPA has not approved of any alternate methods. Therefore, New Jersey cannot claim any emissions credit from changes to its diesel I/M cutpoint rule. **(Richard Ruvo, USEPA Region 2)**

Response: Although MOBILE6.2 does not estimate any emission credit for diesel inspection and maintenance programs, New Jersey’s diesel I/M cutpoint air rule will result in emission reductions. New Jersey will not allocate this measure as a contingency measure, however, a description of this measure is still included in Chapter 4 (Control Measures), as it is still a control measure being implemented by the Department to reduce PM_{2.5} air pollution. The estimated

emission reductions that were included in the contingency section of the SIP are still anticipated reductions from the rule, but will not be used for contingency. Inspection and maintenance programs are effective in reducing emissions. The USEPA's model fails to reflect the degradation of emission control systems. The USEPA should consider modifications to the model to consider degradation of emission control systems in order to accurately reflect emissions from diesel powered vehicles.

Based on this comment, the diesel smoke (I/M cutpoint) rule was removed as a contingency measure. References to the rule were removed from Chapter 6 and Appendix C (Contingency Measures), but were not removed from Chapter 4 where the measure is described. The estimated quantification of the measure has been included in Chapter 5.

3) Comment: The Northern New Jersey/New York Connecticut and Southern New Jersey/Philadelphia areas are classified as nonattainment for PM_{2.5} - for both areas the attainment date is April 5, 2010. Provide a demonstration for each PM_{2.5} nonattainment area which shows how future control measures and the associated emission control credits by source sector (point, area, nonroad and onroad mobile sources) are enough to meet the attainment year target levels. **(Richard Ruvo, USEPA Region 2)**

Response: As discussed in the SIP in Chapter 5, the inventories used in the attainment demonstration were developed on a regional basis by the Ozone Transport Commission (OTC) and the Mid-Atlantic Regional Air Management Association (MARAMA). Development of the 2002 base inventory and future year projection inventories are discussed in the report prepared by MARAMA titled, "Development of Emission Projections for 2009, 2012, and 2018 for NonEGU Point, Area, and Nonroad Source in the MANE-VU Region, Final Report," dated February 2007, and in the report prepared by MARAMA titled "Technical Support Document for 2002 MANE-VU SIP Modeling Inventories, Version 3," dated November 20, 2006. These reports were included in the SIP as Appendices B5-2 and B4. The inventory files discussed in the reports can be found on the MARAMA website at: http://www.marama.org/visibility/EI_Projects/index.html

The NJDEP will work with the USEPA to provide a technical supplement to the PM_{2.5} SIP, which further summarizes the inventories and control measures used in the modeling in a mutually agreeable format and timeframe. This work will use the information readily available from MARAMA.

4) Comment: The commenters stated that a 12.0 µg/m³ annual fine PM standard should be instituted for New Jersey. The commenters stated that since New Jersey has the legal authority to set the annual PM_{2.5} standard to 12.0 µg/m³, there is no need for the State to wait for the Federal government to lower the standard. The commenters stated that the NJDEP should include a recommendation in its PM_{2.5} SIP that the annual PM_{2.5} standard for New Jersey be decreased from 15.0 µg/m³ to 12.0 µg/m³. The commenters stated that if a 12.0 µg/m³ standard were legally established in the State, it would provide the NJDEP with additional legal and political power to implement policies that would lower PM_{2.5} concentrations below this level. According to the commenters, the lower annual standard would also help the State to attain the new daily PM_{2.5} standard of 35 µg/m³. **(New Jersey Environmental Justice Alliance (NJEJA),**

Environmental Research Foundation (ERF), Change to Win (CtW), International Brotherhood of Teamsters (IBT), and Coalition for Healthy Ports (CHPs))

Response: As stated in the PM_{2.5} SIP proposal, while New Jersey has not taken official steps to establish its own air quality standards for PM_{2.5}, the NJDEP's air quality goal is to achieve an annual PM_{2.5} level of 12 µg/m³.

