

EPA APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NN REGULATIONS

State citation	Title/subject	State approval/ effective date	EPA approval date	Explanation
*	*	*	*	*
<b>New Mexico Administrative Code (NMAC) Title 20—Environment Protection, Chapter 11—Albuquerque/Bernalillo County Air Quality Control Board</b>				
*	*	*	*	*
Part 20 (20.11.20 NMAC) .....	Fugitive Dust Control .....	3/17/2008	April 1, 2009 [Insert FR page where document begins].	
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[FR Doc. E9-7296 Filed 3-31-09; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[Docket No. EPA-R02-OAR-2008-0020; FRL-8775-6]

**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 (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving 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 approves a source-specific variance determination and emission limitations that were 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 rule is to approve source-specific emissions limitations required by the Clean Air Act.

**DATES:** *Effective Date:* This rule will become effective on May 1, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2008-0020. All documents in the docket are listed on

the <http://www.regulations.gov> Web site. 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 through <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. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212-637-4249.

**FOR FURTHER INFORMATION CONTACT:** Paul Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637-3711, e-mail: [Truchan.Paul@epa.gov](mailto:Truchan.Paul@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. What Action Is EPA Taking Today?**

EPA is approving 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). No variance was requested, or is being granted for PM2.5. This evaluation and variance only involves the operation of

the cooling tower. The reader is referred to the proposed rulemaking on this action (May 29, 2008, 73 FR 30873) for additional details.

**II. What Comments Were Received and What Is EPA's Response?**

EPA received one anonymous comment which did not support the variance request. The commenter indicated concern with the health effects of particulate matter and the need to clean up our air. The commenter also stated that the plant should be forced to upgrade and that the proposed SIP revision should have included a discussion of particulates smaller than 2.5 parts per million (ppm).

EPA is also concerned with the health effects of particulates and revised the national ambient air quality standard (NAAQS) for PM2.5 in September 2006, lowering the 24-hour PM2.5 NAAQS from 65 µg/m<sup>3</sup> to 35 µg/m<sup>3</sup> and readopted the annual PM2.5 NAAQS at 15 µg/m<sup>3</sup>. States were required to make recommendations for designating their counties as either attainment or nonattainment by December 2007. On December 18, 2008, EPA's Administrator signed a final rulemaking containing the new PM2.5 air quality designations.

Based on current air quality monitoring data, Salem County is in attainment of the new 24-hour PM2.5 standard. Salem County is currently designated as attaining the previous 24-hour PM2.5 standard, and this is confirmed with air quality monitoring data. Therefore, the County where the cooling tower is located is currently attaining the 65 µg/m<sup>3</sup> NAAQS and is also attaining the new lower 35 µg/m<sup>3</sup> NAAQS.

As part of the requirements for obtaining a variance, an air quality modeling analysis may be required. Such an analysis was performed for the potential increase in emissions from the PSEG cooling tower which looked at annual and 24-hour TSP, PM10 and PM2.5 standards. The PM2.5 standard regulates fine particulates with an aerodynamic diameter of 2.5 micrometers or less (that is, all particulates 2.5 micrometers and smaller). The proposed approval (73 FR 30874, May 29, 2008) and the air quality modeling analysis included in the Docket for this action addressed the PM2.5 emissions from the cooling tower. Maximum modeled concentrations were compared to the respective significant impact levels. In general, concentrations of pollutants (in micrograms per cubic meter) above the significant impact levels may contribute to a violation of a NAAQS. However, in this case, the modeled impact of all three pollutants was less than their respective significance levels. In addition, the modeled impacts were added to the area-wide background concentrations, and all the results were less than the NAAQS. Therefore, the proposed SIP revision has demonstrated no interference with any NAAQS and satisfied section 110(l) of the Act, and EPA concludes the proposed SIP revision will not interfere with attainment or any other requirements of the Act. Further, as discussed in the proposal (73 FR 30873), the cooling tower will have its annual allowable particulate matter emissions limited to 65.9 tons per year (tpy) instead of the current allowable of 129 tpy. Under worst case assumptions, hourly emissions are allowed to increase to 42.0 pounds per hour (lbs/hr) from 29.4 lbs/hr. The worst-case particulate matter emissions were modeled and are not predicted to cause an exceedance of the NAAQS.

The variance request also included a review of the existing controls at PSEG's cooling tower, an evaluation of other methods of reducing emissions at this facility, including the cost of these controls, and a comparison of controls that could be required on newly constructed cooling towers. The control efficiency currently measured for this cooling tower is comparable to or better than similar cooling towers documented in EPA's RACT/BACT/LAER Clearinghouse. Therefore, no additional controls are feasible.

