

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a “significant regulatory action” and therefore is not subject to either review by the Office of Management and Budget or to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001).

This action merely proposes to approve a portion of a State-adopted attainment plan for the San Joaquin Valley Air Basin and withdraw a previous proposal and does not impose any additional requirements. Accordingly, the Administrator certifies that this proposed action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed action does not impose any additional enforceable duties, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This proposed action does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the plan is not approved to apply in Indian country located in the State. It will not impose substantial direct costs on Tribal governments or preempt Tribal law.

This proposed action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This proposed action merely proposes to approve a portion of a State-adopted plan and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

Executive Order 12898 establishes a Federal policy for incorporating environmental justice into Federal agency actions by directing agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority and low-income populations. Today’s action involves a proposed approval of a State-adopted plan. It will not have disproportionately high and adverse effects on any

communities in the area, including minority and low-income communities.

This proposed action also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant. The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 23, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. E9-23796 Filed 10-1-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA-R02-OAR-2009-0680; FRL-8965-1]

Outer Continental Shelf Air Regulations Consistency Update for New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (OCS) Air Regulations Requirements applying to OCS sources located within 25 miles of states’ seaward boundaries which must be promulgated into the regulations and updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by section 328(a)(1) of the Clean Air Act (CAA). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the State of New Jersey. The intended effect of approving the OCS requirements for the State of New Jersey is to regulate emissions from OCS sources in accordance with the requirements onshore. The requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Comments must be received on or before November 2, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R02-OAR-2009-0680, by one of the following methods:

A. *Federal eRulemaking Portal:* <http://www.regulations.gov>: Follow the on-line instructions for submitting comments;

B. *E-Mail:* riva.steven@epa.gov;

C. *Mail:* Steven Riva, U.S. Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, New York, NY 10007;

D. *Hand Delivery:* U.S. Environmental Protection Agency, Region 2, Attn: Steven Riva, 290 Broadway, New York, NY 10007, 25th Floor. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R02-OAR-2009-0680. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://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 <http://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, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT: Steven Riva, Air Programs Branch, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007; telephone number: (212) 637-4074; e-mail address: riva.steven@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background Information
 - Why Is EPA Taking This Action?
- II. EPA's Evaluation
 - What Criteria Were Used To Evaluate Rules Submitted To Be Incorporated Into 40 CFR part 55?
- III. Administrative Requirements
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Coordination With Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
 - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act

I. Background Information

Why Is EPA Taking This Action?

On September 4, 1992, EPA promulgated 40 CFR part 55,¹ which established requirements to control air pollution from OCS sources in order to attain and maintain Federal and State ambient air quality standards (AAQS) and to comply with the provisions of part C of title I of the CAA. Part 55 applies to all OCS sources offshore of the states except those located in the Gulf of Mexico west of 87.5 degrees longitude.

Section 328(a) of the CAA requires that EPA establish requirements to

control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable rules in effect for onshore sources into part 55. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's State implementation plan (SIP) guidance or certain requirements of the CAA. Inclusion in the OCS rule does not imply that a rule meets the requirements of the CAA for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

What Criteria Were Used To Evaluate Rules Submitted To Be Incorporated Into 40 CFR part 55?

EPA reviewed the rules that New Jersey submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of Federal or State AAQS or part C of title I of the CAA and that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12 (e). In addition, EPA has excluded New Jersey's administrative or procedural rules,² and requirements that regulate toxics that are not related to the attainment and maintenance of Federal and State AAQS.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

² Each COA, which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, as in New Jersey, EPA will use its own administrative and procedural requirements to implement the substantive requirements. See 40 CFR 55.14(c)(4).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant economic impact on a substantial number of small entities. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the CAA, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have had a significant economic impact on a substantial number of small entities. As required by section 328 of the CAA, this action simply incorporates the existing rules in the COA. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, and tribal governments in the aggregate; or to the private sector, of \$100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that today's proposed rule contains no Federal mandates that may result in expenditures of \$100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any one year. This action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local or tribal governments, or to the private sector, result from this action.

¹ The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

E. Executive Order 13132: Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (*Federalism*) and 12875 (*Enhancing the Intergovernmental Partnership*). Executive Order 13132 requires 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. Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule 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 it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175: 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 final rule does not have tribal implications, as specified in Executive Order 13175. It will not have

substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885 (April 23, 1997)), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

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

This proposed rule is not subject to Executive Order 13211, entitled "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 (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use voluntary consensus standards (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable laws or otherwise impractical.

