

## AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA—Continued

State citation	Title/subject	State effective date	EPA approval date	Federal Register notice
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[FR Doc. E6-20767 Filed 12-6-06; 8:45 am] BILLING CODE 6560-50-P				
<b>ENVIRONMENTAL PROTECTION AGENCY</b>				
<b>40 CFR Part 52</b>				
[EPA-R03-OAR-2006-0696; FRL-8252-5]				
<b>Approval and Promulgation of Air Quality Implementation Plans; Delaware; Revisions to Regulation 1102—Permits</b>	<i>Instructions:</i> Direct your comments to Docket ID No. EPA-R03-OAR-2006-0696. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <a href="http://www.regulations.gov">www.regulations.gov</a> , 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 <a href="http://www.regulations.gov">www.regulations.gov</a> or e-mail. The <a href="http://www.regulations.gov">www.regulations.gov</a> 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 <a href="http://www.regulations.gov">www.regulations.gov</a> , 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. <i>Docket:</i> All documents in the electronic docket are listed in the <a href="http://www.regulations.gov">www.regulations.gov</a> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <a href="http://www.regulations.gov">www.regulations.gov</a> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental			
<b>AGENCY:</b> Environmental Protection Agency (EPA).				
<b>ACTION:</b> Direct final rule.				
<b>SUMMARY:</b> EPA is taking direct final action to approve revisions to Delaware's State Implementation Plan (SIP). The revisions ensure that all preconstruction air quality permits issued pursuant to Delaware's Regulation 1102 are federally enforceable, regardless of whether they are intended to limit a source's potential to emit. EPA is approving these revisions to Delaware's SIP in accordance with the requirements of the Clean Air Act.				
<b>DATES:</b> This rule is effective on February 5, 2007 without further notice, unless EPA receives adverse written comment by January 8, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the <b>Federal Register</b> and inform the public that the rule will not take effect.				
<b>ADDRESSES:</b> Submit your comments, identified by Docket ID Number EPA-R03-OAR-2006-0696 by one of the following methods: A. <a href="http://www.regulations.gov">www.regulations.gov</a> . Follow the on-line instructions for submitting comments. B. E-mail: <a href="mailto:campbell.dave@epa.gov">campbell.dave@epa.gov</a> . C. Mail: EPA-R03-OAR-2006-0696, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.				
				Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903. <b>FOR FURTHER INFORMATION CONTACT:</b> Rosemarie Nino, (215) 814-3377, or by e-mail at <a href="mailto:nino.rose@epa.gov">nino.rose@epa.gov</a> . <b>SUPPLEMENTARY INFORMATION:</b>
				<b>I. Background</b> On June 15, 2006, Delaware submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of "Regulation 1102—Permits" adopted by the State of Delaware on May 15, 2006 and effective June 11, 2006. The State amended the regulation in order to (1) ensure that the regulatory language is clear that all Regulation 1102 permits are federally enforceable, regardless of whether they are intended to limit potential to emit; and, (2) the renumbering of the regulation to be consistent with the style manual of the Code of Delaware Regulations. Delaware is seeking approval of these amendments to this rule pursuant to 40 CFR Part 51 Subpart I and Section 110(a)(2)(C) of the federal Clean Air Act (CAA) as amended November 15, 1990.
				<b>II. Summary of SIP Revision</b> EPA is proposing to approve this revision to incorporate into the Delaware SIP amendments to Regulation 1102 (formerly Regulation 2)—"Permits" as submitted by Delaware Natural Resources and Environmental Control (DNREC) on June 15, 2006. This approval action will effectively replace the previously-approved version of "Regulation 2—Permits," renumbered with this revision to be "Regulation 1102—Permits," as approved into Delaware's SIP on January 11, 2006 (65 FR 2048).
				<b>III. Program Review</b> A. <i>What is being addressed in this document?</i> On June 15, 2006, DNEC submitted regulatory revision to EPA for approval. The submittal consists of Delaware Rule entitled "Regulation 1102—Permits" adopted on May 15, 2006 and effective June 11, 2006. B. <i>What are the program changes that EPA is approving?</i> EPA is approving Delaware's revisions to Regulation 1102—Permits.

These revisions clarify Delaware's intention that all permits issued pursuant to Regulation 1102 be federally enforceable regardless of whether they are intended to limit potential to emit.

#### IV. Final Action

EPA is approving Delaware's revision to Regulation 1102—Permits as a revision to Delaware's SIP.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment because these revisions are to clarify that all Regulation 1102 permits are federally enforceable. 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 February 5, 2007 without further notice unless EPA receives adverse comment by January 8, 2007. 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### V. 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 requirement, 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 February 5, 2007. 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 to approve Delaware's Regulation 1102—Permits 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, Carbon monoxide, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 21, 2006.

**William T. Wisniewski,**

*Acting Regional Administrator, Region III.*

n 40 CFR part 52 is amended as follows:

##### PART 52—[AMENDED]

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

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

##### Subpart I—Delaware

n 2. In § 52.420, the table in paragraph (c) is amended by revising the entries for Regulation 2—Permits, Sections 1, 6, 11, and 12 to read as follows:

##### § 52.420 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

EPA—APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
<b>Regulation 1102 Permits (formerly "Regulation 2—Permits")</b>				
Section 1 .....	General Provisions .....	06/15/06	12/07/06, [Insert page number where the document begins].	
*	*	*	*	*
Section 6 .....	Denial, Suspension or Revocation of Operating Permits.	06/15/06	12/07/06, [Insert page number where the document begins].	
*	*	*	*	*
Section 11 .....	Permit Application .....	06/15/06	12/07/06, [Insert page number where the document begins].	
*	*	*	*	*
Section 12 .....	Public Participation .....	06/15/06	12/07/06, [Insert page number where the document begins].	
*	*	*	*	*

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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 65**

[Docket No. FEMA-B-7474]

**Changes in Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

**DATES:** These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the

Mitigation Division Director of FEMA reconsider the changes. The modified BFEs may be changed during the 90-day period.

**ADDRESSES:** The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151.

**SUPPLEMENTARY INFORMATION:** The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either

adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by the other Federal, State, or regional entities. The changes BFEs are in accordance with 44 CFR 65.4.

*National Environmental Policy Act.* This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This interim rule involves no policies