

§ 207.255(a)(1)(ii) and a mortgagee refuses to comply promptly with the Commissioner's request to accelerate payment pursuant to § 207.257, an amount equal to the difference between the project's market value as of the date of the Commissioner's request and the project's market value as of the date the mortgagee makes an election to assign the mortgage, or convey title to the project, as determined by appraisal procedures established by the Commissioner.

(vii) For multifamily project mortgages for which HUD issued a firm commitment for mortgage insurance on or after September 1, 2011, the regulations of paragraph (b)(2)(vi) of this section shall apply, unless the mortgagor demonstrates to the satisfaction of the Commissioner that financial hardship to the mortgagor would result from application of the regulations in paragraph (b)(2)(vi) of this section due to the reasonable expectations of the mortgagor that the transaction would close under the regulations in effect prior to September 1, 2011, in which case, the regulations of paragraph (b)(2)(vi) shall not apply.

* * * * *

Dated: April 26, 2011.

Robert C. Ryan,

*Acting Assistant Secretary for Housing-
Federal Housing Commissioner.*

[FR Doc. 2011-10450 Filed 4-29-11; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2011-0287]

Drawbridge Operation Regulation; Mispillion River, Milford, DE

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, District Fifth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Route 1/ Rehoboth Blvd Bascule Bridge across the Mispillion River, mile 11.0, at Milford, DE. This deviation allows the bridge to remain in the closed position for two months to accommodate the necessary bridge cleaning and painting of the bridge.

DATES: This deviation is effective from 12 a.m. on May 13, 2011 through 11:59 p.m. on July 17, 2011.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG-2011-0287 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0287 in the "Keyword" box and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lindsey Middleton, Bridge Management Specialist, Coast Guard; telephone 757-398-6629, e-mail Linsey.R.Middleton@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: Marinis Bros. Inc., (Marinis) on behalf of Delaware Department of Transportation, has requested a temporary deviation from the current operating regulation of the Route 1/Rehoboth Blvd Bascule Bridge across the Mispillion River, mile 11.0, at Milford, DE. The vertical clearance of this bridge is five feet at mean high water (MHW) in the closed position and unlimited in the open position. During this deviation period, the vertical clearance will be limited to four feet at MHW due to the scaffolding that will be used for the maintenance of the bridge. Vessels that are able to pass through the bridge may do so at anytime. The bridge is able to open for emergencies if at least five business days are given. There are no alternate routes available to vessels.

The current operating schedule for the bridge is set out in 33 CFR 117.241. The regulation requires the bridge to open on signal if at least 24 hours notice is given. The requested deviation is to accommodate painting and cleaning of the bridge. To carry out the bridge maintenance safely and successfully, the draw of the bridge will be maintained in the closed-to-navigation position from 12 a.m. on May 13, 2011 through 11:59 p.m. on July 17, 2011.

Logs from the past two years have shown that there are minimal openings during the period of time this deviation will be enforced. The majority of vessel traffic is recreational boaters. Most, if not all, of the past openings have been requested by one specific resident of the area. The Coast Guard and Marinis have been in contact with this resident and have worked together to accommodate

any necessary bridge openings during the temporary deviation. The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners so that mariners can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 18, 2011.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. 2011-10514 Filed 4-29-11; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE104-1102; FRL-9298-3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; administrative change.

SUMMARY: EPA is updating the materials submitted by Delaware that are incorporated by reference (IBR) into the state implementation plan (SIP). The regulations affected by this update have been previously submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office.

DATES: *Effective Date:* This action is effective May 2, 2011.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room Number 3334, EPA

West Building, Washington, DC 20460; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT:

Harold A. Frankford, (215) 814-2108 or by e-mail at frankford.harold@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The SIP is a living document which the State revises as necessary to address its unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997 **Federal Register** document. On December 7, 1998, (63 FR 67407) EPA published a document in the **Federal Register** beginning the new IBR procedure for Delaware. On June 21, 2004 (69 FR 34285), April 3, 2007 (72 FR 15839), and April 17, 2009 (73 FR 17771), EPA published updates to the IBR material for Delaware.