The EPA believes that VCS are inapplicable to this section. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 18, 2009.

George Pavlou,

Acting Regional Administrator, Region 2.

Title 40, chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the CAA (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is amended by revising the sixth sentence in paragraph (e) introductory text and paragraph (e)(15)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * * Copies of rules pertaining to particular states or local areas may be inspected or obtained from the EPA Docket Center—Public Reading Room, EPA West Building, Room 3334 1301 Constitution Avenue, NW., Washington, DC 20004 or the appropriate EPA regional offices: U.S. EPA, Region 1 (Massachusetts) One Congress Street, Boston, MA 02114–2023; U.S. EPA, Region 2 (New Jersey and New York), 290 Broadway, New York, NY 10007–1866; U.S. EPA, Region III (Delaware), 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5000; U.S. EPA, Region 4 (Florida and North Carolina), 61 Forsyth Street, Atlanta, GA 30303; U.S. EPA, Region 9 (California), 75 Hawthorne Street, San Francisco, CA 94105; and U.S. EPA, Region 10 (Alaska), 1200 Sixth Avenue, Seattle, WA 98101. * * *

* * * * *

(15) * * *

(i) * * *

(A) State of New Jersey Requirements Applicable to OCS Sources, August 13, 2009.

* * * * *

3. Appendix A to Part 55 is amended by revising paragraph (a)(1) under the heading "New Jersey" to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

NEW JERSEY

(a) * * *

(1) The following State of New Jersey requirements are applicable to OCS Sources, as of August 13, 2009. New Jersey State Department of Environmental Protection—New Jersey Administrative Code. The following sections of Title 7:

CHAPTER 27 SUBCHAPTER 2—CONTROL AND PROHIBITION OF OPEN BURNING (EFFECTIVE 6/20/94)

N.J.A.C. 7:27–2.1. Definitions
N.J.A.C. 7:27–2.2. Open burning for salvage operations
N.J.A.C. 7:27–2.3. Open burning of refuse
N.J.A.C. 7:27–2.4. General provisions
N.J.A.C. 7:27–2.6. Prescribed burning
N.J.A.C. 7:27–2.7. Emergencies
N.J.A.C. 7:27–2.8. Dangerous material
N.J.A.C. 7:27–2.12. Special permit
N.J.A.C. 7:27–2.13. Fees

CHAPTER 27 SUBCHAPTER 3—CONTROL AND PROHIBITION OF SMOKE FROM COMBUSTION OF FUEL (EFFECTIVE 2/4/02)

N.J.A.C. 7:27–3.1. Definitions
N.J.A.C. 7:27–3.2. Smoke emissions from stationary indirect heat exchangers
N.J.A.C. 7:27–3.3. Smoke emissions from marine installations
N.J.A.C. 7:27–3.4. Smoke emissions from the combustion of fuel in mobile sources
N.J.A.C. 7:27–3.5. Smoke emissions from stationary internal combustion engines and stationary turbine engines
N.J.A.C. 7:27–3.6. Stack test
N.J.A.C. 7:27–3.7. Exceptions

CHAPTER 27 SUBCHAPTER 4—CONTROL AND PROHIBITION OF PARTICLES FROM COMBUSTION OF FUEL (EFFECTIVE 4/20/09)

N.J.A.C. 7:27–4.1. Definitions
N.J.A.C. 7:27–4.2. Standards for the emission of particles
N.J.A.C. 7:27–4.3. Performance test principle
N.J.A.C. 7:27–4.4. Emissions tests
N.J.A.C. 7:27–4.6. Exceptions

CHAPTER 27 SUBCHAPTER 5—PROHIBITION OF AIR POLLUTION (EFFECTIVE 10/12/77)

N.J.A.C. 7:27–5.1. Definitions
N.J.A.C. 7:27–5.2. General provisions

CHAPTER 27 SUBCHAPTER 6—CONTROL AND PROHIBITION OF PARTICLES FROM MANUFACTURING PROCESSES (EFFECTIVE 6/12/98)

N.J.A.C. 7:27–6.1. Definitions
N.J.A.C. 7:27–6.2. Standards for the emission of particles
N.J.A.C. 7:27–6.3. Performance test principles

