

rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" and a "Categorical Exclusion Determination" (CED) will be available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways

■ For the reasons discussed in the preamble, the Coast Guard amends 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. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. From APR 28, 2003, until SEPT 19, 2003, § 165.T17-005 is added to read as follows:

#### § 165.T17-005 Security Zone Regulations, Alaska Marine Highway System Vessel Security Zone, Western Alaska, Captain of the Port Zone.

(a) The following definitions apply to this section:

*Alaska Law Enforcement Officer* means any General Authority Alaska Peace Officer, Limited Authority Alaska Peace Officer, or Specially Commissioned Alaska Peace Officer as defined by Alaska State laws.

*Alaska Marine Highway System High Capacity Passenger Vessel* ("AMHS vessel") includes the following vessel; M/V Kennicott.

*AMHS Vessel Security Zone* is a regulated area of land and water, established by this section, surrounding AMHS vessels for a 100 yard radius, that is necessary to provide for the security of these vessels.

*Federal Law Enforcement Officer* means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

*Navigable waters of the United States* means those waters defined as such in 33 CFR part 2.05-25 and includes those waters described in 33 U.S.C. 1222(5) and 50 U.S.C. 195(2).

*Navigation Rules* means the Navigation Rules, International-Inland.

*Official Patrol* means those persons designated by the Captain of the Port to

monitor an AMHS vessel security zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone and take other actions authorized by the Captain of the Port. Persons authorized to enforce this section are designated as the Official Patrol.

*Public vessel* means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

*Western Alaska Captain of the Port Zone* means the area of land and water described in 33 CFR 3.85-15.

(b) This section applies to any vessel or person in or adjacent to the navigable waters of the United States in or adjacent to the State of Alaska west of 148° 26' longitude and within the Western Alaska Captain of the Port Zone.

(c) An AMHS vessel security zone is established and exists for a 100 yard radius around AMHS vessels at all times when located in the navigable waters of the United States in or adjacent to the State of Alaska and within the Western Alaska Captain of the Port Zone, whether the AMHS vessel is underway, anchored, or moored.

(d) The Navigation Rules shall apply at all times within an AMHS vessel security zone.

(e) All vessels within an AMHS vessel security zone shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the on-scene official patrol or AMHS vessel master. No vessel or person located in or adjacent to the navigable waters of the United States to which this section applies is allowed within 100 yards of an AMHS vessel, unless authorized by the on-scene official patrol or AMHS vessel master.

(f) To request authorization to operate within 100 yards of an AMHS vessel, contact the on-scene official patrol or AMHS vessel master on VHF-FM channel 16 or 13.

(g) When conditions permit, the on-scene official patrol or AMHS vessel master should:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of an AMHS vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within 100 yards of a passing AMHS vessel; and

(3) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of a moored or anchored AMHS vessel with minimal delay consistent with security.

(h) Public vessels as defined in paragraph (a) of this section are exempt from complying with paragraphs (b), (c), (e), (f), (g), (i), and (j) of this section.

(i) Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. When immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to exercise effect control in the vicinity of an AMHS vessel, any Federal Law Enforcement Officer or Alaska State Law Enforcement Officer may enforce the rules contained in this regulation pursuant to 33 CFR 6.04-11. In addition, the Captain of the Port may be assisted by other federal, state or local agencies in enforcing this rule.

(j) The Captain of the Port Western Alaska may waive any of the requirements of this section for any vessel upon finding that a vessel or class of vessels, operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port security, safety or environmental safety.

Dated: April 21, 2003.

**Ronald J. Morris,**

*Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[PA203-4207a; FRL-7494-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO<sub>x</sub> RACT Determinations for Lafayette College

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for Lafayette College, Easton Campus, a major source of nitrogen oxides (NO<sub>x</sub>) located in Northampton County, Pennsylvania. EPA is approving this revision to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on July 21, 2003, without further notice, unless EPA receives adverse written comment by June 19, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to Makeba Morris, Acting Branch Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Ellen Wentworth at (215) 814-2034, or via e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Pursuant to sections 182(b)(2) and 182(f) of the CAA, the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major volatile organic compound (VOC) and NO<sub>x</sub> sources. The major source size is determined by its location, the classification of that area, and whether it is located in the Ozone Transport Region (OTR). Under section 184 of the CAA, RACT, as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

**II. Summary of the SIP Revision**

On February 4, 2003, PADEP submitted formal revisions to its SIP to establish and impose case-by-case RACT for several major sources of VOC and NO<sub>x</sub>. This rulemaking pertains to one of those sources. The other sources are subject to separate rulemaking actions. The RACT determinations and requirements in this SIP revision are included in the operating permit (OP) issued by PADEP. Lafayette College,

