

a significant disruption of maritime traffic.

Dated: March 4, 2004.

**Sally Brice-O'Hara,**

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

[FR Doc. 04-5794 Filed 3-12-04; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD05-04-040]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Delaware River, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Tacony-Palmyra Bridge across the Delaware River mile 107.2, in Burlington County, New Jersey. This deviation allows the drawbridge to remain in the closed-to-navigation position from 9 p.m. on March 29, 2004, to 9 p.m. on April 5, 2004. This closure is necessary to facilitate structural repairs.

**DATES:** This deviation is effective from 9 p.m. on March 29, 2004, through 9 p.m. on April 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Bill Brazier, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6422.

**SUPPLEMENTARY INFORMATION:** The Tacony-Palmyra Bridge, a double-leaf drawbridge, is owned and operated by the Burlington County Bridge Commission (Burlington County). Cornell & Company, Inc., on behalf of Burlington County, has requested a temporary deviation from the operating regulation to facilitate needed structural repairs to the bridge.

The work involves the machining and repairing of the track girders that support the drawbridge. There are four girders to be repaired and all four will be worked on simultaneously. To facilitate the repairs, the work requires completely immobilizing the draw spans in the closed-to-navigation position from 9 p.m. on March 29, 2004, through 9 p.m. on April 5, 2004. The Coast Guard has informed the known

users of the waterway of the closure periods for the bridge caused by the temporary deviation.

The District Commander has granted temporary deviation from the operating requirements listed in 33 CFR 117.5 for the purpose of repair completion of the drawbridge. This deviation allows the Tacony-Palmyra Bridge, across the Delaware River mile 107.2, in Burlington County, NJ, to remain closed to navigation from 9 p.m. March 29, 2004, to 9 p.m. on April 5, 2004.

Dated: March 5, 2004.

**Waverly W. Gregory, Jr.,**

*Chief, Bridge Branch, Fifth Coast Guard District.*

[FR Doc. 04-5795 Filed 3-12-04; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[VA133-5066a; FRL-7635-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revisions to Regulations for General Compliance Activities and Source Surveillance

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Virginia State Implementation Plan (SIP). The revisions update certain requirements related to applicability, compliance, testing and monitoring to be consistent with Federal requirements and EPA policy. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on May 14, 2004 without further notice, unless EPA receives adverse written comment by April 14, 2004. 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:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit

comments, please follow the detailed instructions described in Part III of the Supplementary Information section. 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; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

#### FOR FURTHER INFORMATION CONTACT:

Kathleen Anderson, (215) 814-2173, or by e-mail at [anderson.kathleen@epa.gov](mailto:anderson.kathleen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 1, 2003, the Virginia Department of Environmental Quality (DEQ) submitted formal revisions to the Commonwealth's State Implementation Plan (SIP). On December 16, 2003, the DEQ submitted a minor technical correction to the July 1, 2003 submittal. The SIP revisions consist of amendments to existing regulations that implement general compliance and source surveillance activities such as emission testing, emission monitoring, recordkeeping, reporting activities. In general, these revisions update requirements to be consistent with Federal requirements and allow for electronic submittal of information where appropriate.

##### II. Summary of the SIP Revisions

These SIP revisions amend definitions and regulations covering special provisions for existing and new and modified air pollutant sources. With the exception of the definition of the term "Initial performance test" these amendments to Virginia's regulations were effective in the Commonwealth on August 1, 2002. The definition of "Initial performance test" as adopted on August 1, 2002 had a minor technical error. The correction to the definition was adopted on November 5, 2003 and became effective January 1, 2004 in the Commonwealth.

