2. Identify a process for mailing such items rather than prohibiting them from the mail altogether.

In the past, postal operations have been disrupted and facilities have been evacuated when replica or inert explosive devices have been discovered in the mail. Such evacuations result in unnecessary expense and loss of productivity to the Postal Service and can jeopardize USPS® service commitments. We believe this revised proposed rule will minimize the chances of operational disruptions caused by replica or inert explosive devices and at the same time allow mailers to continue to use the mail for shipping these items.

Comments Received

All comments received in response to the original proposed rule were in opposition to the proposal, falling into four major categories. Comments are summarized and presented below followed by our responses:

Comment: The Postal Service proposal is vague and overly broad when identifying all replica or inert ''munitions'' as being prohibited from mailing.

The Postal Service agrees that the language in the rule could be more descriptive. We have, therefore, termed these articles as ''inert or replica explosive devices'' to distinguish them from inert munitions, such as empty shell casings and the like. In the revised proposed rule, replica or inert items that clearly look like a bomb or an explosive device, to an untrained observer, must be presented for mailing in accordance with the proposed standards in this document. This proposed rule is intended to discourage indiscriminate mailing of articles that appear to be explosive devices.

Comment: Respondents dispute whether there really is a problem of inert munitions in the mail.

In the past three years, the Postal Service has recorded numerous incidents involving the discovery of mail that exhibited characteristics of possible explosives. Postal facilities have been evacuated due to these occurrences. Postal Inspectors or local emergency first responders were contacted and required to respond to each of these occurrences.

Comment: The proposal is in violation of the Second Amendment.

We no longer propose to prohibit the mailing of items currently allowed by law to be mailed. In this revised proposed rule we are limiting the mailing of articles that have the appearance of real explosive devices. This revised proposed rule requires customers to present packages containing replica or inert explosive devices at a retail counter and that they be sent via Registered Mail. This process will ensure that packages containing these items remain separate and easily identifiable during the mailing process.

Comment: The Postal Service lacks the authority to ban mailing of this matter.

While the Postal Service does not necessarily agree with the legal arguments presented by certain respondents in response to its prior proposed rule, in reconsideration, we believe we can achieve the goal of reducing operational interruptions and maintaining the safety of the mail and postal employees by limiting the mailing process of replica or inert explosive devices rather than prohibiting them from being mailed.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. of 553 (b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

* * * * *

600 Basic Standards for All Mailing Services

601 Mailability

* * * * *

11.0 Other Restricted and Nonmailable Matter

* * * * *

11.5 Replica or Inert Explosive Devices

[Renumber current 11.5 through 11.20 as 11.6 through 11.21. Insert new 11.5 to read as follows:]

Replica or inert devices that bear a realistic appearance to explosive devices such as simulated grenades, but that are not dangerous, are permitted in the mail when all of the following conditions are met:

a. The package is presented by the mailer at a retail counter.

b. Registered Mail is used. Registered Mail service is only available for items mailed as either First-Class Mail or Priority Mail.

c. The address side of the package is labeled with ''REPLICA EXPLOSIVE'' using at least 20 point type or letters at least ¼″ high.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E9–31218 Filed 1–4–10; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2009–0804; FRL–9100–3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendment to Electric Generating Unit Multi-Pollutant Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Delaware. The revision is an amendment to the Electric Generating Unit Multi-Pollutant Regulation of Delaware's Administrative Code, and it modifies the sulfur dioxide (SO_2) mass emissions limit associated with Conectiv Edge Moor Unit 5 beginning in calendar year 2009. This action is being taken under the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before February 4, 2010.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2009–0804 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2009–0804, Cristina Fernandez, Office of Air Program Planning, Mailcode 3AP30, 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.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2009–0804. 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 *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* website 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 *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 electronic docket are listed in the *http://www.regulations.gov* 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 *http://www.regulations.gov* 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 Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by e-mail at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 7, 2009, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP for an amendment to Regulation No. 1146—Electric Generating Unit Multi-Pollutant Regulation.

I. Background

On November 16, 2006, DNREC submitted a revision to the Delaware SIP. This SIP revision pertained to a new regulation, Regulation No. 1146—Electric Generating Unit (EGU) Multi-Pollutant Regulation. The regulation was adopted in order to impose lower emissions limits of nitrogen oxides (NOx), SO_2 and mercury in order to help Delaware attain and maintain the national ambient air quality standards (NAAQS) for ozone and fine particulate matter ($PM_{2.5}$), as well as to assist Delaware in achieving the emissions reductions needed to support the State's 8-hour ozone reasonable further progress plan (RFP). EPA approved the SIP revision on August 28, 2008 (73 FR 50723).

II. Summary of SIP Revision

On October 7, 2009, EPA received a SIP revision to amend to Regulation No. 1146. This SIP revision was the result of a settlement agreement between Conectiv Delmarva Generating, Inc. and DNREC in December 2008. Conectiv had filed an appeal challenging the regulation for their Edge Moor 5 facility. The emissions limit of 2,427 tons per year limited the facility from operating in extreme circumstances in the event that failure at other production units would require them to exceed that limit in order to supply the needed electricity. The limit of 4,600 tons per year was determined to be an adequate limit after an analysis of the facility's history of operation and the estimate of future operations using the low sulfur (0.5%) residual fuel to generate electricity at the 446 megawatt oil-fired steam generating unit. Currently, the facility operates at a 10% capacity factor. If so required, the new emissions limit would allow the facility to operate at a 45% capacity factor.

This amendment to Regulation No. 1146 is a reasonable compromise between Conectiv and DNREC, which prevented a potential overturning of the regulation. Analysis supports that the increase in the SO_2 emissions limit for the Edge Moor 5 facility will not lead to increased SO_2 emissions on an annual basis, but will enable the facility to operate at a higher capacity if in the unusual circumstance it should be needed. Given that an increase in SO_2 emissions is not expected from what they currently are at the facility, this revision will continue to help Delaware attain and maintain NAAQS for $PM_{2.5}$.

III. Proposed Action

EPA is proposing to approve the Delaware SIP revision for the amendment to Regulation No. 1146—Electric Generating Unit Multi-Pollutant Regulation submitted on October 7, 2009. This revision pertains to a modification of the SO_2 emissions limit for the Conectiv Edge Moor Unit 5 from 2,427 tons per year to 4,600 tons per year. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 Clean Air Act; 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 proposed rule, pertaining to Delaware's amendment to Regulation 1146, the Electric Generating Unit Multi-Pollutant Regulation, 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

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

Dated: December 17, 2009.

James W. Newsom,

Acting Regional Administrator, Region III.

[FR Doc. E9–31278 Filed 1–4–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

[Docket No. FMCSA–2004–19608]

RIN 2126–AB26

Hours of Service

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of public listening sessions.

SUMMARY: FMCSA announces that it will hold three public listening sessions to solicit comments and information on potential hours-of-service (HOS) regulations. Specifically, the Agency wants to know what factors, issues, and data it should be aware of as it prepares to issue a notice of proposed rulemaking (NPRM) on HOS requirements for property-carrying commercial motor vehicle (CMV) drivers. The sessions will be held in the Washington, DC area, Los Angeles, and Dallas. The listening sessions will allow interested persons to present comments, views, and relevant research on revisions FMCSA should consider in its forthcoming rulemaking. All comments will be transcribed and placed in the rulemaking docket for the FMCSA's consideration.

DATES: The first listening session will be January 19, 2010, in Arlington, VA (near Washington, DC). Subsequent listening sessions will be January 22, 2010, in Dallas Fort Worth Airport, TX; and January 25, 2010, in Los Angeles, CA. All listening sessions will begin at 9 a.m. local time and end at 5 p.m., or earlier, if all participants wishing to express their views have done so.

ADDRESSES: The January 19th meeting will be held at the Doubletree Hotel Crystal City National Airport (Commonwealth Ballroom), 300 Army Navy Drive, Arlington, VA 22202–2891 (1–703–416–4100).

The January 22th meeting will be held in Dallas at the Hyatt Regency DFW, International Parkway, P.O. Box 619014, DFW Airport, Texas, USA 75261 (1–972–453–1234).

The January 25th meeting will be held in Los Angeles at the Doubletree LAX (Pacific Ballroom), 1985 East Grand Ave., El Segundo, California, USA 90245–5015 (1–310–322–0999).

You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2004–19608 using any of the following methods.

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: For special accommodations for any of these HOS listening sessions, such as sign language interpretation, contact Mr. David Miller, Regulatory Development Division, (202) 366–5370 or at *FMCSAregs@dot.gov,* by Monday, January 11, 2010, to allow us to arrange for such services. There is no guarantee that interpreter services requested on short notice can be provided.

For information concerning the hours-of-service rules, contact Mr. Tom Yager, Chief, Driver and Carrier Operations Division, (202) 366–4325, *mcpsd@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2009, Public Citizen, *et al.* (Petitioners) and FMCSA entered into a settlement agreement under which Petitioners' petition for judicial review of the November 19, 2008 Final Rule on drivers' hours of service will be held in abeyance pending the publication of an NPRM. The settlement agreement states that FMCSA will submit the draft NPRM to the Office of Management and Budget (OMB) within nine months, and publish a Final Rule within 21 months, of the date of the