

responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

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

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

### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 5100.1, and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

2. Section 117.789 is revised to read as follows:

#### § 117.789 Harlem River.

(a) The draws of all railroad bridges across the Harlem River may remain in the closed position from the time a train scheduled to cross the bridge is within five minutes from the bridge, and until that train has fully crossed the bridge.

(b)(1) The draws of the bridges at 103 Street, mile 0.0, 125 Street (Triborough), mile 1.3, Willis Avenue, mile 1.5, Third Avenue, mile 1.9, Madison Avenue, mile 2.3, 145 Street, mile 2.8, Macombs Dam, mile 3.2, 207 Street, mile 6.0, and the two Broadway Bridges, mile 6.8, shall open on signal if at least a four-hour advance notice is given to the New York City Highway Radio (Hotline) Room.

(2) The draws of the Willis Avenue Bridge, mile 1.5, Third Avenue Bridge, mile 1.9, and the Madison Avenue Bridge, mile 2.3, need not open for the passage of vessel traffic at various times between 8 a.m. and 5 p.m. on the first Sunday in May and November. The exact time and date of each bridge closure will be published in the Local Notice to Mariners several weeks prior to each closure.

(c) The draw of the Metro North (Park Avenue) Bridge, mile 2.1, shall open on signal, except as provided in paragraph (a) of this section, if at least a 4-hour advance notice is given by calling the number posted at the bridge.

(d) The draw of the Spuyten Duyvil railroad bridge, mile 7.9, shall open on signal at all times, except as provided in paragraph (a) of this section.

Dated: July 28, 2008.

**Dale G. Gabel,**

*Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.*

[FR Doc. E8–18175 Filed 8–6–08; 8:45 am]

**BILLING CODE 4910–15–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R08–OAR–2007–1030; FRL–8573–6]

### Approval and Promulgation of Air Quality Implementation Plans; Colorado; Affirmative Defense Provisions for Malfunctions; Common Provisions Regulation

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Colorado on August 1, 2007. These revisions establish affirmative defense provisions for source owners and operators for excess emissions during periods of malfunction. The affirmative defense provisions are contained in the State of Colorado's Common Provisions regulation. The intended effect of this action is to approve only those portions of Colorado's Common Provisions regulation submitted on August 1, 2007 that relate to the affirmative defense for malfunctions. This action is being taken under section 110 of the Clean Air Act.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a non-controversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**DATES:** Any written comments on this proposal must be received on or before September 8, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2007–1030, by one of the following methods:

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

• *E-mail*: [videtich.callie@epa.gov](mailto:videtich.callie@epa.gov) and [komp.mark@epa.gov](mailto:komp.mark@epa.gov).

• *Fax*: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** section if you are faxing comments).

• *Mail*: Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-A, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

• *Hand Delivery*: Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-A, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:**

Mark Komp, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P-A, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6436, [komp.mark@epa.gov](mailto:komp.mark@epa.gov).

**SUPPLEMENTARY INFORMATION:** See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: May 12, 2008.

**Carol Rushin,**

*Acting Regional Administrator, Region 8.*

[FR Doc. E8-16269 Filed 8-6-08; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2008-0472; FRL-8701-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Stafford County Reasonably Available Control Technology Under the 8-Hour Ozone National Ambient Air Quality Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP)

revision submitted by the Commonwealth of Virginia. This SIP revision pertains to the requirements in meeting the reasonably available control technology (RACT) under the 8-hour ozone national ambient air quality standard (NAAQS). These requirements are based on: Certification that previously adopted RACT controls in Virginia's SIP that were approved by EPA under the 1-hour ozone NAAQS are based on the currently available technically and economically feasible controls, and that they continue to represent RACT for the 8-hour implementation purposes; a negative declaration demonstrating that no facilities exist in Stafford County for the applicable control technology guideline (CTG) categories; and new RACT determinations. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before September 8, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2008-0472 by one of the following methods:

A. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

B. *E-mail*: [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).

C. *Mail*: EPA-R03-OAR-2008-0472, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery*: At the previously-listed EPA Region III address. 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-R03-OAR-2008-0472. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at [www.regulations.gov](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](http://www.regulations.gov) or e-mail. The [www.regulations.gov](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](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.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, 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 [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Gregory Becoat, (215) 814-2036, or by e-mail at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:** On April 21, 2008, the Virginia Department of Environmental Quality (VADEQ) submitted a revision to its SIP that addresses Stafford County's requirements of RACT under the 8-hour ozone NAAQS set forth by the CAA.

### I. Background

Ozone is formed in the atmosphere by photochemical reactions between volatile organic compounds (VOC), oxides of nitrogen (NO<sub>x</sub>) and carbon monoxide (CO) in the presence of sunlight. In order to reduce ozone concentrations in the ambient air, the CAA requires all nonattainment areas to apply control on VOC/NO<sub>x</sub> emission sources to achieve emission reductions. Among effective control measures, RACT controls are a major group for reducing VOC and NO<sub>x</sub> emissions from stationary sources.

Since the 1970s, EPA has consistently interpreted RACT to mean the lowest