

Generating Station are available electronically at: <http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2001.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Steven Riva, Chief, Permitting Section, Air Programs Branch, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866, telephone (212) 637-4074.

**SUPPLEMENTARY INFORMATION:** The Act affords EPA a 45-day period to review, and object to as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

**I. Con Edison's 74th Street Station**

On May 14, 2001, the EPA received a petition from NYPIRG, requesting that EPA object to the issuance of the title V operating permit for the Consolidated Edison 74th Street Station. The petition raises issues regarding the permit application, the permit issuance process, and the permit itself. NYPIRG asserts that: (1) The permit does not assure compliance with all applicable requirements as mandated by 40 CFR 70.1(b) and 70.6(a)(1) because many individual permit conditions lack adequate monitoring and are not practically enforceable; (2) DEC violated the public participation requirements of 40 CFR 70.7(h) by inappropriately denying NYPIRG's request for a public hearing; (3) the permit is based on an incomplete permit application in violation of 40 CFR 70.5(c); (4) the permit is accompanied by an insufficient statement of basis as required by 40 CFR 70.7(a)(5); (5) the permit distorts the annual compliance certification requirement of Clean Air Act section 114(a)(3) and 40 CFR 70.6(c)(5); (6) the permit does not assure compliance with all applicable requirements as mandated by 40 CFR 70.1(b) and 70.6(a)(1) because it illegally sanctions the systematic violation of applicable requirements during startup/shutdown, malfunction, maintenance, and upset conditions; and (7) the permit does not require prompt reporting of all

deviations from permit requirements as mandated by 40 CFR 70.6(a)(3)(iii)(B).

On February 19, 2003, the Administrator issued an order partially granting and partially denying the petition on the Con Edison 74th Street Station. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Include annual tune-ups and necessary parametric monitoring to ensure the turbines' compliance with their NO<sub>x</sub> RACT emission limits; (2) revise recordkeeping provisions to require that records relating to sulfur monitoring be kept for five years; (3) include appropriate conditions for particulate matter monitoring that meets the requirements of § 70.6(a)(3)(i)(B); (4) include record keeping and reporting requirements with regard to the use of architectural coatings and sealers; (5) note the existence and applicability of the Episodic Action Plan; and (6) incorporate "Appendix A" of the opacity consent order. The order also explains the reasons for denying NYPIRG's remaining claims.

NYPIRG raises each of the above seven issues, except for the public hearing issue, in the petitions for the Danskammer Generating Station and the Lovett Generating Station, as well. In the Danskammer Generating Station petition, NYPIRG raises five additional issues: (1) The permit lacks federally enforceable conditions that govern the procedures for permit renewal; (2) the permit fails to include federally enforceable emission limits established under pre-existing permits; (3) the permit does not properly include CAA section 112(r) requirements; (4) the permit improperly describes the annual compliance certification due date; and (5) the permit does not assure Danskammer's compliance with applicable sulfur dioxide (SO<sub>2</sub>) emission limitations. In the petition on the Lovett Generating Station, NYPIRG raises three additional issues: (1) The proposed permit lacks a compliance schedule designed to bring the Lovett Generating Station into compliance with PSD requirements; (2) the proposed permit fails to include federally enforceable emission limits established under pre-existing permits; and (3) the proposed permit does not correctly include the CAA section 112(r) requirements. In each of these petitions, the issue on monitoring is subdivided into several detailed points, some of which are permit-specific and some of which are shared among the other permits.

**II. Danskammer Generating Station**

On December 10, 2001, the EPA received a petition from NYPIRG,

requesting that EPA object to the issuance of the title V operating permit for the Danskammer Generating Station, on the grounds listed above. On February 14, 2003, the Administrator issued an order partially granting and partially denying the petition. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Specify normal operating ranges for ESP parameters and (2) delete language allowing digital recording of COM data to be replaced by manual recording. The order also explains the reasons for denying NYPIRG's remaining claims.

**III. Lovett Generating Station**

On November 26, 2001, the EPA received a petition from NYPIRG, requesting that EPA object to the issuance of the title V operating permit for the Lovett Generating Station, on the grounds listed above. On February 19, 2003, the Administrator issued an order partially granting and partially denying the petition. The order explains the reasons behind EPA's conclusion that the NYSDEC must reopen the permit to: (1) Incorporate opacity monitoring to assure compliance with New York State regulations at 6 NYCRR section 211.3; and (2) incorporate all necessary requirements from the opacity consent order. The order also explains the reasons for denying NYPIRG's remaining claims.

Dated: March 6, 2003.

**Jane M. Kenny,**

*Regional Administrator, Region 2.*

[FR Doc. 03-7049 Filed 3-21-03; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 125**

[FRL-7472-2]

RIN-2040-AD85

**Withdrawal of Direct Final Rule; National Pollutant Discharge Elimination System—Amendment of Final Regulations Addressing Cooling Water Intake Structures for New Facilities**

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Because EPA received adverse comment, we are withdrawing the direct final rule for "National Pollutant Discharge Elimination System—Amendment of Final Regulations Addressing Cooling Water

Intake Structures for New Facilities; Direct Final Rule.” We published the direct final rule on December 26, 2002 (67 FR 78948), to make three minor technical corrections to the final regulations implementing section 316(b) of the Clean Water Act for new facilities. We stated in the direct final rule that if we received adverse comment by January 27, 2003, we would publish a timely notice of withdrawal in the **Federal Register**. We subsequently received adverse comment on the direct final rule. We will address those comments in a subsequent final action based on the parallel proposal also published on December 26, 2002 (67 FR 78956). As stated in the parallel proposal, we will not institute a second comment period on this action.

**DATES:** As of March 24, 2003, EPA withdraws the direct final rule published at 67 FR 78948, on December 26, 2002.

**FOR FURTHER INFORMATION CONTACT:** Martha Segall, Engineering and Analysis Division (4303T), USEPA Office of Science and Technology, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC, 20460 (phone: 202-566-1041; email: [segall.martha@epa.gov](mailto:segall.martha@epa.gov)).

**SUPPLEMENTARY INFORMATION:** EPA published a direct final rule on December 26, 2002, to make minor changes to a final rule published December 18, 2001, implementing section 316(b) of the Clean Water Act (CWA). The December 2001 final rule established national technology-based performance requirements applicable to the location, design, construction, and capacity of cooling water intake structures at new facilities using water withdrawn from rivers, streams, lakes, reservoirs, estuaries, oceans or other waters of the United States for cooling. The national requirements established the best technology available for minimizing adverse environmental impact associated with the use of these structures. The direct final rule clarified three technical issues on velocity monitoring, authority to require additional design and construction technologies, and procedures governing requests for less stringent alternative requirements.

EPA published a companion proposed rule on the same day as the direct final rule. The proposed rule invited comment on the substance of the direct final rule. The proposed rule stated that if EPA received adverse comment by January 27, 2003, the direct final rule would not take effect and EPA would publish a notice in the **Federal Register** withdrawing the direct final rule before

the March 26, 2003, effective date. The EPA subsequently received adverse comment on the direct final rule. EPA plans to address those comments in a subsequent action. Today's action withdraws the direct final rule; the amendments to the final regulations addressing cooling water intake structures for new facilities will not take effect on March 26, 2003.

#### List of Subjects in 40 CFR Part 125

Environmental protection, Cooling water intake structures, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: March 19, 2003.

**Christine Todd Whitman,**

*Administrator.*

[FR Doc. 03-7047 Filed 3-21-03; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2002-0278; FRL-7299-4]

#### Pesticides; Tolerance Exemptions for Active and Inert Ingredients for Use in Antimicrobial Formulations (Food-Contact Surface Sanitizing Solutions); Withdrawal of Direct Final Rule

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

**ACTION:** Direct final rule; withdrawal.

**SUMMARY:** EPA received adverse comment on the direct final rule “Pesticides; Tolerance Exemptions for Active and Inert Ingredients for Use in Antimicrobial Formulations (Food-Contact Surface Sanitizing Solutions),” published in the **Federal Register** of December 3, 2002, because of the adverse comment EPA is withdrawing the direct final rule. The direct final rule was intended to add a new section to part 180 listing the pesticide chemicals that are exempt from the requirement of a tolerance when used in food-contact surface sanitizing solutions.

**DATES:** The withdrawal is effective March 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6304; fax number: (703) 305-0599; e-mail address: [boyle.kathryn@epa.gov](mailto:boyle.kathryn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Does this Action Apply to Me?

You may be potentially affected by this action if you are a food manufacturer, or antimicrobial pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

- Industry (NAICS 311), *e.g.*, Food manufacturing.
- Producers (NAICS 32561), *e.g.*, Antimicrobial pesticides.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### II. How Can I Get Copies of this Document and Other Related Information?

##### A. Docket

EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0278. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

##### B. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents