

(e) * * *

(1) Except with respect to projects involving natural gas well development subject to the provision of paragraph (f) of this section, any project whose sole source of water for consumptive use is a public water supply withdrawal, may be approved under this paragraph (e) in accordance with the following, unless the Commission determines that the project cannot be adequately regulated under this approval by rule:

(i) * * *

(ii) Within 10 days after submittal of an NOI under paragraph (e)(1)(i) of this section, the project sponsor shall submit to the Commission proof of publication in a newspaper of general circulation in the location of the project, a notice of intent to operate under this approval by rule, which contains a sufficient description of the project, its purposes and its location. This notice shall also contain the address, electronic mail address and telephone number of the Commission.

* * * * *

(f) Approval by rule for consumptive use related to natural gas well development.

(1) Any project involving the development of natural gas wells subject to review and approval under §§ 806.4, 806.5, or 806.6 of this part shall be subject to review and approval under this paragraph (f) regardless of the source or sources of water being used consumptively.

(i) Notification of Intent: No fewer than 60 days prior to undertaking a project or increasing a previously approved quantity of consumptive use, the project sponsor shall:

(A) Submit a Notice of Intent (NOI) on forms prescribed by the Commission, and the appropriate application fee, along with any required attachments.

(B) Send a copy of the NOI to the appropriate agencies of the member state, and to each municipality and county in which the project is located.

(ii) Within 10 days after submittal of an NOI under paragraph (f)(1)(i) of this section, the project sponsor shall submit to the Commission proof of publication in a newspaper of general circulation in the location of the project, a notice of intent to operate under this approval by rule, which contains a sufficient description of the project, its purposes and location and the sources, quantities and peak day use of water to be used consumptively by the project. This notice shall also contain the address, electronic mail address and telephone number of the Commission.

(2) The project sponsor shall comply with metering, daily use monitoring and

quarterly reporting as specified in § 806.30, or as otherwise required by the approval by rule. Daily use monitoring shall include amounts delivered or withdrawn per source, per day, and amounts used per gas well, per day, for well drilling, hydrofracture stimulation, hydrostatic testing, and dust control. The foregoing shall apply to all water and fluids, including additives, flowback and brines, utilized by the project.

(3) The standard conditions set forth in § 806.21 above shall apply to projects approved by rule, as well as any special conditions incorporated into such approvals.

(4) The project sponsor shall comply with mitigation in accordance with § 806.22(b)(2) or (b)(3).

(5) Any produced flowback fluids or brines utilized by the project sponsor for hydrofracture stimulation undertaken at the project shall be separately accounted for, but shall not be included in the daily consumptive use amount calculated for the project, or be subject to the mitigation requirements of § 806.22(b).

(6) The project sponsor shall obtain all necessary permits or approvals required for the project from other federal, state or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend or revoke any approval under this paragraph (f) if the project sponsor fails to obtain or maintain such approvals.

(7) The project sponsor shall demonstrate to the satisfaction of the Commission that all flowback and produced fluids, including brines, have been treated and disposed of in accordance with applicable state and federal law.

(8) The Commission will grant or deny approval to operate under this approval by rule and will notify the project sponsor of such determination, including the sources and quantity of consumptive use approved.

(9) Approval by rule shall be effective upon written notification from the Commission to the project sponsor, shall expire five years from the date of such notification, and rescind any previous consumptive use approvals to the extent applicable to the project.

(10) Water withdrawals approved by the Commission pursuant to § 806.4(a)(2) after the date of issuance of the approval by rule may be utilized as a source for the consumptive use authorized for the project provided such withdrawal source is approved for such use and is registered with the Commission at least 10 days prior

thereto on a form and in a manner as prescribed by the Commission.

(11) Approvals issued under this paragraph (f) shall not be transferable under § 806.6.

Dated: September 16, 2008.

Thomas W. Beauduy,
Deputy Director.

[FR Doc. E8-22805 Filed 10-1-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA-R02-OAR-2008-0659, FRL-8723-8]

Approval and Promulgation of Implementation Plans; New Jersey; Diesel Idling Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan revision submitted by New Jersey to revise its rules regarding the idling of diesel-powered vehicles. Specifically, the State's implementation plan revision revises the exceptions to and exemptions from the State's existing three-minute idling rule. The intended effect of this action is to approve, as consistent with section 110(a)(2) of the Clean Air Act, a control strategy that will help New Jersey achieve attainment of the National Ambient Air Quality Standards for ozone and fine particulate matter.

DATES: Comments must be received on or before November 3, 2008.

ADDRESSES: Submit your comments, identified by Docket ID number EPA-R02-OAR-2008-0659, by one of the following methods:

- <http://www.regulations.gov>: Follow the online 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 ID No. EPA-R02-OAR-2008-0659. 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 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: Matthew Laurita, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3895.