A goal of 12 µg/m³ is a 20 percent reduction from the Federal annual PM_{2.5} NAAQS established in 1997. Proceeding through the process to establish a new state ambient air quality standard will take a tremendous amount of time and resources. Taking steps to achieve the air quality goal is a better use of limited resources than focusing the efforts on establishing a 12 µg/m³ ambient standard sometime in the future.

5) Comment: Some commenters requested that the NJDEP should establish a moratorium on the issuance of air pollution permits for overburdened environmental justice neighborhoods that fail to achieve attainment of the annual fine particulate matter standard by April 5, 2010. The commenters stated that overburdened neighborhoods should be identified. Then a community-based monitoring system should be established in the overburdened communities to determine whether the Federal PM_{2.5} standard has been achieved. If the standard has not been achieved, air pollution permits should be withheld until PM_{2.5} concentrations are decreased to the NJDEP's goal of 12.0 µg/m³. The commenters suggested that if New Jersey institutes a 12.0 µg/m³ annual standard, then no air pollution permits should be issued in overburdened Environmental Justice (EJ) neighborhoods that fail to attain that standard, and the moratorium should remain in place until concentrations are reduced to 9.6 µg/m³ (80% of that standard). The commenters stated that this pollution control strategy is a limited, well-defined use of a moratorium policy that recognizes the possible cumulative impacts on local residents of multiple pollution sources and limits fine PM air pollution in overburdened Environmental Justice neighborhoods. The commenters noted that the PM_{2.5} SIP states that the NJDEP is committed to assessing cumulative impact policies. The commenters state that the 1954 New Jersey Air Pollution Control Law and New Jersey Administrative Code provide the NJDEP with the legal authority to establish a moratorium on the issuance of air pollution permits under these circumstances. **(New Jersey Environmental Justice Alliance (NJEJA), Environmental Research Foundation (ERF), Change to Win (CtW), International Brotherhood of Teamsters (IBT), and Coalition for Healthy Ports (CHPs))**

Response: Air pollution permits serve many purposes, among them, to reduce air pollution issues. Permits for new and modified sources result in reductions of air pollution, not increases, as generally older, more polluting sources are replaced.

The 1954 New Jersey Air Pollution Control (APC) Act and New Jersey Administrative Code (NJAC) do not contain provisions that allow the Department to establish a moratorium on the issuance of permits. NJAC 7:27-8.14 (a) 2 states that an Air Pollution Control permit can be denied if it causes exceedance of an ambient air quality standard. This would apply anywhere in the State.

On February 5, 2009, Governor Corzine signed a new executive order to address environmental issues in low-income and minority communities, which included the creation of an advisory council to oversee state policies and initiatives.¹ Created by Executive Order 131 (EO #131), the Environmental Justice Advisory Council (“Advisory Council”) extends a similar environmental justice advisory council, the New Jersey Environmental Justice Task Force (EJTF), created five years ago.²

EO #131 directs all State entities involved in decisions that affect environmental quality and public health to provide opportunities for input by representatives of low-income and minority groups. The Advisory Council is charged with making recommendations to the Commissioner of the NJDEP about issues involving environmental justice in this State in fulfillment of this Executive Order.

As discussed in this SIP revision, the NJDEP is working with the USEPA on a number of national air toxic reduction programs. To address disproportionate impacts of air toxic hazards across urban areas on highly exposed population subgroups, and predominately minority and low-income communities,³ the NJDEP is developing methods and strategies to assess air impacts from multiple sources at the community scale.

The response to the community-based monitoring system portion of this comment is included in the response to Comment #9.

6) Comment: Some commenters stated that in order to implement the moratorium policy discussed in Comment #8 and determine which EJ neighborhoods are in nonattainment of the Federal annual PM_{2.5} standard as of April 5, 2010, the NJDEP should establish a community-based PM_{2.5} monitoring system in overburdened EJ communities. The commenters stated that even if the moratorium is not established, a community-based monitoring system would still be desirable because it would be capable of providing information on fine PM concentrations on a much smaller geographic scale than DEP is currently able to produce. They stated that a community-based monitoring system could provide long-term data on a neighborhood level and would be able to identify local pollution “hot spots” that might exist within urban areas. They stated that such a system would be consistent with the recommendation of the Clean Air Act Advisory Committee (CAAAC) that suggests states rely less on modeling and more on ambient air monitoring. The commenters also explained how the monitoring system could be student-driven, and that high school students have successfully completed this type of monitoring in the past. This would aid New Jersey’s public schools in providing improved science education to the State’s students. **(New Jersey Environmental Justice Alliance (NJEJA), Environmental Research Foundation (ERF), Change to Win (CtW), International Brotherhood of Teamsters (IBT), and Coalition for Healthy Ports (CHPs))**

