

Federalism, if it has a substantial direct effect 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. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. *Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

8. *Civil Justice Reform*

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

9. *Protection of Children*

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

10. *Indian Tribal Governments*

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

11. *Energy Effects*

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. *Technical Standards*

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

13. *Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

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 parts 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; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T09–0312 to read as follows:

§ 165.T09–0312 **Safety Zone; Rochester Yacht Club Fireworks, Genesee River, Rochester, NY.**

(a) *Location.* This zone will encompass all waters of the Genesee River, Rochester, NY within a 560 foot radius of position 43°15′36.6″ N and 77°36′00.6″ W (NAD 83).

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced on June 22, 2013 from 9:30 p.m. until 11:00 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: May 23, 2013.

S.M. Wischmann,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2013-13661 Filed 6-7-13; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2013-0055; FRL-9820-3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision for the Commonwealth of Pennsylvania submitted by Allegheny County Health Department (ACHD). This SIP revision consists of a demonstration that Allegheny County's portion of the Pennsylvania requirements of reasonably available control technology (RACT) for nitrogen oxides (NO_x) and volatile organic compounds (VOCs) satisfy the RACT requirements set forth

by the Clean Air Act (CAA). This SIP revision demonstrates that all requirements for RACT are met through: Certification that previously adopted RACT controls in Pennsylvania's SIP that were approved by EPA under the 1-hour ozone national ambient air quality standards (NAAQS) are based on the currently available technically and economically feasible controls, and that they continue to represent RACT for the 8-hour ozone NAAQS; a negative declaration demonstrating that no facilities exist in Allegheny County for certain control technology guideline (CTG) categories; and a new RACT determination for a specific source. This action is being taken under the CAA.

DATES: This final rule is effective on July 10, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2013-0055. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 www.regulations.gov or in hard copy 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. Copies of the State submittal are available at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201. Copies are also available at Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Emlyn Véllez-Rosa, (215) 814-2038, or by email at velez-rosa.emlyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On February 26, 2013 (78 FR 13007), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of Allegheny County's SIP revision addressing the RACT requirements under the 8-hour

ozone NAAQS. The formal SIP revision was submitted by the Commonwealth of Pennsylvania on May 5, 2009.

EPA requires for the 8-hour ozone NAAQS that states meet the CAA RACT requirements, either through a certification that previously adopted RACT controls in their SIP approved by EPA under the 1-hour ozone NAAQS represent adequate RACT control levels for 8-hour ozone NAAQS attainment purposes or through the establishment of new or more stringent requirements that represent RACT control levels. See *Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline* (Phase 2 Rule), (70 FR 71612, 71655, November 29, 2005).

II. Summary of the SIP Revision

On May 5, 2009, the Pennsylvania Department of Environmental Protection (PADEP) submitted on behalf of ACHD a SIP revision addressing the RACT requirements for Allegheny County under the 8-hour ozone NAAQS set forth by the CAA. Allegheny County's SIP revision is consistent with the Phase 2 Rule and satisfies the requirements of RACT set forth by the CAA under the 8-hour ozone NAAQS through: (1) Certification that previously adopted RACT controls in Allegheny County's SIP, which were approved by EPA under the 1-hour ozone NAAQS, are based on the currently available technically and economically feasible controls and continue to represent RACT for the 8-hour ozone NAAQS; (2) a negative declaration demonstrating that no facilities exist in Allegheny County for the applicable CTG categories; and (3) a new RACT determination for a single source based upon reliance on the Maximum Achievable Control Technology (MACT) standard as allowed in the Phase 2 Rule. Additional details on the SIP revision as well as the rationale for EPA's proposed action are included in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving Allegheny County's 8-hour ozone RACT demonstration submitted to EPA on May 5, 2009 as a revision to the Allegheny County's portion of the Commonwealth of Pennsylvania's SIP.

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. 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 CAA; 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.

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. 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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 2013. Filing a petition for reconsideration by the Administrator of this final rule 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, which approves Allegheny County's 8-hour ozone RACT demonstration, 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, Volatile organic compounds.

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

Dated: May 16, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry for RACT under the 8-hour ozone NAAQS for Allegheny County at the end of the table. The added text reads as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
RACT under the 8-hour ozone NAAQS.	Allegheny County	5/5/09	6/10/13	[Insert page number where the document begins].

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130212129-3474-02]

RIN 0648-XC715

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Adjusted Closure of the 2013 Gulf of Mexico Recreational Sector for Red Snapper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces an adjusted closure of the recreational sector for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2013 fishing season through this temporary rule. On May 31, 2013, the

U.S. District Court for the southern district of Texas, Brownsville Division, set aside a March 25, 2013, emergency rule that gave the NMFS Regional Administrator the authority to close the recreational sector for red snapper in the EEZ off individual Gulf states. Therefore, NMFS adjusts the closure of the recreational sector for red snapper by closing the entire Gulf EEZ on June 29, 2013, instead of closing the EEZ on different days off individual Gulf states. This Gulf-wide EEZ closure is based on the Court decision and is necessary to prevent the recreational sector from exceeding its quota for the fishing year and prevent overfishing of the Gulf red snapper resource.

DATES: The closure is effective 12:01 a.m., local time, June 29, 2013, until 12:01 a.m., local time, January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone 727-824-5305, email Susan.Gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes red snapper, is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council

(Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

On March 25, 2013, NMFS implemented an emergency rule to authorize the NMFS Regional Administrator to set the closure date of the red snapper recreational fishing season in the exclusive economic zone (EEZ) off individual states (78 FR 17882). This was intended to compensate for the additional harvest of red snapper by the recreational sector during less restrictive state-water seasons off certain states. On May 31, 2013, the U.S. District Court for the southern district of Texas, Brownsville Division, set aside this emergency rule. Therefore, the closure of the recreational sector for red snapper for the 2013 fishing year is adjusted so that the Federal recreational red snapper season is consistent across all Gulf states. Taking into account the catches expected later in 2013 during the extended state-water seasons off Texas, Louisiana, and Florida, and the increased quota published in a final rule