Since the publication of the last IBR update, EPA has approved the following regulatory changes to all sections of the following Delaware regulations, except as specifically noted:

1. Regulation 1101 "Definitions and Administrative Principles" (SIP definitions only).
2. Regulation 1102 "Permits" (except Appendix A, paragraphs 32.0 and 33.0).
3. Regulation 1103 "Ambient Air Quality Standards."
4. Regulation 1104 "Particulate Emissions From Fuel Burning Equipment."
5. Regulation 1105 "Particulate Emissions From Industrial Process Operations."
6. Regulation 1106 "Particulate Emissions From Construction and Materials Handling."
7. Regulation 1107 "Particulate Emissions From Incineration" (section 1.0).
8. Regulation 1108 "Sulfur Dioxide Emissions From Fuel Burning Equipment."

9. Regulation 1109 "Emissions of Sulfur Compounds From Industrial Operations" (except section 2.2).

10. Regulation 1110 "Control of Sulfur Dioxide Emissions—Kent and Sussex Counties."

11. Regulation 1111 "Carbon Monoxide Emissions From Industrial Process Operations New Castle County."

12. Regulation 1112 "Control of Nitrogen Oxide Emissions."

13. Regulation 1113 "Open Burning" (except sections 1.0, 2.0, and 7.0).

14. Regulation 1114 "Visible Emissions."

15. Regulation 1115 "Air Pollution Alert and Emergency Plan."

16. Regulation 1116 "Sources Having an Interstate Air Pollution Potential."

17. Regulation 1117 "Source Monitoring, Recordkeeping and Reporting."

18. Regulation 1123 "Standards of Performance for Steel Plants: Electric Arc Furnaces."

19. Regulation 1124 "Control of Volatile Organic Compound Emissions."

20. Regulation 1125 "Requirements for Preconstruction Review" (sections 1.0, 2.0, and 3.0).

21. Regulation 1126 "Motor Vehicle Emissions Inspection Program."

22. Regulation 1127 "Stack Heights."

23. Regulation 1132 "Transportation Conformity" (except section 1.0).

24. Regulation 1135 "Conformity of General Federal Actions to the State Implementation Plans."

25. Regulation 1139 "Nitrogen Oxides (NO_x) Budget Trading Program."

26. Regulation 1140 "Delaware's National Low Emission Vehicle (NLEV) Regulation."

27. Regulation 1141 "Limiting Emissions of Volatile Organic Compounds From Consumer and Commercial Products" (sections 1.0, 2.0, and 3.0).

28. Regulation 1142 "Specific Emission Control Requirements" (section 1.0).

29. Regulation 1144 "Control of Stationary Generator Emissions" (except sections 4.0, 5.0, 6.0, and 9.0).

30. Regulation 1145 "Excessive Idling of Heavy Duty Vehicles."

31. Regulation 1146 "Electric Generating Unit (EGU) Multi-Pollutant Regulation" (except section 6.0, Table 6-1, and portions of sections 1.0, 2.0, 3.0, 7.0, 8.0, and 9.0 pertaining to control of mercury emissions).

32. Regulation 1148 "Control of Stationary Combustion Turbine Electric Generating Unit Emissions" (except sections 1.0 and 6.0).

EPA's approval of the definitions in Regulation 1101 consists of only those terms which EPA has previously

approved and IBR into the Delaware SIP.

EPA's approval action includes the removal of two former SIP requirements codified in Delaware Regulation 1124: Section 39 (Control of Perchloroethylene from Dry Cleaning Operations) and Appendices J1, J1, J2, and J3 (Test Methods for Stage II Vapor Recovery).