¹ NJDEP. Environmental Justice Program. New Jersey Department of Environmental Protection, <http://www.nj.gov/dep/ej/policy.html>, accessed March 17, 2009. EO #131 replaced EO#96 (2004) as of February 17, 2009.

² The New Jersey (EJTF) was created by Executive Order 96 (EO #96), which was signed in February 2004 and expired February 17, 2009.

³ USEPA. Fact Sheet, The Air Toxics Strategy. United States Environmental Protection Agency, <http://www.epa.gov/ttn/uatw/urban/strategyfs0303.pdf>, accessed November 28, 2007.

Response: The type of monitoring referred to in the comment is good for promoting community involvement and for looking at spatial variability, but this kind of monitoring is not appropriate for the regulatory applications that the commenter seeks. The described monitoring methods are not accepted methods for determining if an area complies with the National Ambient Air Quality Standards (NAAQS).

Monitoring locations must meet Federal siting criteria and be conducted using Federal Reference Methods. There are requirements for traceability of standards used in calibrations and other areas that make it impractical to monitor for NAAQS compliance with a community based program with today's technology.

Funding community based monitoring programs for other applications might be feasible, but the objectives and limitations of the methods needs to be understood ahead of time. In the Camden/Trenton/Newark study the commenter referred to, the type of instruments used to monitor PM_{2.5} can read twice as high as a reference method instrument. These instruments can be used to look at relative concentrations and have been used successfully in several studies.

7) Comment: Some commenters stated that climate change policies should be developed and implemented that decrease emissions of PM_{2.5} and its precursors in addition to emissions of carbon dioxide (CO₂). The commenters urged the State to select and implement climate change policies that go beyond having a “supplemental” effect on PM_{2.5} and precursor concentrations. The commenters stated that New Jersey should use climate change strategies that significantly reduce emissions of PM_{2.5} and its precursors as well as emissions of carbon dioxide. The commenters stated that if a policy only decreases carbon dioxide emissions and does not also yield significant reductions in PM_{2.5}, nitrogen oxides or sulfur dioxide emissions, it should not be implemented. The commenters stated that if this type of policy were adopted, the State would have to evaluate all potential climate change strategies for their ability to reduce emissions of these other toxic pollutants and mentioned that since the State has already performed a similar type of evaluation for NO_x reduction it should be comfortable applying it to proposed climate change policies.

The commenters stated that using climate change policies to also reduce PM_{2.5} concentrations would not only help the State achieve attainment for the current Federal annual PM_{2.5} standard, but would also help the NJDEP to realize its internal goal of driving concentrations below 12.0 µg/m³ and fulfill its legal obligation of ensuring air quality in New Jersey meets the new 35.0 µg/m³ federal daily PM_{2.5} standard. **(New Jersey Environmental Justice Alliance (NJEJA), Environmental Research Foundation (ERF), Change to Win (CtW), International Brotherhood of Teamsters (IBT), and Coalition for Healthy Ports (CHPs))**

Response: The Department agrees with this comment. The control measures implemented to meet the Federal ozone, PM_{2.5}, and Regional Haze requirements will also be beneficial in the State's efforts to reduce greenhouse gas (GHG) emissions, and visa versa, since both ozone and black carbon (soot) have an atmospheric warming effect. In fact, since the atmospheric lifetime of ozone and black carbon are so much shorter than those of the long-lived GHG gases, days as opposed to years for CO₂, methane and halocarbons, reductions in these short-lived species may prove to be of some importance in slowing global warming in the short term. Also, measures to

reduce CO₂ emissions will reduce other air contaminant emissions as well. The State is in the process of formulating recommendations to meet the Global Warming Response Act's ambitious GHG limits, and these recommendations are focused not only on reducing GHG emissions, but on improving the overall air quality. A Draft of the Global Warming Response Act Recommendation Report was released on December 15, 2008, and there have been six public meetings held to solicit input on the plan. Further details are available at: <http://www.nj.gov/globalwarming/home/stakeholder.html>.

