

particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(f) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is a reduction of the size of an anchorage already in effect.

### List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

### PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Amend § 110.195 by revising paragraph (a)(4) to read as follows:

#### § 110.195 Mississippi River below Baton Rouge, LA, including South and Southwest Passes.

(a) \* \* \*

(4) *Boothville Anchorage.* An area 5.5 miles in length along the right descending bank of the river extending from mile 13.0 to mile 18.5 above Head of Passes. The width of the anchorage is 750 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 250 feet from the water's edge into the river as measured from the Low Water Reference Plane (LWRP). The outer boundary of the anchorage is a line parallel to the nearest bank 1,000 feet from the water's edge into the river as measured from the LWRP.

\* \* \* \* \*

Dated: February 13, 2003.

**Roy J. Casto,**

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

[FR Doc. 03-6631 Filed 3-19-03; 8:45 am]

**BILLING CODE 4910-15-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[MS-200310; FRL-7445-5]

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

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

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is updating the materials submitted by Mississippi that are incorporated by reference (IBR) into the Mississippi State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the state agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the Office of the Federal Register (OFR), Office of Air and Radiation Docket and Information Center, and the Regional Office.

**EFFECTIVE DATE:** This action is effective March 20, 2003.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; Office of Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, (Mail Code 6102T) NW., Washington, DC 20460, and Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Michele Notarianni at the above Region 4 address, by phone at (404) 562-9041, or via e-mail at: [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov).

**SUPPLEMENTARY INFORMATION:** The SIP is a living document which the State can revise as necessary to address the unique air pollution problems in the State. 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 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 July 1, 1997, EPA published a document in the **Federal Register** (62 FR 35441) beginning the new IBR procedure for Mississippi. In this document EPA is doing the second update to the material being IBRed.

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 updating citations.

#### 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 (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 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 May 19, 2003. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 13, 2003.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

Chapter I, title 40, Code of Federal Regulations, is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart Z—Mississippi

2. In § 52.1270 paragraphs (b), (c), and (d) are revised to read as follows:

##### § 52.1270 Identification of plan.

\* \* \* \* \*

(b) Incorporation by reference.

(1) Material listed in paragraph (c) of this section with an EPA approval date prior to January 1, 2003, 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. Material is incorporated 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 after January 1, 2003, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation 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 SIP as of January 1, 2003.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street, SW., Atlanta, GA 30303; the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC; or at the EPA, Office of Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, (Mail Code 6102T) NW., Washington, DC 20460.

(c) EPA approved Mississippi regulations.

#### EPA Approved Mississippi Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
APC-S-1	Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants			
Section 1 .....	General .....	01/09/94 .....	02/12/96, 61 FR 5295 .....	Subsection 2, "Other Limitations", and Subsection 3, "New Source Performance Standards", are not Federally approved.
Section 2 .....	Definitions .....	01/09/94 .....	02/12/96, 61 FR 5295 .....	
Section 3 .....	Specific Criteria for Sources of Particulate Matter.	05/28/99 .....	12/20/02, 67 FR 77926 .....	
Section 4 .....	Specific Criteria for Sources of Sulfur Compounds.	01/09/94 .....	02/12/96, 61 FR 5295 .....	
Section 5 .....	Specific Criteria for Sources of Chemical Emissions.	01/09/94 .....	02/12/96, 61 FR 5295 .....	
Section 6 .....	New Sources .....	05/28/99 .....	12/20/02, 67 FR 77926 .....	
Section 7 .....	Exceptions .....	02/04/72 .....	05/31/72, 37 FR 10875 .....	
Section 9 .....	Stack Height Considerations	05/01/86 .....	09/23/87, 52 FR 35704 .....	
Section 10 .....	Provisions for Upsets, Startups, and Shutdowns.	01/09/94 .....	02/12/96, 61 FR 5295 .....	
Section 11 .....	Severability .....	01/09/94 .....	02/12/96, 61 FR 5295 .....	
APC-S-2	Mississippi Commission on Environmental Quality Permit Regulations for the Construction and/or Operation of Air Emissions Equipment			
Section I .....	General Requirements .....	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section II .....	General Standards Applicable to All Permits.	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section III .....	Standards for Granting a State Permit to Operate An Existing Facility.	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section IV .....	Application for Permit to Construct and State Permit to Operate New Facility.	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section V .....	Public Participation and Public Availability of Information.	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section VI .....	Application Review .....	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section VII .....	Compliance Testing .....	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section VIII .....	Emissions Evaluation Report	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section IX .....	Procedures for Renewal of State Permit to Operate.	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section X .....	Standards for Renewal of State Permit to Operate.	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section XI .....	Reporting and Record Keeping.	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section XII .....	Emission Reduction Schedule.	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section XIII .....	Exclusions, Variances, and General Permits.	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section XIV .....	Permit Transfer .....	01/09/94 .....	05/02/95, 60 FR 21442 .....	
Section XV .....	Severability .....	01/09/94 .....	05/02/95, 60 FR 21442 .....	
APC-S-3	Regulations for Prevention of Air Pollution Emergency Episodes			
Section 1 .....	General .....	02/04/72 .....	05/31/72, 37 FR 10875 .....	
Section 2 .....	Definitions .....	02/04/72 .....	05/31/72, 37 FR 10875 .....	
Section 3 .....	Episode Criteria .....	06/03/88 .....	11/13/89, 54 FR 47211 .....	
Section 4 .....	Emission Control Action Programs.	02/04/72 .....	05/31/72, 37 FR 10875 .....	
Section 5 .....	Emergency Orders .....	06/03/88 .....	11/13/89, 54 FR 47211 .....	
APC-S-5	Regulations for the Prevention of Significant Deterioration of Air Quality			
All .....	.....	09/21/96 .....	07/15/97, 62 FR 37724 .....	

(d) EPA approved Mississippi source-specific requirements.

#### EPA Approved Mississippi Source-Specific Requirements

Name of source	Permit number	State effective date	EPA approval date	Explanation
None .....	.....	.....	.....	

\* \* \* \* \*

[FR Doc. 03-6583 Filed 3-19-03; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300**

[FRL-7468-5]

**National Oil and Hazardous Substances Contingency Plan; National Priorities List Update****AGENCY:** Environmental Protection Agency.**ACTION:** Notice of deletion of a portion of the former Nansemond Ordnance Depot Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region III announces the deletion of a portion of the former Nansemond Ordnance Depot site (Nansemond) from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended. EPA and the Commonwealth of Virginia have determined that all appropriate responses under CERCLA have been implemented at the portions of the site being deleted from the NPL and that no further response action is appropriate.

**EFFECTIVE DATE:** March 20, 2003.

**ADDRESSES:** Comprehensive information on this release is available for viewing at the site information repositories at the following locations:

Tidewater Community College (Frederick Campus) Library, Information Desk, 7000 College Drive, Portsmouth, Virginia 23703. (757) 822-2130. Hours of operation: Monday through Thursday 8 a.m. to 9 p.m., Friday 8 a.m. to 4:30 p.m. and Saturday 9 a.m. to 1 p.m.  
U.S. EPA Region III Library, 1650 Arch Street, Philadelphia, PA 19103-2029. (215) 814-5254. Hours of operation: Monday through Friday, 8 a.m.-5 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Thomson, PE, Remedial Project Manager, U.S. EPA Region III (3HS13), 1650 Arch Street, Philadelphia, PA 19103-2029. (215) 814-3357.

**SUPPLEMENTARY INFORMATION:**

The portion of the site to be deleted from the NPL is the soil in the Impregnation Kit Area. The Impregnation Kit Area (also known as the "Impregnate Kit" or "XXCC3" area) is an approximately 300,000 square foot, rectangular area in the southwestern portion of Nansemond, about 1000 feet from the Nansemond River. Only soil in this area is being deleted from the NPL; ground water beneath the Impregnation Kit Area will not be deleted at this time.

A notice of intent to delete this portion of the site was published January 21, 2003 (68 FR 2726). The closing date for comments on the notice of intent to delete was February 20, 2003. EPA received no comments.

EPA identifies releases which appear to present a significant risk to public health, welfare, or the environment, and

it maintains the NPL as the list of those releases. Releases on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund. Any release deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Reporting and recordkeeping requirements, Superfund.

Dated: March 7, 2003.

**Donald S. Welsh,***Regional Administrator, Region III.*

40 CFR part 300 is amended as follows:

**PART 300—[AMENDED]**

1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Table 1 of Appendix B to part 300 is amended by revising the entry for VA, Former Nansemond Ordnance Depot, Suffolk to read as follows:

**Appendix B to Part 300—National Priorities List**

TABLE 1.—GENERAL SUPERFUND SECTION

St.	Site name	City/county	Notes(a)
* * * * *			
VA .....	Former Nansemond Ordnance Depot .....	Suffolk .....	P