N.J.A.C. 7:27–6.4. Emissions tests
N.J.A.C. 7:27–6.5. Variances
N.J.A.C. 7:27–6.7. Exceptions

CHAPTER 27 SUBCHAPTER 7—SULFUR (EFFECTIVE 3/1/67)

N.J.A.C. 7:27–7.1. Definitions
N.J.A.C. 7:27–7.2. Control and prohibition of air pollution from sulfur compounds

CHAPTER 27 SUBCHAPTER 8—PERMITS AND CERTIFICATES FOR MINOR FACILITIES (AND MAJOR FACILITIES WITHOUT AN OPERATING PERMIT) (EFFECTIVE 4/20/09)

N.J.A.C. 7:27–8.1. Definitions
N.J.A.C. 7:27–8.2. Applicability
N.J.A.C. 7:27–8.3. General provisions
N.J.A.C. 7:27–8.4. How to apply, register, submit a notice, or renew
N.J.A.C. 7:27–8.5. Air quality impact analysis
N.J.A.C. 7:27–8.6. Service fees
N.J.A.C. 7:27–8.7. Operating certificates
N.J.A.C. 7:27–8.8. General permits
N.J.A.C. 7:27–8.9. Environmental improvement pilot tests
N.J.A.C. 7:27–8.11. Standards for issuing a permit
N.J.A.C. 7:27–8.12. State of the art
N.J.A.C. 7:27–8.13. Conditions of approval
N.J.A.C. 7:27–8.14. Denials
N.J.A.C. 7:27–8.15. Reporting requirements
N.J.A.C. 7:27–8.16. Revocation
N.J.A.C. 7:27–8.17. Changes to existing permits and certificates
N.J.A.C. 7:27–8.18. Permit revisions
N.J.A.C. 7:27–8.19. Compliance plan changes
N.J.A.C. 7:27–8.20. Seven-day notice changes
N.J.A.C. 7:27–8.21. Amendments
N.J.A.C. 7:27–8.22. Changes to sources permitted under batch plant, pilot plant, dual plant, or laboratory operating permitting procedures
N.J.A.C. 7:27–8.23. Reconstruction
N.J.A.C. 7:27–8.24. Special provisions for construction but not operation
N.J.A.C. 7:27–8.25. Special provisions for pollution control equipment or pollution prevention process modifications
N.J.A.C. 7:27–8.26. Civil or criminal penalties for failure to comply
N.J.A.C. 7:27–8.27. Special facility-wide permit provisions
N.J.A.C. 7:27–8.28. Delay of testing

APPENDIX I

CHAPTER 27 SUBCHAPTER 9—SULFUR IN FUELS (EFFECTIVE 4/19/00)

N.J.A.C. 7:27–9.1. Definitions
N.J.A.C. 7:27–9.2. Sulfur content standards
N.J.A.C. 7:27–9.3. Exemptions
N.J.A.C. 7:27–9.4. Waiver of air quality modeling
N.J.A.C. 7:27–9.5. Incentive for conversion to coal or other solid fuel

CHAPTER 27 SUBCHAPTER 10—SULFUR IN SOLID FUELS (EFFECTIVE 04/20/09)

N.J.A.C. 7:27–10.1. Definitions
N.J.A.C. 7:27–10.2. Sulfur contents standards
N.J.A.C. 7:27–10.3. Expansion, reconstruction or construction of solid fuel burning units

N.J.A.C. 7:27–10.4. Exemptions
N.J.A.C. 7:27–10.5. SO₂ emission rate determinations

CHAPTER 27 SUBCHAPTER 11—INCINERATORS (EFFECTIVE 5/4/98)

N.J.A.C. 7:27–11.1. Definitions
N.J.A.C. 7:27–11.2. Construction standards
N.J.A.C. 7:27–11.3. Emission standards
N.J.A.C. 7:27–11.4. Permit to construct; certificate to operate
N.J.A.C. 7:27–11.5. Operation
N.J.A.C. 7:27–11.6. Exceptions

CHAPTER 27 SUBCHAPTER 12—PREVENTION AND CONTROL OF AIR POLLUTION EMERGENCIES (EFFECTIVE 3/19/74)

N.J.A.C. 7:27–12.1. Definitions
N.J.A.C. 7:27–12.2. Emergency criteria
N.J.A.C. 7:27–12.3. Criteria for emergency termination
N.J.A.C. 7:27–12.4. Standby plans
N.J.A.C. 7:27–12.5. Standby orders
Table I Emission Reduction Objectives
Table II Emission Reduction Objectives
Table III Emission Reduction Objectives