8) Comment: Some commenters stated that energy conservation and renewable energy sources should be used extensively in urban areas. The commenters stated that this strategy has the potential to decrease emissions of carbon dioxide, decrease emissions of fine PM and its precursors, and provide employment and other economic opportunities to local residents. The commenters stated that the ultimate goal would be to make urban areas in New Jersey centers of innovation for, and the utilization of, energy conservation and renewable energy sources in a manner that will help to economically revitalize inner-city neighborhoods. The commenters stated that energy conservation methods might show rapid results and that the NJDEP needs to implement reduction strategies that will be effective beyond 2010 to satisfy its internal goal of reducing fine PM concentrations to 12.0 µg/m³ and its legal obligation to attain the new Federal daily 35.0 µg/m³ standard. **(New Jersey Environmental Justice Alliance (NJEJA), Environmental Research Foundation (ERF), Change to Win (CtW), International Brotherhood of Teamsters (IBT), and Coalition for Healthy Ports (CHPs))**

Response: The NJDEP agrees with the commenter that energy conservation measures will help to reduce PM_{2.5} emissions. The use of energy conservation and renewable energy sources are addressed in New Jersey's Energy Master Plan. Currently, the State is working to develop green collar jobs across the State with special emphasis in urban areas. The Department of Labor and Workforce Development gave a grant to Isles (a nationally recognized nonprofit community development and environmental organization) to develop a curriculum for home energy raters (auditors) that would allow people to receive the training needed to take the certification tests. Additional information about these and other energy conservation measures will be discussed in the final Energy Master Plan. The Energy Master Plan is available at this site: http://www.nj.gov/emp/docs/pdf/081022_emp.pdf.

9) Comment: Some commenters stated that privately-owned pre-2007 diesel vehicles should be retrofitted or retired. The commenters made reference to a discussion from the PM_{2.5} SIP of the extremely toxic nature of diesel PM, and how urban residents may face a disproportionately high health risk from diesel PM. The commenters also discussed a report that lists Trenton area residents as suffering from the fifth highest per capita mortality rate in the country due to diesel PM. The commenters suggested that the most effective manner to lower the health risks posed to urban residents in New Jersey by diesel PM is by either retrofitting or retiring privately-owned diesel-powered vehicles constructed prior to 2007 and stated that no comprehensive strategy is presented by the Fine PM SIP to accomplish this life-saving task.

The commenters stated that NJEJA, CUE, ERF, NJEF, Greenfaith, and the New Jersey Work Environment Council have developed, and are developing, policies intended to retrofit or retire discreet portions of the privately-owned diesel-powered fleet in New Jersey. These

organizations are also part of, or work with, the Clean and Healthy Ports Coalition, which is developing policy that would result in the thousands of trucks that travel through or near residential neighborhoods every day to service the ports in Northern New Jersey either being retrofitted or retired. The commenters stated that the leadership and authority of the NJDEP and the state are needed for these efforts to be successful. (**New Jersey Environmental Justice Alliance (NJEJA), Environmental Research Foundation (ERF), Change to Win (CtW), International Brotherhood of Teamsters (IBT), and Coalition for Healthy Ports (CHPs)**)

Response: The Diesel Retrofit Law, which is currently being implemented, targets about 40,000 vehicles that operate in residential areas, are used to transport children, or are publicly owned. For example, the law requires that garbage trucks and NJ Transit buses be retrofitted with diesel reduction technology because they operate in close proximity to people and throughout residential areas. The law does not target most privately owned vehicles, such as long haul trucks traveling on major highways, because the limited funding was directed towards sectors that potentially had a greater impact on human health and the environment. The NJDEP recognizes that there are additional opportunities for diesel reductions and will pursue additional measures where feasible. Ongoing efforts that will enable us to achieve reductions from some privately owned vehicles include the following:

