

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction, from further environmental documentation. A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR

1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. A new temporary § 165.T08–0290 is added to read as follows:

§ 165.T08–290 Safety Zone; Gulf of Mexico, Florida.

(a) *Regulated area.* The Coast Guard is establishing a temporary safety zone on the waters of the Gulf of Mexico, Florida, in the vicinity of the John’s Pass Bridge, that includes all the waters from surface to bottom, within a 100-yard radius of the following coordinates: 27°46′58″ N, 082°46′57″ W. All coordinates referenced use datum: NAD 83.

(b) *Definitions.* The following definition applies to this section:

Designated representative means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP) St. Petersburg, Florida, in the enforcement of regulated navigation areas and safety and security zones.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may anchor, moor or transit the Regulated Area without the prior permission of the Captain of the Port St. Petersburg, Florida, or a designated representative.

(d) *Dates.* This rule is effective until the bridge construction is completed tentatively scheduled for July 2010.

(e) *Enforcement.* This regulated area will only be enforced while construction operations are taking place. The Coast Guard does not know the exact dates of the construction operations at this time; however Sector St. Petersburg will announce each enforcement period by publishing the restriction in the local notice to mariners and issuing a Broadcast Notice to Mariners 24 to 48 hours prior to the start of enforcement. Additionally, on-scene notice will be provided by Coast Guard or other local law enforcement maritime units enforcing the safety zone.

Dated: May 8, 2008.

J.A. Servidio,

Captain, U.S. Coast Guard, Captain of the Port, St. Petersburg, Florida.

[FR Doc. E8–11866 Filed 5–28–08; 8:45 am]

BILLING CODE 4910–15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2007–0844, FRL–8572–2]

RIN 2060–AO39

Method 207—Pre-Survey Procedure for Corn Wet-Milling Facility Emission Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to add Method 207 to the test methods in Appendix M of 40 CFR Part 51. Appendix M contains recommended test methods that are provided for the States to use in their State Implementation Plans. Therefore, this method may be used as an alternative to existing test methods for measuring volatile organic compound (VOC) emissions. This pre-survey method was developed by the corn wet-milling (CWM) industry specifically to measure VOC mass emissions from processes within the CWM industry. It provides a systematic approach to develop a specific list of target organic compounds and the appropriate methods to measure those target compounds during subsequent VOC emissions testing. After using the pre-survey procedure, the tester will have sufficient information to design a comprehensive testing program using Method 18 and other appropriate methods to measure the mass of VOC emissions during the actual emissions testing. This method is an alternative to existing test methods and does not add any new reporting requirements to the reporting requirements that already exist. While it is an alternative method, it is the recommended method for measuring VOC mass emissions from CWM facilities. In the “Rules and Regulations” section of this **Federal Register**, we are adding Method 207 to the test methods in Appendix M of 40 CFR Part 51 as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by June 30, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2007–0844, by mail to: U.S. Environmental Protection Agency, Mail code: 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies. Comments may also be submitted electronically or through hand delivery/

courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Gary McAlister, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurements Technology Group (E143-02), Research Triangle Park, North Carolina 27711; telephone number: (919) 541-1062; fax number: (919) 541-0516; e-mail address: mcalister.gary@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why Is EPA Issuing This Proposed Rule?

This document proposes to add Method 207 to the test methods in

Appendix M of 40 CFR Part 51. We have published a direct final rule adding Method 207 to the test methods in Appendix M of 40 CFR Part 51 in the “Rules and Regulations” section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule, and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does This Action Apply to Me?

Method 207 affects/applies to the CWM industry and is used specifically to measure VOC mass emissions from processes within the CWM industry. Therefore, the categories and entities potentially regulated by this action include the following:

Category	NAICS ^a	Examples of regulated entities
Industry	311221	Corn wet-milling.
State/local/tribal government	924110	State, local, and tribal air quality management groups that regulate corn wet-milling.

^aNorth American Industry Classification System.

