

Dated: December 6, 2005.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison  
Officer, DoD.*

[FR Doc. 05-23880 Filed 12-9-05; 8:45 am]

**BILLING CODE 5001-06-M**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD 11-05-035]

#### Drawbridge Operation Regulations; Sacramento River, Isleton, CA

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the CA-160 Highway Drawbridge across the Sacramento River, mile 18.7, at Isleton, CA. This deviation allows Caltrans to perform single leaf operation of the drawbridge with a 12-hour advance notification to the Rio Vista drawbridge. The temporary deviation is necessary to repair essential operating machinery.

**DATES:** This deviation is effective from 7 a.m. January 9, 2006 through 6 p.m. on February 17, 2006.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50-3, Coast Guard Island, Alameda, CA 94501-5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (510) 437-3515. Commander (dpw), Eleventh Coast Guard District, maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:**

David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437-3516.

**SUPPLEMENTARY INFORMATION:** The California Department of Transportation has requested to temporarily change the operating procedures for the CA-160 Highway Drawbridge, mile 18.7, Sacramento River, at Isleton, CA, to allow single leaf operation, with a 12-hour advance notice to the Rio Vista Drawbridge, from 7 a.m. January 9, 2006 through 6 p.m. on February 17, 2006, to repair essential operating machinery. The drawbridge provides unlimited vertical clearance in the full open-to-navigation position, and 15 ft. vertical

clearance above Mean High Water when closed. As required by 33 CFR 117.189, the drawbridge opens on signal from approaching vessels from 6 a.m. to 10 p.m. May 1 through October 31 and from 9 a.m. to 5 p.m. November 1 through April 30. At all other times the draw shall open if at least 4-hours advance notice is given.

Numerous waterway users were consulted prior to the determination. It was determined that potential navigational impacts will be reduced if the repairs are performed November through March when there is less recreational boating traffic. The Coast Guard approved the deviation effective from 7 a.m. January 9, 2006 through 6 p.m. on February 17, 2006.

During these times, single leaf operation of the drawspan will be permitted, with a 12-hour advance notice.

The drawspan shall resume normal operation at the conclusion of the essential repair work. Mariners should contact the Rio Vista Drawbridge on VHF-FM Channel 16 or by telephone at (707) 374-2134, in advance, to determine conditions at the bridge and to make passing arrangements.

In the event of an emergency, the bridge owner would require 15-hour advance notice to open both leaves of the bridge. Vessels that can safely pass through the closed drawbridge may continue to do so at any time.

In accordance with 33 CFR 117.35(c), this work shall be performed with all due speed to return the drawbridge to normal operation as soon as possible. This deviation from the operating regulations is approved under the provisions of 33 CFR 117.35.

Dated: November 22, 2005.

**Kevin J. Eldridge,**

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

[FR Doc. 05-23889 Filed 12-9-05; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R06-OAR-2004-TX-0001; FRL-8007-5]

#### Approval and Promulgation of Implementation Plans; Texas; Memoranda of Understanding Between Texas Department of Transportation and the Texas Commission on Environmental Quality

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the Texas Commission on Environmental Quality (TCEQ) on August 15, 2002. This SIP revision approves the adoption by reference of a Memorandum of Understanding (MOU) between the TCEQ and the Texas Department of Transportation (TxDOT). The MOU is adopted into the Texas rule at 30 TAC, Chapter 7, Section 119 (Section 7.119). This MOU concerns the coordination of environmental reviews associated with transportation projects. The adoption by reference of this MOU will streamline coordination between the TCEQ and TxDOT by consolidating separate MOUs currently in the air and water regulations. This action is important to satisfy the need of the Commission and TxDOT to coordinate regulatory programs and to ensure that overlapping areas of responsibility are clarified. This approval will make the MOU revised regulations Federally enforceable.

**DATES:** This rule is effective on February 10, 2006 without further notice, unless EPA receives adverse comment by January 11, 2006. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2004-TX-0001, by one of the following methods:

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

- EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Mr. Thomas Diggs at [diggs.thomas@epa.gov](mailto:diggs.thomas@epa.gov). Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only

between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R06-OAR-2004-TX-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <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 docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in the official file, which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT**

paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Alima Patterson, State/Oversight Section (6PD-O), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7247; fax number 214-665-7263; e-mail address [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever "we", "us", or "our" is used, we mean the EPA.