- With assistance from the United States Environmental Protection Agency, the NJDEP granted \$750,000 to the New Jersey Motor Truck Association to reimburse truckers for installation of idle reduction devices and tailpipe retrofit technology. Currently, nearly all of the money has been allocated and the Association has requested additional funding.
- The NJDEP recently enhanced New Jersey's idling rule which limits idling of gasoline and diesel powered vehicles to three minutes, under most circumstances, and prohibits idling of a truck's sleeper berth as of 2010.
- New Jersey has the nation's oldest diesel inspection and maintenance program under which nearly 70,000 large diesel vehicles are annually inspected to ensure they are properly maintained thereby reducing emissions.
- The NJDEP is overseeing \$13 million in voluntary diesel risk reduction projects, with \$3 million worth of projects already completed. Most notably, the NJDEP spearheaded the installation of the state's first two electrified truck stops with a third one underway shortly. The NJDEP has also granted \$500,000 to the South Jersey Port Corporation to reduce emissions from their diesel operations and have begun a \$3 million locomotive upgrade project at the North Jersey port. Money for these projects was obtained through competitive grants, discretionary grants, and enforcement settlements.

10) Comment: Some commenters stated that the NJDEP should develop and implement a plan to address PM_{2.5} emissions generated by the ports operated by the Port Authority of New York and New Jersey in Newark and Elizabeth. The commenters stated that PM_{2.5} emissions from port machinery, trucking associated with the ports, and ships that operate in and around the ports on a regular basis are most likely having a detrimental health effect on many citizens in our state but especially on residents who live in neighborhoods that are in close proximity to the ports. The commenter acknowledges that the PM_{2.5} SIP contains some discussion concerning efforts to reduce emissions from the port in South Jersey, but stated that the SIP does not discuss plans to

address PM pollution generated by the larger ports in Newark and Elizabeth. The commenters suggested that the first air pollution issue connected to the ports in Northern New Jersey that should be addressed is the diesel PM emitted by the thousands of trucks that move items every day to and from the port near or through residential neighborhoods. The commenters stated that pre-2007 trucks that conduct business with the port on a regular basis need to be retrofitted with the most effective pollution control device possible or retired and replaced by trucks manufactured after 2006. The commenters stated that the Port Authority of New York and New Jersey (Port Authority) has an obligation to protect the health of New Jersey citizens and therefore should ensure that these trucks are either retrofitted or retired.

The commenters stated that the Coalition for Healthy Ports is advocating that all trucking associated with the port should be handled by a trucking company that pays drivers a living wage with benefits and that is primarily responsible for utilizing trucks that are either manufactured after 2006 or emit no more air pollution than a post-2006 truck. Under this plan the other responsible party for ensuring that port-associated trucks are emitting low levels of air pollution would be the Port Authority. This responsibility would include a financial contribution and the development of an enforcement system that would guarantee trucks that conducted business on a regular basis with the ports meet the requirement of producing no more air pollution than post-2006 trucks.

The commenters stated that other port-related PM_{2.5} air pollution issues that need to be addressed include: Retrofitting, repowering or retiring diesel-powered equipment such as cranes using the best available technology; retrofitting, repowering or retiring diesel-powered ships and boats, such as tugboats, that operate near a port on a regular basis, using the best available technology; and requiring that all ships and boats that operate within a certain distance of the coast utilize low-sulfur fuel. **(New Jersey Environmental Justice Alliance (NJEJA), Environmental Research Foundation (ERF), Change to Win (CtW), International Brotherhood of Teamsters (IBT), and Coalition for Healthy Ports (CHPs))**

Response: The NJDEP is committed to developing diesel reduction strategies at both the north Jersey and south Jersey ports. The NJDEP is especially mindful of the numerous residents impacted by freight movement in and near their neighborhoods. Although much more needs to be done, some of the initiatives that are already underway include:

- NESCAUM is utilizing a \$250,000 grant from the USEPA to implement recommendations by the State's Environmental Justice Task Force to reduce environmental risks to citizens of Waterfront South in Camden (near the South Jersey Port). The NJDEP supplemented the grant with \$500,000 from an enforcement settlement to reduce particulate emissions from diesel equipment owned and operated by the South Jersey Port Corporation.
- The NJDEP recently received a grant in the amount of \$85,000 from the USEPA for a project titled "Idling Reduction in a Multi-Cultural Port Community." Our grant partner, Future City, Inc. of Elizabeth, will conduct an outreach and education program with the multi-lingual residents of the port communities surrounding the Ports of Newark and Elizabeth. Future City's efforts will concentrate on reducing idling and changing driving habits, especially among the trucking or "drayage" industry.