III. Statutory and Executive Reviews

A. Executive Order 12866—Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). It adds a test method to the recommended methods in Appendix M of 40 CFR Part 51. This method is an alternative to existing test methods and does not add any new reporting requirements to the reporting requirements that already exist.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small

entity is defined as: (1) A small business as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on a substantial number of small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives “which minimize any significant economic impact of the rule on small entities.” 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This action establishes voluntary alternative test procedures for satisfying the requirements of EPA Method 18, Section 16 (pre-survey), which are used

to determine the mass VOC emissions from processes within the corn wet-milling industry, by specifying the analytes for subsequent EPA Method 18 testing. This rule does not impose any new requirements or create impacts on small entities. Therefore, this action is not expected to have a significant economic impact on a substantial number of small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section

205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, more cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. This rule imposes no enforceable duty on any State, local or tribal governments or the private sector. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This action adds a new test method for measuring VOC air emissions to the recommended methods in 40 CFR Part 51. Because this method is an alternative method, its use is voluntary. It will not impose requirements on State, local, or tribal governments. Thus, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132—Federalism

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government, as specified in Executive Order 13132. Because this method is an alternative method, its use is voluntary. It will not impose substantial direct compliance costs on State or local governments, nor will it preempt State law. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination With Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This proposed rule does not have tribal implications, as specified in Executive Order 13175. The proposed action would add a test method that could be used as an alternative to existing methods. It does not add any new requirements and does not affect VOC emissions or air quality. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, explanations when it decides not to use available and applicable voluntary consensus standards.

The rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. However, we identified no such standards, and none were brought to our attention in comments. Therefore, EPA has decided to propose Method 207 to measure mass VOC emissions from processes within the corn wet-milling industry. This proposed method provides a systematic approach to develop a specific list of target organic compounds and the appropriate methods to measure those target compounds during subsequent VOC emissions testing.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

J. Executive Order 12898—Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse

human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action proposes adding a new test method for measuring VOC air emissions to the recommended methods in 40 CFR part 51. It does not change any existing rules that limit VOC air emissions.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Volatile organic compounds.

Dated: May 21, 2008.

Stephen L. Johnson,
Administrator.

[FR Doc. E8-11879 Filed 5-28-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No., EPA-R02-OAR-2008-0020;
FRL-8572-5]

Approval and Promulgation of Implementation Plans; Variance Determination for Particulate Matter from a Specific Source in the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the State Implementation Plan (SIP) submitted by the State of New Jersey. This SIP revision consists of a source-specific reasonably available control technology (RACT) determination for controlling particulate matter from the cooling tower operated by the PSEG Nuclear LLC Hope Creek and Salem Generating Stations. This action proposes an approval of the source-specific variance determination that was made by New Jersey in accordance with the provisions of its rule to help meet the national ambient air quality standards (NAAQS) for particulate matter. The intended effect of this proposed rule is to approve source-specific emissions limitations required by the Clean Air Act.

DATES: Comments must be received on or before June 30, 2008.

ADDRESSES: Submit your comments, identified by Docket Number EPA-R02-OAR-2008-0020, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail:* Werner.Raymond@epa.gov.
- *Fax:* 212-637-3901.
- *Mail:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.
- *Hand Delivery:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

Instructions: Direct your comments to Docket No. EPA-R02-OAR-2008-0020. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other

information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. EPA requests, if at all possible, that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Paul Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3711 or Truchan.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. EPA's Proposed Action

A. What Action Is EPA Proposing?

EPA is proposing to approve New Jersey's revision to the particulate matter (PM) State Implementation Plan (SIP) submitted on November 2, 2007. This SIP revision relates to New Jersey's PM variance determination for the cooling tower at the PSEG Nuclear LLC Hope Creek and Salem Generating Stations located in Lower Alloways Creek Township, Salem County. As part of this variance evaluation, alternate emission limitations are specified for total suspended particulates (TSP) and PM-10 (particles with an aerodynamic diameter of 10 micrometers or less). This evaluation and variance only involves the operation of the cooling tower.

B. Why Is EPA Proposing This Action?

EPA is proposing this action to:

- Give the public the opportunity to submit comments on EPA's proposed