

books and records *in lieu* of the pool operator wherein such person:

(1) Acknowledges that the pool operator intends that the person keep and maintain required pool books and records;

(2) Agrees to keep and maintain such required books and records in accordance with § 1.31 of this chapter; and

(3) Agrees to keep such required books and records open to inspection by any representative of the Commission or the United States Justice Department in accordance with § 1.31 of this chapter and to make such required books and records available to pool participants in accordance with § 4.23 of this chapter.

* * * * *

(d)(1) *Notice of claim for exemption.* Any registered commodity pool operator, or applicant for commodity pool operator registration, who desires to claim the relief available under paragraph (b) or (c) of this § 4.12 must file electronically a claim of exemption with the National Futures Association through its electronic exemption filing system. Such claim must:

* * * * *

(iii) * * *

(A) The pool will be operated in compliance with paragraph (b)(1)(i) of this section and the pool operator will comply with the requirements of paragraph (b)(1)(ii) of this section; or

(B) The pool will be operated in compliance with paragraph (c)(1) of this section;

(iv) Specify the relief sought under paragraph (b)(2) or (c)(2) of this section, as the case may be, and

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(2)(i) * * *

(ii) The claim of exemption shall be effective upon filing; *Provided, however,* That any exemption claimed hereunder:

(A) Will not be effective unless and until the notice required by this paragraph (d) contains all information called for herein and any statements required under paragraph (c)(2)(iii) have been provided; and

(B) Will cease to be effective upon any change which would render the representations made pursuant to paragraph (d)(1)(iii) of this section inaccurate or the continuation of such representations false or misleading.

* * * * *

- 3. Section 4.13 is amended by:
- a. Removing the word “or” at the end of paragraph (a)(3)(iv);
- b. Removing the period at the end of paragraph (a)(4)(ii)(B) and adding “; or”;
- c. Redesignating paragraph (a)(5) as paragraph (a)(6), and revising newly

redesignated paragraph (a)(6)(i) introductory text;

- d. Adding new paragraph (a)(5); and
- e. Revising paragraphs (b)(1)(ii) and (b)(2), to read as follows:

§ 4.13 Exemption from registration as a commodity pool operator.

* * * * *

(a) * * *

(5) The person is acting as a director or trustee with respect to a pool whose operator is registered as a commodity pool operator and is eligible to claim relief under § 4.12(c) of this chapter, *Provided, however,* that:

(i) The person acts in such capacity solely to comply with the requirements under section 10A of the Securities Exchange Act of 1934, as amended, and any Securities and Exchange Commission rules and exchange listing requirements adopted pursuant thereto, that the pool have an audit committee comprised exclusively of independent directors or trustees;

(ii) The person has no power or authority to manage or control the operations or activities of the pool except as necessary to comply with such requirement; and

(iii) The registered pool operator of the pool is and will be liable for any violation of the Act or the Commission’s regulations by the person in connection with the person’s serving as a director or trustee with respect to the pool.

(6)(i) Eligibility for exemption under paragraph (a)(1), (a)(2), (a)(3) or (a)(4) of this section is subject to the person furnishing in written communication physically delivered or delivered through electronic transmission to each prospective participant in the pool:

* * * * *

(b)(1) * * *

(ii) Contain the section number pursuant to which the operator is filing the notice (i.e., § 4.13(a)(1), (a)(2), (a)(3), (a)(4) or (a)(5), or both (a)(3) and (a)(4)) and represent that the pool will be operated in accordance with the criteria of that paragraph or paragraphs; and

* * * * *

(2) The person must file the notice by no later than the time that the pool operator delivers a subscription agreement for the pool to a prospective participant in the pool; *Provided, however,* that in the case of a claim for relief under § 4.13(a)(5), the person must file the notice by the later of the effective date of the pool’s registration statement under the Securities Act of 1933 or the date on which the person first becomes a director or trustee; and *Provided, further,* that where a person registered with the Commission as a

commodity pool operator intends to withdraw from registration in order to claim exemption hereunder, the person must notify its pool’s participants in written communication physically delivered or delivered through electronic transmission that it intends to withdraw from registration and claim the exemption, and it must provide each such participant with a right to redeem its interest in the pool prior to the person filing a notice of exemption from registration

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Issued in Washington, DC, on May 5, 2011, by the Commission.

David A. Stawick,
Secretary of the Commission.

[FR Doc. 2011–11551 Filed 5–17–11; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0389]

Drawbridge Operation Regulation; Calcasieu River, Westlake, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Union Pacific Railroad swing bridge across the Calcasieu River, mile 36.4, at Westlake, Calcasieu Parish, Louisiana. The deviation is necessary to upgrade the electrical and mechanical systems of the bridge. This deviation allows the bridge to remain closed-to-navigation on five different dates in June.

DATES: This deviation is effective from 8 a.m. on Thursday, June 2, 2011, through 5 p.m. on Thursday, June 30, 2011.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2011–0389 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0389 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 Kay Wade, Bridge Administration Branch, Coast Guard; telephone 504-671-2128, e-mail Kay.B.Wade@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad has requested a temporary deviation from the operating schedule for the swing span bridge across the Calcasieu River, mile 36.4, at Westlake, Calcasieu Parish, Louisiana. The swing span bridge has a vertical clearance of 1.07 feet above mean high water, elevation 3.56 feet Mean Gulf Level in the closed-to-navigation position.

In accordance with 33 CFR 117.5, the bridge currently opens on signal for the passage of vessels. This deviation allows the swing span of the bridge to remain closed to navigation from 8 a.m. through 5 p.m. with an opening for the passage of vessels from 12 noon to 1 p.m. on the following Thursdays: June 2, 9, 16, 23, and 30, 2011.

The closures are necessary in order to remove and install the structural steel, new gear motors, and shafts at both ends of the bridge and the center pivot pier. This maintenance is essential for the continued operation of the bridge. Notices will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast via the Coast Guard Broadcast Notice to Mariners System.

Navigation on the waterway is minimal at the bridge site. The very limited commercial traffic at the bridge site consists of commercial tugs with tows. There are only two companies that transit above the bridge. The bridge will be able to open for emergencies if necessary. There are no alternate waterway routes available. Based on experience and coordination with waterway users, it has been determined that these closures will not have a significant effect on vessels that use the waterway.

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: May 9, 2011.

David M. Frank,
Bridge Administrator.

[FR Doc. 2011-12246 Filed 5-17-11; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-HQ-OAR-2003-0062; FRL-9306-9]

RIN 2060-AP75

Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}); Final Rule To Repeal Grandfather Provision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is issuing a final rule that repeals the “grandfather” provision for particulate matter less than 2.5 micrometers (PM_{2.5}) under the Federal Prevention of Significant Deterioration (PSD) permit program, which is administered by EPA in states that lack a PSD permit program in their approved state implementation plan (SIP). The grandfather provision allowed certain facilities under certain circumstances to satisfy the PSD permit program requirements for PM_{2.5} by meeting the requirements for controlling particulate matter less than 10 micrometers (PM₁₀) and analyzing impacts on PM₁₀ air quality as a surrogate approach based on an EPA policy known as the “1997 PM₁₀ Surrogate Policy.” In its February 11, 2010, notice of proposed rulemaking, EPA also proposed to end early the 1997 PM₁₀ Surrogate Policy in EPA-approved state PSD programs during the remainder of the SIP development period, which ends on May 16, 2011. EPA is taking no final action on that aspect of the proposal.

DATES: This final rule is effective on July 18, 2011.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2003-0062. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, e.g., Confidential Business Information (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 through <http://www.regulations.gov> or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, Northwest, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through

Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Mr. Dan deRoeck, Air Quality Policy Division, (C504-03), U.S. Environmental Protection Agency, Research Triangle Park, NC, 27711; telephone number (919) 541-5593; fax number (919) 541-5509; or e-mail address: deroeck.dan@epa.gov.

SUPPLEMENTARY INFORMATION: The information in this Supplementary Information section of this preamble is organized as follows:

- I. General Information
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 - A. What is the grandfather provision for PM_{2.5}?
 - B. Why did EPA propose to repeal the grandfather provision for PM_{2.5}?
 - C. Summary of Comments and Responses on the Proposed Repeal of the Grandfather Provision
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 - A. Executive Order 12866: Regulatory Planning and Review
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 - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
 - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
 - K. Congressional Review Act
 - L. Conclusion and Determination Under Section 307(d)
- VII. Judicial Review
- VIII. Statutory Authority