SUPPLEMENTARY INFORMATION:

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I. Description of the State Implementation Plan (SIP) Revision

A. What did New Jersey submit?

On July 2, 2007, New Jersey promulgated amendments to Title 7, Chapter 27, Subchapter 14, "Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles," of the New Jersey Administrative Code, that limits the amount of time that engines of diesel-powered motor vehicles may idle. New Jersey's original diesel idling rule, adopted on December 2, 1985, prohibits any person from allowing the engine of a diesel-powered motor vehicle to idle for more than three consecutive minutes. However, it also provides exceptions to and exemptions from the three-minute limit. New Jersey's July 2007 rule revision adds, deletes, and revises certain exceptions and exemptions, with the overall goal of further limiting air emissions from idling diesel-powered vehicles within New Jersey. This revised rule became operative on July 25, 2007. On September 13, 2007, New Jersey submitted its revised diesel idling rule to EPA for approval as a SIP revision.

New Jersey's original diesel idling rule provided two exceptions to the three-minute limit: When at an operator's place of business, a diesel vehicle was allowed to idle for up to 30 minutes; and when a diesel vehicle's engine had been stopped for three or more hours, the vehicle was allowed to idle for up to 15 minutes. New Jersey's revised rule deletes the first exception and revises the second, so that the 15-minute limit only applies when the ambient temperature is below 25 degrees Fahrenheit. In addition, New Jersey adopted a new exception, to allow a diesel bus that is actively discharging or picking up passengers to idle for 15 consecutive minutes in a 60-minute period.

New Jersey's rule also initially contained eight exemptions to the three-minute idling limit. Diesel vehicles

were exempt from the three-minute limit when engaged in the following: discharging or picking up passengers; idling in traffic; idling to provide power to auxiliary equipment (except heating or air conditioning systems); idling while being or waiting to be examined by a motor vehicle inspector; actively performing emergency services; undergoing repair or service; connecting or detaching trailers; or, for diesel vehicles equipped with sleeper berths, while the sleeper berth was being used for rest, unless the vehicle had an auxiliary power system to maintain cabin comfort or assist with cold-weather starting.

In its revised rule, New Jersey removed the exemption for picking up and discharging passengers, replacing it with a 15-minute idling limit (see above), and removed the exemption for connecting or detaching trailers. New Jersey also clarified that a diesel vehicle being repaired or serviced may idle only if operation of the engine is essential to the repair or service being performed. New Jersey is also limiting the sleeper berth exemption by removing this exemption for any vehicle not equipped with either a 2007 or newer engine or an older engine retrofitted with a properly functioning diesel particulate filter. The revised sleeper berth exemption becomes effective on May 1, 2010. However, the Commissioner of the New Jersey Department of Environmental Protection may delay the effective date of this revised exemption for up to one year, if it is determined that public safety would be adversely affected if the exemption were to take effect on May 1, 2010. Finally, New Jersey adopted a new exemption allowing technologies designed to reduce idling (such as auxiliary power units, generator sets, or bunk heaters) to operate provided the diesel vehicle's main engine is not idling.

In addition to the new and revised exemptions, New Jersey adopted a new provision prohibiting a diesel vehicle from idling for more than three minutes when parked in a space with available electrification technology, which is defined as " * * a technology that harnesses an off-vehicle electrical system to provide a vehicle with climate control and other needs." There are no exemptions from this provision.

B. What is EPA's evaluation of New Jersey's SIP revision submittal?

EPA has evaluated New Jersey's SIP revision submittal (described above), including the comments and responses New Jersey received during its public process. EPA has determined that New Jersey adequately addressed the

comments received and that New Jersey's revised diesel idling rule is enforceable and approvable as a control strategy to attain and maintain the national ambient air quality standards, as consistent with section 110(a)(2) of the Clean Air Act, 42 U.S.C. 7410(a)(2).

II. Proposed EPA Action

EPA is proposing to approve the revisions to New Jersey's diesel idling rule as part of New Jersey's ozone and particulate matter SIPs.

III. 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 (Public Law 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: September 19, 2008.

Alan J. Steinberg,

Regional Administrator, Region 2.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2005-0161; FRL-8723-4]

RIN 2060-AO80

Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to take action on amendments to the Renewable Fuel Standard program requirements. Following publication of the final rule promulgating the Renewable Fuel Standard regulations, EPA discovered a number of technical errors and areas within the regulations that could benefit from clarification or modification. This proposed rule would amend the regulations to make the appropriate corrections, clarifications and modifications. In the "Rules and Regulations" section of this **Federal Register**, we are amending the Renewable Fuel Standard program requirements 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 November 3, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2005-0161, by mail to Air and Radiation Docket, Docket No. EPA-HQ-OAR-2005-0161, Environmental Protection Agency, Mailcode: 6406J, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of 2 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:

Megan Brachtl, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, Mail Code: 6406J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343-9473; fax number: (202) 343-2802; e-mail address: brachtl.megan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why Is EPA Issuing This Proposed Rule?

This document proposes to take action on amendments to the Renewable Fuel Standard program requirements. We have published a direct final rule which amends the Renewable Fuel Standard program requirements 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. If we receive adverse comment on a distinct provision of this rulemaking, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing. The provisions that are not withdrawn will become effective on the date set out above, notwithstanding adverse comment on any other provision.