In determining whether to approve the variance request submitted by New Jersey, EPA was guided by the applicable rules contained in the State Implementation Plan (SIP), the results of

air quality monitoring for the area, the results of air quality modeling of the proposed impact of the variance request, and the results of the technological and economic evaluations which were used to justify the variance. The New Jersey Administrative Code, Title 7, Chapter 27, Subchapter 6, Control and Prohibition of Particulates from Manufacturing Processes, Section 6.5 specifically permits variances to be issued and provides procedures and requirements which must be met in order for the variance to be granted. New Jersey has demonstrated to EPA's satisfaction that these requirements have been met and that the variance will not cause or contribute to an exceedance of the applicable NAAQS.

### III. Conclusion

EPA is approving New Jersey's SIP revision request for a variance and an alternative emission limit determination for the PSEG Nuclear LLC Hope Creek and Salem Generating Stations cooling tower. This SIP revision contains source-specific particulate emission limitations contained in New Jersey's Air Pollution Control Operating Permit for this source of: TSP less than or equal to 65.9 tpy, PM-10 less than or equal to 65.9 tpy, TSP less than or equal to 42 lbs/hr, and PM-10 less than or equal to 42 lbs/hr.

### IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 1, 2009. Filing a petition for reconsideration of this rule with the Administrator does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness

of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 12, 2009.

**George Pavlou,**

*Acting Regional Administrator, Region 2.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. Section 52.1570 is amended by adding new paragraph (c)(86) to read as follows:

#### § 52.1570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(86) Revisions to the New Jersey State Implementation Plan (SIP) for particulate matter granting a variance from Subchapter 6, Control and Prohibition of Particles from Manufacturing Processes for the cooling tower at the PSEG Nuclear LLC Hope Creek and Salem Generating Stations located in Lower Alloways Creek Township, Salem County dated November 2, 2007 submitted by the New Jersey State Department of Environmental Protection (NJDEP) which establishes hourly emission limits for TSP and PM-10 (total) of less than or equal to 42 pounds per hour and annual emission limits for TSP and PM-10 (total) of less than or equal to 65.9 tons per year.

(i) Incorporation by reference:

(A) A letter from Lisa P. Jackson, Commissioner, New Jersey Department of Environmental Protection, addressed to Alan J. Steinberg, Regional Administrator, EPA, dated November 2, 2007 submitting the variance for PSEG Nuclear LLC Hope Creek and Salem Generating Stations without the attachments.

(B) Section J, Facility Specific Requirements, Emission Unit U24 Cooling Tower, (Significant Modification Approval date August 7, 2007) contained in the Air Pollution Control Operating Permit, Significant Modification and Preconstruction Approval, PSEG Nuclear LLC Hope

Creek and Salem Generating Stations, Permit Activity Number: BOP05003.

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[FR Doc. E9-7179 Filed 3-31-09; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 112

[EPA-HQ-OPA-2007-0584; FRL-8788-5]

RIN 2050-AG16

#### Oil Pollution Prevention; Non-Transportation Related Onshore Facilities; Spill Prevention, Control, and Countermeasure Rule—Final Amendments

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** The Environmental Protection Agency (EPA) is delaying the effective date of the final rule that amends the Spill Prevention, Control, and Countermeasure (SPCC) regulations promulgated in the **Federal Register** on December 5, 2008. The amendments will become effective on January 14, 2010. EPA additionally is requesting public comment on whether a further extension of the effective date may be warranted.

**DATES:** This document is effective April 1, 2009. The effective date of the final rule (FR Doc. E8-28159), published in the **Federal Register** on December 5, 2008 (73 FR 74236), that was delayed until April 4, 2009 (74 FR 5900), is further delayed to January 14, 2010.

Comments must be received on or before May 1, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OPA-2007-0584, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- **Mail:** EPA Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

- **Hand Delivery:** EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OPA-2007-0584. 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 <http://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 <http://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. 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 index at the <http://www.regulations.gov>. Although listed in the index, some information may not be publicly available, such as Confidential Business Information (CBI) or other information the disclosure of which 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 at <http://www.regulations.gov> or in hard copy at the EPA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Public Reading Room is 202-566-1744, and the telephone number to make an appointment to view the docket is 202-566-0276.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the Superfund, TRI, EPCRA, RMP, and Oil