CHAPTER 27 SUBCHAPTER 16—CONTROL AND PROHIBITION OF AIR POLLUTION BY VOLATILE ORGANIC COMPOUNDS (EFFECTIVE 04/20/09)

N.J.A.C. 7:27–16.1. Definitions
N.J.A.C. 7:27–16.1A. Purpose, scope, applicability, and severability
N.J.A.C. 7:27–16.2. VOC stationary storage tanks
N.J.A.C. 7:27–16.3. Gasoline transfer operations
N.J.A.C. 7:27–16.4. VOC transfer operations, other than gasoline
N.J.A.C. 7:27–16.5. Marine tank vessel loading and ballasting operations
N.J.A.C. 7:27–16.6. Open top tanks and solvent cleaning operations
N.J.A.C. 7:27–16.7. Surface coating and graphic arts operations
N.J.A.C. 7:27–16.8. Boilers
N.J.A.C. 7:27–16.9. Stationary combustion turbines
N.J.A.C. 7:27–16.10. Stationary reciprocating engines
N.J.A.C. 7:27–16.12. Surface coating operations at mobile equipment repair and refinishing facilities
N.J.A.C. 7:27–16.13. Flares
N.J.A.C. 7:27–16.16. Other source operations
N.J.A.C. 7:27–16.17. Alternative and facility-specific VOC control requirements
N.J.A.C. 7:27–16.18. Leak detection and repair
N.J.A.C. 7:27–16.19. Application of cutback and emulsified asphalts
N.J.A.C. 7:27–16.21. Natural gas pipelines
N.J.A.C. 7:27–16.22. Emission information, record keeping and testing
N.J.A.C. 7:27–16.23. Procedures for demonstrating compliance
N.J.A.C. 7:27–16.26. Variances
N.J.A.C. 7:27–16.27. Exceptions

APPENDIX I**APPENDIX II****CHAPTER 27 SUBCHAPTER 18—CONTROL AND PROHIBITION OF AIR POLLUTION FROM NEW OR ALTERED SOURCES AFFECTING AMBIENT AIR QUALITY (EMISSION OFFSET RULES) (EFFECTIVE 12/1/08)**

- N.J.A.C. 7:27–18.1. Definitions
N.J.A.C. 7:27–18.2. Facilities subject to this subchapter
N.J.A.C. 7:27–18.3. Standards for issuance of permits
N.J.A.C. 7:27–18.4. Air quality impact analysis
N.J.A.C. 7:27–18.5. Standards for use of emission reductions as emission offsets
N.J.A.C. 7:27–18.6. Emission offset postponement
N.J.A.C. 7:27–18.7. Determination of a net emission increase or a significant net emission increase
N.J.A.C. 7:27–18.8. Banking of emission reductions
N.J.A.C. 7:27–18.9. Secondary emissions
N.J.A.C. 7:27–18.10. Exemptions
N.J.A.C. 7:27–18.12. Civil or criminal penalties for failure to comply

CHAPTER 27 SUBCHAPTER 19—CONTROL AND PROHIBITION OF AIR POLLUTION FROM OXIDES OF NITROGEN (EFFECTIVE 04/20/09)

- N.J.A.C. 7:27–19.1. Definitions
N.J.A.C. 7:27–19.2. Purpose, scope and applicability
N.J.A.C. 7:27–19.3. General provisions
N.J.A.C. 7:27–19.4. Boilers serving electric generating units
N.J.A.C. 7:27–19.5. Stationary combustion turbines
N.J.A.C. 7:27–19.6. Emissions averaging
N.J.A.C. 7:27–19.7. Industrial/commercial/institutional boilers and other indirect heat exchangers
N.J.A.C. 7:27–19.8. Stationary reciprocating engines
N.J.A.C. 7:27–19.11. Emergency generators—recordkeeping
N.J.A.C. 7:27–19.13. Alternative and facility-specific NO_x emission limits
N.J.A.C. 7:27–19.14. Procedures for obtaining approvals under this subchapter
N.J.A.C. 7:27–19.15. Procedures and deadlines for demonstrating compliance
N.J.A.C. 7:27–19.16. Adjusting combustion processes
N.J.A.C. 7:27–19.17. Source emissions testing
N.J.A.C. 7:27–19.18. Continuous emissions monitoring
N.J.A.C. 7:27–19.19. Recordkeeping and recording
N.J.A.C. 7:27–19.20. Fuel switching
N.J.A.C. 7:27–19.21. Phased compliance—repowering
N.J.A.C. 7:27–19.23. Phased compliance—use of innovative control technology
N.J.A.C. 7:27–19.24. MEG alerts
N.J.A.C. 7:27–19.25. Exemption for emergency use of fuel oil
N.J.A.C. 7:27–19.26. Penalties

CHAPTER 27 SUBCHAPTER 20—USED OIL COMBUSTION (EFFECTIVE 6/19/06)

- N.J.A.C. 7:27–20.1. Definitions

- N.J.A.C. 7:27–20.2. General provisions
N.J.A.C. 7:27–20.3. Burning of on-specification used oil in space heaters covered by a registration
N.J.A.C. 7:27–20.4. Burning of on-specification used oil in space heaters covered by a permit
N.J.A.C. 7:27–20.5. Demonstration that used oil is on-specification
N.J.A.C. 7:27–20.6. Burning of on-specification oil in other combustion units
N.J.A.C. 7:27–20.7. Burning of off-specification used oil
N.J.A.C. 7:27–20.8. Ash standard
N.J.A.C. 7:27–20.9. Exception

CHAPTER 27 SUBCHAPTER 21—EMISSION STATEMENTS (EFFECTIVE 4/20/09)

- N.J.A.C. 7:27–21.1. Definitions
N.J.A.C. 7:27–21.2. Applicability
N.J.A.C. 7:27–21.3. General provisions
N.J.A.C. 7:27–21.4. Procedures for submitting an emission statement
N.J.A.C. 7:27–21.5. Required contents of an emission statement
N.J.A.C. 7:27–21.6. Recordkeeping requirements
N.J.A.C. 7:27–21.7. Certification of information
N.J.A.C. 7:27–21.8. Request for extensions
N.J.A.C. 7:27–21.9. Notification of non-applicability
N.J.A.C. 7:27–21.10. Severability

CHAPTER 27 SUBCHAPTER 22—OPERATING PERMITS (EFFECTIVE 12/1/08)

- N.J.A.C. 7:27–22.1. Definitions
N.J.A.C. 7:27–22.2. Applicability
N.J.A.C. 7:27–22.3. General provisions
N.J.A.C. 7:27–22.4. General application procedures
N.J.A.C. 7:27–22.5. Application procedures for initial operating permits
N.J.A.C. 7:27–22.6. Operating permit application contents
N.J.A.C. 7:27–22.7. Application shield
N.J.A.C. 7:27–22.8. Air quality simulation modeling and risk assessment
N.J.A.C. 7:27–22.9. Compliance plans
N.J.A.C. 7:27–22.10. Completeness reviews
N.J.A.C. 7:27–22.11. Public comment
N.J.A.C. 7:27–22.12. EPA comment
N.J.A.C. 7:27–22.13. Final action on an application
N.J.A.C. 7:27–22.14. General operating permits
N.J.A.C. 7:27–22.15. Temporary facility operating permits
N.J.A.C. 7:27–22.16. Operating permit contents
N.J.A.C. 7:27–22.17. Permit shield
N.J.A.C. 7:27–22.18. Source emissions testing and monitoring
N.J.A.C. 7:27–22.19. Recordkeeping, reporting and compliance certification
N.J.A.C. 7:27–22.20. Administrative amendments
N.J.A.C. 7:27–22.21. Changes to insignificant source operations
N.J.A.C. 7:27–22.22. Seven-day-notice changes
N.J.A.C. 7:27–22.23. Minor modifications
N.J.A.C. 7:27–22.24. Significant modifications
N.J.A.C. 7:27–22.24A. Reconstruction

- N.J.A.C. 7:27–22.25. Department initiated operating permit modifications
N.J.A.C. 7:27–22.26. MACT and GACT standards
N.J.A.C. 7:27–22.27. Operating scenarios
N.J.A.C. 7:27–22.28A. Emissions trading
N.J.A.C. 7:27–22.28B. Facility-specific emissions averaging programs
N.J.A.C. 7:27–22.29. Facilities subject to acid deposition control
N.J.A.C. 7:27–22.30. Renewals
N.J.A.C. 7:27–22.31. Fees
N.J.A.C. 7:27–22.32. Hearings and appeals
N.J.A.C. 7:27–22.33. Preconstruction review
N.J.A.C. 7:27–22.34. Early reduction of HAP emissions
N.J.A.C. 7:27–22.35. Advances in the art of air pollution