Easton Campus, is located in the City of Easton, Northampton County, Pennsylvania, and is considered a major source of NO<sub>x</sub>. In this instance, RACT has been established and imposed by PADEP in an operating permit. On February 4, 2003, PADEP submitted operating permit No. OP 48-0034 to EPA as a SIP revision. This operating permit incorporates RACT determinations for NO<sub>x</sub> for the following sources: One (1) Titusville boiler; Boiler No. 1; two (2) Keller boilers, Boiler Nos. 2 and 3; one (1) Babcock & Wilcox boiler; Boiler No. 4; six (6) oil-fired boilers; two (2) gas-fired boilers; seventeen (17) natural gas-fired emergency generators; three (3) propane-fired emergency generators; twenty-one (21) natural gas-fired water heaters; and thirty-seven (37) natural gas-fired hot air furnaces.

NO<sub>x</sub> RACT for the two (2) Keeler boilers at maximum heat input of 28.44MMBtu/hr. and the one (1) Babcock & Wilcox boiler at maximum heat input of 49.0MMBtu/hr., shall be the maintenance and operation of the sources according to the manufacturer's specifications in accordance with the presumptive RACT emission limitations found in 25 Pa. Code, Chapter 129.93(b)(2)-(3). The sources shall be operated and maintained in accordance with good air pollution control practices. NO<sub>x</sub> RACT for the seventeen (17) natural gas-fired emergency generators and the three (3) propane-fired emergency generators shall be regulated under the presumptive RACT emission limitations as described under 15 Pa. Code, Chapter 129.93(c)(5). Each generator must operate less than 500 hours in a consecutive 12-month period. Presumptive RACT shall be the maintenance and operation of the sources in accordance with the manufacturer's specifications. The sources shall also be operated and maintained in accordance with good air pollution control practices. NO<sub>x</sub> RACT for the Titusville boiler at maximum heat input of 10.82MMBtu/hr., six (6) oil-fired boilers, two (2) natural gas-fired boilers, twenty-one (21) water heaters, and thirty-seven (37) hot air heaters shall be regulated under the presumptive RACT emission limitations described under 25 Pa. Code, Chapter 129.93(c)(1). Each source shall be limited to a maximum heat input of 20MMBtu/hr. The sources shall also be operated and maintained in accordance with good air pollution control practices. The facility shall maintain a file containing all records and other data required to be collected pursuant to 25 Pa. Code section 129.95. These records

must provide sufficient data and calculations to clearly demonstrate that the requirements of 25 Pa. Code sections 129.91 through 94 are met. All measurements, records and other data required to be maintained by the company shall be retained for at least two years following the date on which such measurements, records or data are recorded. If requested by PADEP, the facility shall perform a stack test in accordance with the provisions of 25 Pa. Code Chapter 139 within the time specified by PADEP.

**III. EPA's Evaluation of the SIP Revision**

EPA is approving this SIP submittal because the Commonwealth established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT or for limiting a source's potential to emit. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with these requirements.

**IV. Final Action**

EPA is approving the revision to the Commonwealth of Pennsylvania's SIP which establishes and requires RACT for Lafayette College, Easton Campus, (OP 48-0034) located in Northampton County, Pennsylvania. EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This direct final rule will be effective on July 21, 2003, without further notice unless we receive adverse comment by June 19, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**V. Statutory and Executive Order Reviews**

**A. General Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For

this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule 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 rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This 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 action 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. This rule 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.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of

the Clean Air Act. Thus, 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 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.*).

#### *B. Submission to Congress and the Comptroller General*

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for Lafayette College, Easton Campus.

#### *C. Petitions for Judicial Review*

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 July 21, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 approving the Commonwealth's source-specific RACT requirements to control NO<sub>x</sub> from Lafayette College, Easton Campus, 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 25, 2003.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

■ 40 CFR part 52 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.*

#### **Subpart NN—Pennsylvania**

■ 2. Section 52.2020 is amended by adding paragraph (c)(205) to read as follows:

#### **§ 52.2020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(205) Revision pertaining to NO<sub>x</sub> RACT determinations for a major source submitted by the Pennsylvania Department of Environmental Protection on February 4, 2003:

(i) Incorporation by reference.

(A) Letter submitted on February 4, 2003 by the Pennsylvania Department of Environmental Protection transmitting source-specific NO<sub>x</sub> RACT determinations.

(B) Operating Permit (OP) for Lafayette College, Easton Campus, Northampton County, OP 48-0034, effective August 18, 1997.

(ii) Additional Material. Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the source listed in paragraph (c)(205)(i) of this section.

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#### **DEPARTMENT OF HOMELAND SECURITY**

#### **Federal Emergency Management Agency**

#### **44 CFR Part 65**

#### **Changes in Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** Modified Base (1-percent-annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

**EFFECTIVE DATES:** The effective dates for these modified BFEs are indicated on the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.