- The NJDEP has also begun to reach out to mayors, local police, and port authority police to remind them that they have authority to enforce our idling regulations.
- Through a supplemental environmental project, the NJDEP is undertaking a cutting edge locomotive emission reduction project at the north jersey port which involves replacing the traditional engine with a gen-set engine and installing a diesel particulate filter.
- The NJDEP also provided some funding for an innovative hybrid yard hostler project being spearheaded by USEPA and the Port Authority of New York and New Jersey.
- Former NJDEP Commissioner Lisa P. Jackson testified on Capitol Hill in support of cleaner fuel for ships calling on our ports. Congress Consequently ratified the International Marine Organization (IMO) plan to reduce air pollution from ships, especially when in a USA port.

In addition, the NJDEP is participating in a workgroup launched by the Port Authority of New York and New Jersey to develop a Clean Air Strategy plan to reduce various air pollutants (including PM_{2.5}) at Port Elizabeth and Port Newark. As part of that process, the NJDEP will advocate for upgrading the fleet of drayage trucks that call on the port; reducing emissions from ships through idling reduction and cleaner fuels; and providing incentives/disincentives for rail operators to utilize technology to reduce idling at their port located switchyards. The NJDEP will also take into account the recommendations recently received from the New Jersey Clean Air Council, based on testimony they received during their public hearing earlier this year (“Improving Air Quality at our Ports and Airports”). The NJDEP expects that the Port Authority will be able to develop a plan to significantly reduce emissions from port operations as a result of this collaborative, stakeholder process.

11) Comment: Some commenters stated that the NJDEP should institute an Indirect Source Review (ISR). The commenters stated that instituting an Indirect Source Review may provide the NJDEP with the authority to establish policies that will reduce PM_{2.5} emissions from the ports in Northern New Jersey, and more specifically from diesel-powered vehicles and other sources that are difficult to regulate. Under the Clean Air Act (CAA), indirect sources of pollution may be regulated pursuant to 42 U.S.C. § 7410(a)(5). The commenters stated that indirect sources of PM_{2.5} in New Jersey include the ports, the New Jersey Turnpike, the airports, and the warehousing complexes across the state, each of which attract mobile sources of fine PM, primarily from diesel-powered trucks, large ships and airplanes. The commenters stated that regulation of indirect sources may be included in a SIP and, given the primacy of environmental justice concerns to New Jersey and its citizens, New Jersey should assume a leadership role for the nation and institute its own Indirect Source Review program via the PM_{2.5} SIP. The commenter described Indirect Source Review programs that are in place in Oregon, Wisconsin and the region of San Joaquin Valley, California. The commenters stated that these Indirect Source Review programs allow the states to reduce emissions in an efficient manner, and by encompassing mobile sources such as diesel-powered trucks and large ships within the non-mobile source regulatory scheme, emissions may be drastically reduced.

The commenters stated that any adoption of an Indirect Source Review in New Jersey would help the NJDEP and the New Jersey Department of Transportation (NJDOT) to meet its mandate from Executive Order #96, i.e., developing “a coordinated strategy for reducing the public’s exposure to fine particulate pollution in affected communities, particularly from diesel emissions from stationary and mobile sources.” The commenters also stated that, as the most egregious

indirect sources of fine PM are located in urban areas, an Indirect Source Review would help address environmental justice concerns while moving the State toward compliance with the Federal PM_{2.5} standards. **(New Jersey Environmental Justice Alliance (NJEJA), Environmental Research Foundation (ERF), Change to Win (CtW), International Brotherhood of Teamsters (IBT), and Coalition for Healthy Ports (CHPs))**

Response: Currently, The Federal Transportation Conformity Rule (40 C.F.R. § 93.100-129) provides the process by which the air quality impact of transportation plans, transportation improvement programs, and certain projects are analyzed. The agency preparing transportation plans (projections of twenty or more years), transportation improvement programs (projections of at least four years), or approving certain transportation projects must analyze the emissions expected from such a proposal in accordance with the Transportation Conformity Rule. For New Jersey, such plans are prepared by three Metropolitan Planning Organizations (North Jersey Transportation Planning Authority, South Jersey Transportation Planning Organization, and Delaware Valley Regional Planning Commission). To some extent, this process already considers the impact of indirect sources.