APPENDIX**TABLE A****TABLE B****CHAPTER 27 SUBCHAPTER 30—CLEAN AIR INTERSTATE RULE (CAIR) NO_x TRADING PROGRAM (EFFECTIVE 8/17/07)**

- N.J.A.C. 7:27–30.1. Purpose and scope
N.J.A.C. 7:27–30.2. Definitions
N.J.A.C. 7:27–30.3. Allocation of CAIR NO_x annual allowances & CAIR NO_x ozone season allowances
N.J.A.C. 7:27–30.4. The compliance supplement pool
N.J.A.C. 7:27–30.5. Claims for incentive allowances
N.J.A.C. 7:27–30.6. Reporting requirements

CHAPTER 27 SUBCHAPTER 31—NO_x BUDGET PROGRAM (EFFECTIVE 4/5/04)

- N.J.A.C. 7:27–31.1. Purpose and scope
N.J.A.C. 7:27–31.2. Definitions
N.J.A.C. 7:27–31.3. Applicability and general provisions
N.J.A.C. 7:27–31.4. Opt-in provisions
N.J.A.C. 7:27–31.5. Interface with the emission offset program
N.J.A.C. 7:27–31.6. Interface with the open market emissions trading program
N.J.A.C. 7:27–31.7. Annual allowance allocation
N.J.A.C. 7:27–31.8. Claims for incentive reserve allowances
N.J.A.C. 7:27–31.9. Permits
N.J.A.C. 7:27–31.10. Allowance use, transfer and retirement
N.J.A.C. 7:27–31.11. Allowance banking
N.J.A.C. 7:27–31.12. Early reductions
N.J.A.C. 7:27–31.13. NO_x allowance tracking system (NATS)
N.J.A.C. 7:27–31.14. Emission monitoring
N.J.A.C. 7:27–31.15. Recordkeeping
N.J.A.C. 7:27–31.16. Reporting
N.J.A.C. 7:27–31.17. End-of-season reconciliation
N.J.A.C. 7:27–31.18. Compliance certification
N.J.A.C. 7:27–31.19. Excess emissions deduction
N.J.A.C. 7:27–31.20. Program audit
N.J.A.C. 7:27–31.21. Guidance documents and sources incorporated by reference

**CHAPTER 27B SUBCHAPTER 1—
SAMPLING AND ANALYTICAL
PROCEDURES FOR DETERMINING
EMISSIONS OF PARTICLES FROM
MANUFACTURING PROCESSES AND
FROM COMBUSTION OF FUELS
(EFFECTIVE 6/1/76)**

- N.J.A.C. 7:27B–1.1. Definitions
N.J.A.C. 7:27B–1.2. Acceptable test methods
N.J.A.C. 7:27B–1.3. Operating conditions during the test
N.J.A.C. 7:27B–1.4. Sampling facilities to be provided by the person responsible for emissions
N.J.A.C. 7:27B–1.5. Sampling train
N.J.A.C. 7:27B–1.6. Performance test principle
N.J.A.C. 7:27B–1.7. General testing requirements
N.J.A.C. 7:27B–1.8. Required test data
N.J.A.C. 7:27B–1.9. Preparation for sampling
N.J.A.C. 7:27B–1.10. Sampling
N.J.A.C. 7:27B–1.11. Sample recovery
N.J.A.C. 7:27B–1.12. Analysis
N.J.A.C. 7:27B–1.13. Calculations
N.J.A.C. 7:27B–1.14. Validation of test

**CHAPTER 27B SUBCHAPTER 2—
PROCEDURES FOR VISUAL
DETERMINATION OF THE OPACITY
(PERCENT) AND SHADE OR APPEARANCE
(RINGELMANN NUMBER) OF EMISSIONS
FROM SOURCES (EFFECTIVE 6/21/76)**

- N.J.A.C. 7:27B–2.1. Definitions
N.J.A.C. 7:27B–2.2. Acceptable observation methods
N.J.A.C. 7:27B–2.3. General observation requirements
N.J.A.C. 7:27B–2.4. Required observation data
N.J.A.C. 7:27B–2.5. Certification