II. EPA Action

In this action, EPA is doing the following:

1. Announcing the update to the IBR material as of March 1, 2011.
2. In paragraph 40 CFR 52.420(c),
 - a. Removing the entries, currently marked "[Reserved]," for Regulation 1124, Section 39 and Regulation 1124, Appendices J, J1, J2, and J3.
 - b. Correcting the title heading of Regulation 1107.
 - c. Correcting the following entries in the "Title/subject" column: Regulation 1102, Section 3.0; Regulation 1105, Section 6.0; Regulation 1124, Appendix I, Regulation 1127, Section 2.0; Regulation 37, Appendix "A"; and Regulation 1141, Section 2.0.
 - d. Removing the state effective date from the "Additional explanation" column for Regulation 1142, Section 2.0.

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect table entries.

III. Statutory and Executive Order Reviews

A. General Requirements

Under the Clean Air Act (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 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

EPA has also determined that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Delaware SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this "Identification of plan" update action for Delaware.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 7, 2011.

W.C. Early,

Acting, 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 I—Delaware

- 2. Section 52.420 is amended by:
 - a. Revising paragraph (b).
 - b. In paragraph (c),
 - i. Revising the entries for State Regulation 1102, Section 3.0; State Regulation 1105, Section 6.0; the State

Regulation 1107 heading; State Regulation 1124, Appendix I, State Regulation 1127, Section 2.0; State Regulation 1141, Section 2.0, and State Regulation 1142, Section 2.0.

- ii. Removing the entry for State Regulation No. 37, Appendix "AA" and adding an entry for State Regulation No. 37, Appendix "A" in its place.
- iii. Removing the entries for State Regulation 1124, Section 39.0 and Appendices J, J1, J2 and J3.

The amendments read as follows:

§ 52.420 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed as incorporated by reference in paragraphs (c) and (d) was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The material incorporated is as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after March 1, 2011 will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region III certifies that the rules/regulations and source-specific requirements provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of March 1, 2011.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103. For further information, call (215) 814-2108; the EPA, Air and Radiation Docket and Information Center, Room Number 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460. For further information, call (202) 566-1742; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(c) EPA-approved regulations.

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
1102	Permits			
*	*	*	*	*
Section 3.0	Application/Registration Prepared by Interested Party ...	9/11/08	8/11/10 75 FR 48566	
*	*	*	*	*
1105	Particulate Emissions from Industrial Process Operations			
*	*	*	*	*
Section 6.0	Restrictions on Prill Tower Operation	9/11/08	8/11/10 75 FR 48566	
*	*	*	*	*
1107	Particulate Emissions from Incineration of Noninfectious Waste			
*	*	*	*	*
1124	Control of Volatile Organic Compound Emissions			
*	*	*	*	*
Appendix I	Method to Determine Length of Rolling Period for Liquid/Liquid Material Balance.	9/11/08	8/11/10 75 FR 48566	
*	*	*	*	*
1127	Stack Heights			
*	*	*	*	*
Section 2.0	Definitions Specific to this Regulation	9/11/08	8/11/10 75 FR 48566	
*	*	*	*	*
Regulation No. 37	NO_x Budget Program			
*	*	*	*	*
Appendix "A"	NO _x Budget Program	12/11/99	3/9/00 65 FR 12481	
*	*	*	*	*
1141	Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products			
*	*	*	*	*
Section 2.0	Consumer Products	4/11/09	10/20/10 75 FR 64673	
*	*	*	*	*
1142	Specific Emission Control Requirements			

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP—Continued

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
Section 2.0	Control of NO _x Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries.	11/11/09	6/4/10 75 FR 31711	New regulation.

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 [FR Doc. 2011-10428 Filed 4-29-11; 8:45 am]
 BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 1

[GC Docket No. 10-43; FCC 11-11]

Commission’s Ex Parte Rules and Other Procedural Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission revises certain *ex parte* and organizational rules. This document amends and reforms the Commission’s rules on *ex parte* presentations made in the course of Commission rulemakings and other permit-but-disclose proceedings. It also adopts a new rule requiring all oral *ex parte* communications to be documented, and their contents described. This reform should enable those participating in our proceedings as well as those observing them to better identify and understand the issues being debated before the Commission. New electronic filing rules will empower anyone using the Internet to access this information, and stronger enforcement provisions will bolster these new requirements. Given the complexity of the issues we must decide and the far-reaching impact our decisions often have, we believe these initiatives to increase transparency serve the best interests of the Commission, the entities we regulate, and the public we serve.

DATES: Effective June 1, 2011, except for the amendments to §§ 1.1206(b) and 1.1208, which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for those rules.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW.,

Washington, DC 20554. In addition to filing comments with the Office of the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Leslie F. Smith, Federal Communications Commission, Room 1-C216, 445 12th Street, SW, Washington, DC 20554, or send an e-mail to PRA@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Joel Kaufman, Chief, Administrative Law Division, Office of General Counsel, 202-418-1758 or joel.kaufman@fcc.gov. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Leslie F. Smith, (202) 418-0217, or send an e-mail to PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: In this Report and Order adopted on February 1, 2011, and released on February 2, 2011, the Commission amends certain *ex parte* rules and other procedural rules, 47 CFR parts 1 and 0. Part 1 outlines a number of rules regarding “presentations” by outside parties to the Commission. Section 1.1202(a) of the Commission’s rules defines a “presentation” as a communication directed to the merits or outcome of a proceeding. 47 CFR 1.1202(a). An oral presentation is *ex parte* when it is made without advance notice to other parties to a proceeding and without the opportunity for them to be present. *See* 47 CFR 1.1202(b). For purposes of the *ex parte* rules, Commission proceedings are divided into three categories: those in which there is no restriction on *ex parte* presentations (“exempt” proceedings); those in which *ex parte* presentations are prohibited (“restricted” proceedings); and those in which *ex parte* presentations are permitted subject to disclosure (“permit-but-disclose” proceedings). *See* 47 CFR 1.1204, 1.1206, 1.1208. The various categories of “permit-but-disclose” proceedings are enumerated in sections 1.1206(a)(1) through (14) of the rules, and include informal rulemaking and declaratory ruling proceedings.

On March 25, 2010, the Commission released a notice of proposed rulemaking seeking comment on a number of proposed changes to the Commission’s *ex parte* rules. *See Amendment of the Commission’s Ex Parte Rules and Other Procedural Rules*, 25 FCC Rcd 2403 (2010) (*NPRM*). By this Report and Order, we adopt final rules effecting a number of proposals described in the *Notice*. By a Further Notice of Proposed Rulemaking, published elsewhere in the **Federal Register**, we seek comment on the adoption of real party-in-interest disclosure rules. The following paragraphs describe the final rules adopted by the Commission.

Filing and Content Requirements

1. Ex Parte Presentations for Which Ex Parte Notices Must Be Filed

Section 1.1206(b)(2) of our rules requires that a notice of an oral *ex parte* presentation must be filed only if new data or arguments not already reflected in the party’s written comments, memoranda or other filings in that proceeding are discussed. 47 CFR 1.1206(b)(2). In the *NPRM*, we suggested that this reduces the adequacy of the record on which Commission decisions are based and deprives parties and the public of a fair opportunity to respond. *See* 25 FCC Rcd at 2406. We therefore proposed to require the filing of *ex parte* notices for every oral *ex parte* presentation, whether or not it contains new data or arguments. To the extent that the presentation merely reiterates data and arguments already contained in the written comments filed by the presenter, the filing would either include a summary of this information or provide specific references, including paragraph or page numbers, to the presenter’s prior filings containing the data and arguments presented.

As an initial matter, we determine that *ex parte* presentations can give the Commissioners and staff valuable new information on the often highly complex and technical legal, economic, and engineering issues that we must consider in reaching our decisions. Prohibiting *ex parte* contacts outright, or