The NJDEP agrees that there may be opportunities for further emission reductions from additional indirect source evaluation and regulation. Indirect Source Review programs cited by the commenters will be evaluated in order to determine if they are a feasible way to reduce pollution from these sources in New Jersey. As time and resources allow, the NJDEP will investigate Indirect Source Review programs and will consider Indirect Source Review for possible inclusion in future SIPs.

Department-initiated Changes

In addition to the changes discussed above in the response to comment, the NJDEP made the following department-initiated changes when finalizing the document. Those changes are described here.

1. New Jersey's Regional Haze SIP was proposed on September 15, 2008. References to the Regional Haze SIP revision were updated to reflect its proposal.
2. New Jersey's VOC and NO_x RACT rules for 13 source categories were proposed on August 4, 2008. Additionally, changes to New Jersey's Diesel Smoke Rule were proposed on June 16, 2008. References to these rules were updated to reflect their proposal.
3. In Chapter 4 (Control Measures), for clarity, Table 4.1 (PM_{2.5} Control Measures) was combined with Table 4.6 (PM_{2.5} Control Measures Summary). The number of the new table is Table 4.5 (PM_{2.5} Control Measures Summary). Table numbers in this chapter were subsequently changed. In Table 4.5, "Certain Refinery Operations" was deleted because it is the same measure as "Refinery Enforcement Initiative" and "Refinery Enforcement Initiative" was renamed "Refinery Consent Decrees." "Refineries - Fugitive Equipment Leaks" was marked as not being modeled. Addition clarifications were made to Table 4.5 regarding Refinery Rules, Municipal Waste Combustors (Incinerators), ICI Boilers, and EGU Consent Decrees.

4. In Chapter 5 (Attainment Demonstration), “Refineries - Fugitive Equipment Leaks” was removed from Table 5.1 because it was not included in the modeling. New Jersey’s RACT commitments were updated in Section 5.3.2.6.2. Also, a new section was added at 5.4 which addresses “Emission Reduction Credits from Shutdowns and Curtailments.”
5. In Chapter 6 (Contingency Measures) and associated Appendix C (Contingency Measure Calculations), the refinery rules were replaced as a contingency measure with the refinery consent decrees. In Table 6.2, the benefits for Municipal Waste Combustors (Incinerators) were updated.
6. Chapter 8 (Section 110 Infrastructure Requirements), was changed to reflect updates regarding CAIR, Prevention of Significant Deterioration (PSD) permit program, Nonattainment New Source Review (NNSR), and Regional Haze.
7. In Chapter 9 (Commitments and Requests for Future Action), for consistency with Table 4.5 in Chapter 4, Chapter 6 and Appendix C (Contingency Measures), NJLEV (fleet turnover) was added to Table 9.1 as a contingency measure. Table 9.1 was also updated to more clearly describe New Jersey’s PM_{2.5} commitments. Additionally, editorial clarifications were made to Table 9.1.
8. In Chapter 10 (Conclusions), Table 10.1 was removed because it was redundant to Table 9.1.
9. In Appendix A7 (Reasonably Available Control Technology (RACT) Analysis), the RACT commitments were updated based on feasibility and compliance dates, some of which are being modified in response to comments on the RACT rules.
10. In Appendix C (Contingency Measure Calculations), editorial clarifications were made. On page 4, the benefits for Municipal Waste Combustors (Incinerators) were updated.
11. Two new attachments were added to Appendix B5-1: Attachment 1: Comparison of CAIR and CAIR Plus Proposal using the Integrated Planning Model (IPM®) and Appendix Attachment 2: Development of MANE-VU Mobile Source Projection Inventories.