REFERENCE

APPENDIX 1

**CHAPTER 27B SUBCHAPTER 3—AIR TEST
METHOD 3: SAMPLING AND ANALYTICAL
PROCEDURES FOR THE DETERMINATION
OF VOLATILE ORGANIC COMPOUNDS
FROM SOURCE OPERATIONS (EFFECTIVE
12/1/08)**

- N.J.A.C. 7:27B–3.1. Definitions
N.J.A.C. 7:27B–3.2. Sampling and analytical protocol: acceptable test methods
N.J.A.C. 7:27B–3.3. Operating conditions during the test
N.J.A.C. 7:27B–3.4. Sampling facilities
N.J.A.C. 7:27B–3.5. Source operations and applicable test methods
N.J.A.C. 7:27B–3.6. Procedures for the determinations of vapor pressures of a single known VOC or mixtures of known and/or unknown VOC
N.J.A.C. 7:27B–3.7. Procedures for the direct measurement of volatile organic compounds using a flame ionization detector (FID), a photoionization detector (PID) or a non-dispersive infrared analyzer (NDIR)
N.J.A.C. 7:27B–3.8. Procedures for the direct measurement of volatile organic compounds using a gas chromatograph (GC) with a flame ionization detector (FID) or other suitable detector

- N.J.A.C. 7:27B–3.9. Procedures for the sampling and remote analysis of known volatile organic compounds using a gas chromatograph (GC) with a flame ionization detector (FID) or other suitable detector
N.J.A.C. 7:27B–3.10. Procedures for the determination of volatile organic compounds in surface coating formulations
N.J.A.C. 7:27B–3.11. Procedures for the determination of volatile organic compounds emitted from transfer operations using a flame ionization detector (FID) or non-dispersive infrared analyzer (NDIR)
N.J.A.C. 7:27B–3.12. Procedures for the determination of volatile organic compounds in cutback and emulsified asphalts
N.J.A.C. 7:27B–3.13. Procedures for the determination of leak tightness of gasoline delivery vessels
N.J.A.C. 7:27B–3.14. Procedures for the direct detection of fugitive volatile organic compound leaks
N.J.A.C. 7:27B–3.15. Procedures for the direct detection of fugitive volatile organic compound leaks from gasoline tank trucks and vapor collection systems using a combustible gas detector
N.J.A.C. 7:27B–3.18. Test methods and sources incorporated by reference

* * * * *

[FR Doc. E9–23797 Filed 10–1–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric
Administration**

50 CFR Part 665

RIN 0648–AU71

**Fisheries in the Western Pacific;
Fishery Ecosystem Plans**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of five new fishery ecosystem plans; request for comments.

SUMMARY: NMFS announces the availability for public review and comment of proposed Fishery Ecosystem Plans (FEPs) for American Samoa, Hawaii, Mariana Archipelago, Pacific remote island areas, and western Pacific pelagic fisheries. The FEPs would incorporate and reorganize elements of five existing western Pacific fishery management plans from a species- or fishery-basis, to one that is founded on geography. The FEPs would not change current management measures. The objectives of the FEPs are

to be consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through the incorporation of ecosystem-based goals and principles in fishery management.

DATES: Comments on the amendment must be received by December 1, 2009.

ADDRESSES: Comments on the FEPs, identified by 0648–AU71, may be sent to either of the following addresses:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov; or
- Mail: Mail written comments to William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814–4700.

Instructions: All comments received are a part of the public record and will generally be posted to www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

A Programmatic Environmental Impact Statement (PEIS) was prepared for these FEPs. The PEIS and five FEPs are available from www.regulations.gov or the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, 808–522–8220, fax 808–522–8226, www.wpcouncil.org.

FOR FURTHER INFORMATION CONTACT: Brett Wiedoff, NMFS PIR, 808–944–2272.

SUPPLEMENTARY INFORMATION: This **Federal Register** document is available at www.gpoaccess.gov/fr.

The Magnuson-Stevens Act authorizes the regional fishery management councils to create fishery management plans. The Council developed five FEPs, consistent with the Magnuson-Stevens Act and the national standards for fishery conservation and management. This notice announces that the FEPs are available for public review and comment for 60 days. NMFS will consider public comments received during the comment period in determining whether to approve, partially approve, or disapprove the FEPs.