(A) 9 VAC 5 Chapter 10. General Definitions: The general provisions in 9 VAC 5-10-10 have been amended to clarify citations and to require that where differences between the general definitions and definitions in major divisions of the regulations occur, the latter will prevail. The following definitions in 9 VAC 5-10-20 have been modified: "Affected facility," "Delayed compliance order," "Excessive concentration," "Federally enforceable," "Malfunction," "Public

hearing,” “Reference test method,” “Reid vapor pressure,” “Stationary source,” “True vapor pressure,” “Vapor pressure” and “Volatile organic compound.” Substantive modifications include changes to the definitions of the terms: “Malfunction” to clarify that failure of air pollution equipment caused by poor maintenance or careless operation will not be considered a malfunction; “Federally enforceable” to clarify that it applies to those limits and conditions enforceable by the Administrator of EPA and citizens under the Clean Air Act; “Reference method” to include reference to Appendix M of 40 CFR part 51; and “Volatile Organic Compound” to exempt those compounds exempted by EPA’s Federal definition.

The following terms have been added to the definitions in 9 VAC 5–10–20: “EPA”, “Initial emissions test”, “Initial performance test” (correction adopted November 5, 2003 and effective January 1, 2004 in the Commonwealth), “Maintenance area” and “Section 111(d) plan”. These definitions are consistent with Federal regulations. The term “Air quality maintenance area” has been removed.

(B) 9 VAC 5 Chapters 40, Part I. Special Provisions for Existing Stationary Sources and 9 VAC 5 Chapter 50, Part I. Special Provisions for Existing Stationary Sources: Non-substantive revisions to these chapters include clarifications on applicability, updated regulatory citations, allowances for submitting reports and documents electronically, and syntax improvements. The substantive changes that are common to both Chapter 40 and Chapter 50 include:

9 VAC 5–40–20 and 5–50–20: Subparagraph 20.A of both chapters has been revised to allow the use of alternative or equivalent methods to determine compliance with Federal requirements only when approved by the Administrator of EPA. The affected Federal requirements include but are not limited to new source performance standards, Federal operating permits, implementation plans, section 111(d) plans, Federal construction permits or construction permits issued under regulations approved by EPA, and operating permits issued under programs approved by EPA in the SIP. These changes appropriately limit discretionary changes to be consistent with Federal requirements. Subparagraph 20.G of both chapters has been revised to require opacity observations concurrent with initial performance tests following certain criteria and conditions. Where no performance test is required, a source

must conduct opacity observations within 60 days after achieving the maximum production rate. A continuous opacity monitor may be used provided certain protocols are used. These provisions strengthen the opacity requirements in the SIP. Finally, subparagraphs 20.H and 20.I of chapters 40 and 50 respectively, add provisions to allow the use of any credible evidence or information for determining compliance with the requirements in these chapters.

9 VAC 5–40–30 and 5–50–30: Subparagraph 30.A of both chapters has been modified to specify that appropriate reference test methods shall be used for emission testing unless the Board allows, in advance, an equivalent method, an alternative method, a waiver from testing on the Board’s belief that the source is in compliance with the standard, or a shorter sampling time and volume as necessary. On their face, these new provisions would grant a level of discretionary authority that EPA would find objectionable. However, 9 VAC 5–40–20 and 5–50–20, subparagraph 20.A.2 provide that alternative or equivalent methods for determining compliance with Federal requirements must be approved by the EPA Administrator. Subparagraph F.1 of both chapters has been modified to set conditions to ensure that sampling ports shall be adequate for applicable test methods. This modification clarifies and supports the SIP with respect to sampling port requirements.

9 VAC 5–40–50 and 5–50–50: Subparagraph A of both chapters has been modified to add a requirement that the Board have no less than 30 days notification for opacity observations. Subparagraph C has been modified to add a requirement for semi-annual reporting for owners that install continuous monitoring systems unless more frequent reporting is required by an emission standard or the Board determines that more frequent reporting is necessary.

These revisions strengthen the SIP by clarifying and updating definitions and source surveillance requirements related to new or modified and existing sources of air pollution. The revisions also require EPA review of alternative emission limits and allow the use of any credible evidence or information for determining compliance.

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) “privilege” for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either

asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia’s legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia’s Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information “required by law,” including documents and information “required by Federal law to maintain program delegation, authorization or approval,” since Virginia must “enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. \* \* \*” The opinion concludes that “[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.”

Virginia’s Immunity law, Va. Code Sec. 10.1–1199, provides that “[t]o the extent consistent with requirements imposed by Federal law,” any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General’s January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized

programs, since “no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.”

Therefore, EPA has determined that Virginia’s Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

### III. Final Action

EPA is approving the revisions to 9 VAC 5 Chapters 10, 40 and 50 of Virginia’s Regulations for the Control and Abatement of Air Pollution, submitted by Virginia on July 1, 2003 and December 16, 2003. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates 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 rule will be effective on May 14, 2004 without further notice unless EPA receives adverse comment by April 14, 2004. 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.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number VA133–5066 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be

marked “late.” EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA’s policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. 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.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov), attention VA133–5066. EPA’s e-mail system is not an “anonymous access” system. If you send an e-mail comment directly without going through [Regulations.gov](http://www.regulations.gov), EPA’s e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA’s e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulations.gov.* Your use of [Regulation.gov](http://www.regulations.gov) is an alternative method of submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select “Environmental Protection Agency” at the top of the page and use the “go” button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an “anonymous access” system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office

listed in the **ADDRESSES** section of this document.

For public commenters, it is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

### Submittal of CBI Comments

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

### Considerations When Preparing Comments to EPA

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### IV. 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 (Pub. L. 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. EPA will submit a report containing this rule 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**. This rule 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 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 May 14, 2004.

Filing a petition for reconsideration by the Administrator of this final rule approving amendments to the “Special Provisions” chapters of Virginia’s Regulations for the Control and Abatement of Air Pollution 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 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, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 2, 2004.

**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 VV—Virginia

■ 2. In Section 52.2420, the table in paragraph (c) is amended:

■ a. Under Chapter 10 by revising the entry for 5–10–10 and by adding an entry for 5–10–20 after the existing entry for 5–10–20.

■ b. Under Chapter 40 by revising entries 5–40–10, 5–40–20, 5–40–30, 5–40–40 and 5–40–50.

■ c. Under Chapter 50 by revising entries 5–50–10, 5–50–20, 5–50–30, 5–50–40 and 5–50–50.

##### § 52.2420 Identification of plan.

\* \* \* \* \*

(c) EPA approved regulations.

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation	
CHAPTER 10		GENERAL DEFINITIONS [PART I]			
5-10-10 .....	General .....	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Revised paragraphs A, B, C and added new paragraph D.	
* .....	* .....	* .....	* .....	* .....	
5-10-20 .....	Terms Defined .....	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Terms Added: EPA, Initial emissions test, Initial performance test (as corrected 11/05/03 and effective 01/01/04 in the Commonwealth), Maintenance area. Terms Revised: Affected facility, Delayed compliance order, Excessive concentration, Federally enforceable, Malfunction, Public hearing, Reference method, Reid vapor pressure, Stationary source, True vapor pressure, Vapor pressure. Terms Removed: Air Quality Maintenance Area.	
CHAPTER 40 PART I		EXISTING STATIONARY SOURCES [PART IV] SPECIAL PROVISIONS			
5-40-10 .....	Applicability .....	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Modified paragraphs A through C, added paragraph D.	
5-40-20 .....	Compliance .....	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Added new paragraph A.2 and revised renumbered paragraph A.3. New paragraph A.4 is not included in the SIP revision. Added new paragraph G, revised paragraphs H, H.1, H.1.b through e, H.2, H.2.b through e, and added new paragraph J.	
5-40-30 .....	Emissions Testing .....	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Revised paragraph A. Revisions to paragraph C not included in SIP revision. Revised paragraph F.1.	
5-40-40 .....	Monitoring .....	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Revised paragraph B, and D.1 and added D.12.	
5-40-50 .....	Notification, records and reporting.	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Added new paragraph A.3. Revised paragraph C, C.1, D, E and F.	
* .....	* .....	* .....	* .....	* .....	
CHAPTER 50 PART I		NEW AND MODIFIED STATIONARY SOURCES [PART V] SPECIAL PROVISIONS			
5-50-10 .....	Applicability .....	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Modified paragraphs B and D, added paragraphs E and F.	
5-50-20 .....	Compliance .....	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Added new paragraph A.2. and revised renumbered paragraphs A.3 through A.5. Added new paragraph G, revised paragraph H, H.2, H.2a, H.3, H.4 and added new paragraph I.	
5-50-30 .....	Performance Testing .....	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Revised paragraph A. Revisions to paragraph C not included in SIP revision. Revised paragraph F.1.	
5-50-40 .....	Monitoring .....	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Revised paragraph E.1 and added E.10.	
5-50-50 .....	Notification, records and reporting.	August 1, 2002 .....	March 15, 2004 [Federal Register page citation].	Added new paragraph A.6. and Revised paragraph C, C.1, D, E and F.	
* .....	* .....	* .....	* .....	* .....	

[FR Doc. 04-5637 Filed 3-12-04; 8:45 am]

BILLING CODE 6560-50-P

**GENERAL SERVICES ADMINISTRATION**

**41 CFR Part 302-17**

[FTR Amendment 2004-01; FTR Case 2004-301]

RIN 3090-AH94

**Federal Travel Regulation; Relocation Income Tax Allowance Tax Tables (2004 Update)**

**AGENCY:** Office of Governmentwide Policy, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The Federal, State, and Puerto Rico tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates. The Federal, State, and Puerto Rico tax tables contained in this rule are for calculating the 2004 RIT allowance to be paid to relocating Federal employees.

**DATES:** *Effective Date:* January 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 208-7312, for information pertaining to status or publication schedules. For clarification of content, contact Sallie Sherertz, Office of Governmentwide Policy, Travel Management Policy, at (202) 219-3455. Please cite FTR Amendment 2004-01, FTR case 2004-301.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Section 5724b of Title 5, United States Code, provides for reimbursement of substantially all Federal, State, and local income taxes incurred by a transferred Federal employee on taxable moving expense reimbursements. Policies and procedures for the calculation and payment of a RIT allowance are contained in the Federal Travel Regulation (41 CFR part 302-17). The Federal, State, and Puerto Rico tax tables for calculating RIT allowance payments are updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates.

**B. Executive Order 12866**

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**C. Regulatory Flexibility Act**

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

**D. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**E. Small Business Regulatory Enforcement Fairness Act**

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

**List of Subjects in 41 CFR Part 302-17**

Government employees, Travel and transportation expenses.

Dated: February 27, 2004.

**Stephen A. Perry,**  
*Administrator of General Services.*

■ For the reasons set forth in the preamble, under 5 U.S.C. 5701-5739, GSA amends 41 CFR part 302-17 as set forth below:

**Chapter 302 Relocation Allowances**

**PART 302-17—RELOCATION INCOME TAX (RIT) ALLOWANCE**

■ 1. The authority citation for 41 CFR part 302-17 continues to read as follows:

**Authority:** 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

■ 2. Revise Appendixes A, B, and C to part 302-17 to read as follows:

**Appendix A to Part 302-17—Federal Tax Tables for RIT Allowance**

**Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 2003**

The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302-17.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar year 2003.

Marginal tax rate	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows & widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
					Percent	Over	But not over	Over
10 .....	\$8,274	\$14,314	\$15,005	\$25,136	\$20,977	\$32,559	\$10,958	\$16,536
15 .....	14,314	37,771	25,136	54,712	32,559	69,722	16,536	34,507
27 .....	37,771	81,890	54,712	122,788	69,722	142,842	34,507	70,442
30 .....	81,890	162,802	122,788	193,703	142,842	206,675	70,442	107,631
35 .....	162,802	334,763	193,703	350,138	206,675	343,919	107,631	181,753
38.6 .....	334,763	.....	350,138	.....	343,919	.....	181,753	.....

**Appendix B to Part 302-17—State Tax Tables For RIT Allowance**

**State Marginal Tax Rates by Earned Income Level—Tax Year 2003**

The following table is to be used to determine the State marginal tax rates

for calculation of the RIT allowance as prescribed in § 302-17.8(e)(2). This table is to be used for employees who received covered taxable reimbursements during calendar year 2003.