#### Outline

- I. What Action Is EPA Taking?
- II. Why Was This SIP Revision Submitted?
- III. What Is the Effect of This Action?
- IV. Final Action
- V. Statutory and Executive Order Reviews

#### I. What Action Is EPA Taking?

We are granting direct final approval to a SIP revision submitted by the State of Texas which adopts by reference a MOU between the TCEQ<sup>1</sup> and the TxDOT. The MOU was adopted into the Texas Rule at 30 TAC, Chapter 7, Section 119 (Section 7.119) on April 10, 2002. The provisions of the new Section 7.119 of the MOU as adopted became effective on May 2, 2002, (See 27 Texas Register 3560). The approval of this new Section 7.119 of the State regulation streamlines coordination between the Commission and TxDOT by consolidating separate MOUs currently in the State air regulations (30 TAC Section 114.250).

EPA is taking direct final action to approve the incorporation of this MOU into the Texas SIP.

<sup>1</sup> At the time of the adoption of the MOU, the TCEQ name was the Texas Natural Resource Conservation Commission (TNRCC), however, on September 1, 2002, the TNRCC agency name was changed to the TCEQ. For further legislative history on the name-change, please refer to the Act of June 15, 2001, 77th Leg. R.S. Chapter 965, Section 18.01, 2001 Tex. Gen. Laws 1985. The TCEQ may perform any act for which it was authorized as either the TNRCC or the Texas Water Commission (TWC). Therefore, reference to TCEQ are references to TNRCC and to its successor, TECQ.

#### II. Why Was This SIP Revision Submitted?

The State of Texas adopted the MOU and a new Section 7.119 and submitted the revision to EPA for approval into the SIP on August 22, 2002. The rule and MOU streamlines coordination between the TCEQ and TxDOT by consolidating separate MOUs currently in the air regulations (30 TAC Section 114.250) and in water regulations (30 TAC Section 305.521). The rule adopts by reference a TxDOT MOU by consolidating these separate MOUs. The TCEQ repealed 30 TAC Section 114.250 which previously contained the MOU in the air regulations. Section 114.250 is not part of the SIP so no action on its repeal is necessary by EPA.

The EPA was given the opportunity during the State's public participation process to comment on the proposed rule and supported the repeal of Section 114.250 and Section 305.521 in favor of the new Section 7.119.

The provisions of the MOU regarding the processing of documents are in compliance with the requirements of the National Environmental Policy Act. The MOU establishes periods for review of documents and ensured coordination between the agencies on road projects that could have environmental impacts. The proposed rule does not represent a change from current practices, but is intended to streamline coordination between the two agencies by consolidating separate MOU provisions currently in the air regulations and the water regulations. There are no fiscal implications anticipated to State or Local units of government. Section 7.119 will be re-evaluated each year of the first five years of the agreement between TCEQ and TxDOT. The proposed rule and the MOU satisfies the need of the commission and TxDOT to coordinate regulatory programs and to ensure that overlapping areas of responsibility are clarified. The rule/MOU places no requirements on the regulated community.

Under 40 CFR Part 51.102, the State is required to provide public notification and conduct a public hearing prior to adoption and submission to EPA any revision under 40 CFR Part 51.104(a). The State provided for public participation in accordance with 40 CFR 51.102 and held a public hearing on November 27, 2001. The State provided in its SIP submittal a transcript of its public hearing, notification for the public hearing, copies of comment received and their evaluation of comments. The MOU between TCEQ and TxDOT was

adopted on April 10, 2002 and became effective on May 2, 2002.

This rule incorporates an MOU into the SIP. The MOU provides for a streamlined coordination of environmental reviews associated with transportation projects between TxDOT and TCEQ. As such, this rule is procedural in nature and meets and complies with the requirements of section 110(l) of the Clean Air Act.

### III. What Is the Effect of This Action?

EPA intends to take direct final action approving this SIP revision to incorporate by reference the MOU between TCEQ and TxDOT. The MOU will address transportation planning issues required by TxDOT and the TCEQ, specifically including processing of documents required by the National Environmental Policy Act. The MOU establishes periods for review of documents and ensures coordination between the agencies on road projects that could have environmental impacts.

### IV. Final Action

EPA is approving by the direct final rulemaking the revision to the Texas SIP adopting by reference an MOU between the TCEQ and the TxDOT. The MOU is adopted into the Texas rule at 30 TAC Section 7.119 and this rule is being approved into the SIP. The approval of this new section of the State regulation streamlines coordination between the TCEQ and TxDOT. We have evaluated the State's submittal and have determined that it meets the applicable requirements of the Clean Air Act. Therefore, we are approving the request of TCEQ to revise the SIP and incorporate by reference the MOU between the Commission and TxDOT.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on February 10, 2006 without further notice unless we receive adverse comment by January 11, 2006. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an

amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### V. Statutory and Executive Order Reviews

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.*).

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**. 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).

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 February 10, 2006. 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 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, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile Organic Compounds.

Dated: November 18, 2005.  
**Richard E. Greene,**  
*Regional Administrator, Region 6.*  
 ■ 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 SS—Texas**  
 ■ 2. In § 52.2270, the table in paragraph (e) entitled “EPA approved nonregulatory provisions and quasi-regulatory measures” is amended by

adding one new entry to the end of the table to read as follows:  
**§ 52.2270 Identification of plan.**  
 \* \* \* \* \*  
 (e) \* \* \*

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State approval/submittal date	EPA approval date	Comments
Memorandum of Understanding Between the Texas Department of Transportation and the Texas Natural Resource Conservation Commission.	Statewide .....	08/15/2002	12/12/2005 [Insert FR page number where document begins].	

[FR Doc. 05–23915 Filed 12–9–05; 8:45 am]  
 BILLING CODE 6560–50–P

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

**Federal Motor Vehicle Safety Standards**

*CFR Correction*

In Title 49 of the Code of Federal Regulations, Parts 400 to 599, revised as of October 1, 2005, on page 384, in § 571.111, add S9.4 to read as follows:

**§ 571.111 Standard No. 111; Rearview mirrors.**

\* \* \* \* \*

S9.4(a) Each image required by S9.3(a)(1) to be visible at the driver’s eye location shall be separated from the edge of the effective mirror surface of the mirror providing that image by a distance of not less than 3 minutes of arc.

(b) The image required by S9.3(a)(1) of cylinder P shall meet the following requirements:

(1) The angular size of the shortest dimension of that cylinder’s image shall be not less than 3 minutes of arc; and

(2) The angular size of the longest dimension of that cylinder’s image shall be not less than 9 minutes of arc.

\* \* \* \* \*

[FR Doc. 05–55519 Filed 12–9–05; 8:45 am]  
 BILLING CODE 1505–01–D

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 050314071–5230–02; I.D. 030105E]

RIN 0648–AS16

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery Off the Southern Atlantic States; Amendment 6**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 6 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This final rule requires an owner or operator of a trawler that harvests or possesses penaeid shrimp (brown, pink, or white shrimp) in or from the exclusive economic zone (EEZ) off the southern Atlantic states to obtain a commercial vessel permit for South Atlantic penaeid shrimp; requires an owner or operator of a vessel in the South Atlantic rock shrimp or penaeid shrimp fishery to submit catch and effort reports and to carry an observer on selected trips; and requires bycatch reduction devices (BRDs) in nets in the rock shrimp fishery. In addition, this final rule removes provisions of the regulations applicable to other fisheries off the southern Atlantic states that are no

longer applicable and makes minor corrections. Amendment 6 also establishes stock status determination criteria for South Atlantic penaeid shrimp; revises the specifications of maximum sustainable yield (MSY) and optimum yield (OY) for South Atlantic rock shrimp; revises the stock status determination criteria for South Atlantic rock shrimp; revises the bycatch reduction criterion for the certification of BRDs; and transfers from the Council to the Regional Administrator, Southeast Region, NMFS (RA), responsibilities for the specification of the protocol for testing BRDs. In addition, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this final rule and publishes the OMB control numbers for those collections. The intended effects of this rule are to provide additional information for, and improve the effective management of, the shrimp fisheries off the southern Atlantic states and to correct and clarify the regulations applicable to other southern Atlantic fisheries.

**DATES:** This final rule is effective January 11, 2006, except for § 622.4(a)(2)(xiii) which is effective April 11, 2006.

**ADDRESSES:** Copies of Final Regulatory Flexibility Analysis (FRFA) and Regulatory Impact Review (RIR) are available from NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727–824–5305; fax 727–824–5308.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements