List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of DEA by Department of Justice regulations (28 CFR 0.100), the Administrator hereby orders that 21 CFR part 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Section 1308.11 is amended by adding paragraph (f)(3) as follows:

§ 1308.11 Schedule I.

* * * * *

(f) * * *

(3) *N,N*-dimethylamphetamine (also known as *N,N*,alpha-trimethylbenzeneethanamine: *N,N*,alpha-trimethylphenethylamine)—1480

* * * * *

§ 1308.11 [Amended]

3. Section 1308.11 is further amended by removing paragraph (g)(3).

Dated: January 29, 1990.

John C. Lawn,

Administrator Drug Enforcement Administration.

[FR Doc. 90-2392 Filed 2-1-90; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Revegetation; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects the final rule notice published on December 15, 1989 (54 FR 51395) concerning an amendment to the Ohio regulatory program approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment (Program Amendment Number 25 Revised) concerned Ohio's use of average county yields for demonstrating cropland yield restoration and also concerned information on Ohio's method of evaluating revegetation success.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office (614) 866-0578.

SUPPLEMENTARY INFORMATION:.

I. Corrections

1. Reference to Ohio Administrative Code (OAC) section 1501:13-9-15(F)(12) in the first sentence of the second paragraph of Section II (Submission of Amendment) should be deleted. Ohio Program Amendment Number 25 Revised did not propose any changes to this rule concerning non-augmentative practices.

2. The last paragraph on page 51395 which continues on page 51396 should read as follows:

By letter dated May 24, 1988, Ohio submitted Program Amendment Number 34 (Administrative Record No. OH-1033). This amendment reiterated the changes first proposed in Program Amendment Number 25 Revised to OAC 1501:13-9-09 (A)(4) and (E)(3) and to OAC 1501:13-9-15(B), (F)(4)(b), (F)(5)(e)(i). Further, Program Amendment Number 34 revised OAC 1501:13-9-15(F)(5) (f) and (g) beyond the revisions earlier proposed in Program Amendment Number 25 Revised. Finally, Program Amendment Number 34 reiterated the administrative record information previously provided by Ohio in Program Amendment Number 25 revised in response to the required amendment at 30 CFR 935.16(h). OSM approved Program Amendment Number 34 on December 22, 1988 (53 FR 51543).

Therefore, the proposed revisions presented in Program Amendment Number 25 Revised concerning OAC 1501:13-9-09, OAC 1501:13-9-15, and the administrative record information regarding 30 CFR 935.16(h) will not be considered part of this rulemaking. As a result, the only proposed amendments which remain from the original submittal of proposed Program Amendment Number 25 Revised involve narrative information submitted in response to the required program amendments at 30 CFR 935.16 (f) and (g).

3. The first full paragraph on page 51396, which begins with the words "By letter dated April 17, 1987 . . .", should be deleted.

Dated: January 25, 1990.

Alfred E. Whitehouse,

Acting Assistant Director, Eastern Field Operations.

[FR Doc. 90-2426 Filed 2-1-90; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 946

Virginia Regulatory Program—Bonding

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing approval of a proposed amendment to the Virginia regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to changes in Virginia's Coal Surface Mining Reclamation Fund (hereinafter, Pool Bond Fund). The amendment is intended to improve the Pool Bond Fund's financial status and limit its liability by stiffening admission criteria, authorizing increased entrance fees under certain conditions, imposing renewal fees, and restricting highwall length and pit width. The changes will establish new requirements for Pool Bond Fund applicants to meet.

EFFECTIVE DATE: February 2, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. W. Russell Campbell, Acting Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, room 220, Powell Valley Square Shopping Center, Route 23, Big Stone Gap, Virginia 24219; telephone (703) 523-4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program
II. Submission of Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Virginia Program

The Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the Virginia program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval, can be found in the December 15, 1981, Federal Register (46 FR 61088-61115). Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Submission of Amendment

By letter dated July 5, 1989 (Administrative Record No. VA-729), Virginia submitted a proposed amendment consisting of amended

sections to 45.1–270.2 and 45.1–270.3 of the Code of Virginia.

OSM announced receipt of the proposed amendment in the August 4, 1989 **Federal Register** (32097–32098), and in the same notice opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

1. 45.1–270.2 Participation in Pool Bond Fund

(a) *Three-year history.* Paragraph (A) of this section would add the requirement that a participant in the Pool Bond Fund must demonstrate "at least a consecutive three-year history of compliance under this act or any other State or Federal act." This would improve the quality of the operators participating in the Pool because membership is restricted to those with a consecutive three year compliance history. Since the new language requires a demonstration of historical compliance, the changes would not alter the basis of the Director's findings approving the original alternative bonding system which was approved on September 21, 1982 (45 FR 41556). Therefore, the Director finds the proposal no less effective than 30 CFR 800.11(e).

(b) *Cumulative amount of exposed highwall.* Paragraph (C) of this section would place highwall restrictions on mining operations bonded under the Virginia program. The total accumulative amount of exposed highwall may not exceed 1500 linear feet. The coal pit width would be limited to 500 feet or less. This provision read together with paragraph D of the proposed amendment would prevent any negative effect on the pool bond fund in the event the applicant fell behind in its reclamation. These restrictions would not alter the basis for the Director's findings approving the original alternative bonding system. Therefore, the Director finds this proposal to be no less effective than 30 CFR 800.11(e).

(c) *Extended distances for rough backfilling and grading.* Paragraph (D) would allow the State to extend the distance to be established under paragraph (C) above provided the applicant demonstrated a consecutive seven-year history of compliance with the approved program or other comparable State or Federal regulations. Alternatively, the applicant could submit a bond for any proposed additional area. Proposed paragraph (D) would also provide a formula for calculating the bond required for the extended distance requested. This action would not alter the basis of the findings approving the original alternative bonding system because it does adversely affect the pool bond fund. The Director finds that since any additional distance requested for rough backfilling and grading will be adequately bonded or extended for operators with a seven year compliance history, the proposal is no less effective than 30 CFR 800.11(e).

2. 45.1–270.3 Initial and Renewal Payments; Bonds

This proposal adds new langauge to paragraph (A) that would require an increased entrance fee for all operators who elected to participate in the Pool Bond Fund. An increased rate of $5,000 would be required when the State determines that the total balance is less than $1,750,000 pursuant to the Virginia program. The entrance fee would be reduced to $1,000 when the fund balance is greater than $2,000,000 pursuant to the Virginia program. A renewal fee of $1,000 would be required of all permittees in the Pool Bond Fund at the time of permit renewal. Increased changes would not alter the basis of the findings approving the original alternative bonding system because the purpose of the amendment was to strengthen the Pool Bond Fund's assets (Administrative Record No. VA–729). Since the proposal would increase revenue for the fund, the Director finds it no less effective than 30 CFR 800.11(e).

IV. Summary and Disposition of Comments

Public Comments

The public comment period and opportunity to request a public hearing announced in the August 4, 1989 **Federal Register** ended September 5, 1989. No public comments were received and the scheduled public hearing was not held as no one requested an opportunity to provide testimony.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations of 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Virginia program. The Environmental Protection Agency, Forest Service, Mine Safety and Health Administration, and Soil Conservation Service all generally supported the amendment.

V. Director's Decision

Based on the above findings the Director is approving the program amendment as submitted on July 5, 1989. The Federal regulations at 30 CFR part 946 codifying decisions concerning the Virginia program are being amended to implement this decision.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order No. 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure existing requirements established by SMCRA and the Federal rules will be met by the State.

Paperwork Reduction Act

This does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 26, 1990.

Alfred E. Whitehouse,

Acting Assistant Director, Eastern Field Operations.

For reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below.

PART 946—VIRGINIA

1. The authority citation for part 946 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 946.15, a new paragraph (z) is added to read as follows:

§ 946.15 Approval of regulatory program amendments.

* * * * *

(z) The following amendments were approved February 2, 1990:

(1) Amended sections 45.1–270.2 and 45.1–270.3 of the Virginia Coal Surface Mining Control and Reclamation Act submitted on July 5, 1989, concerning changes to Virginia's Coal Surface Mining Reclamation Fund.

[FR Doc. 90–2427 Filed 2–1–90; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 215

Withholding of District of Columbia, State, City and County Income or Employment Taxes by Federal Agencies

AGENCY: Financial Management Service, Fiscal Service, United States Department of the Treasury.

ACTION: Final rule.

SUMMARY: Public Law 100–180 permits withholding of state and local income or employment taxes from the drill pay of National Guardsmen and reserve components of the armed forces for those state and local governments that have entered into an agreement with the Secretary of the Treasury. This rule allows for such a withholding.

EFFECTIVE DATE: March 5, 1990.

FOR FURTHER INFORMATION CONTACT: Charles Singleton, Financial Management Service, Room 330B, 401 14th Street, SW., Washington, DC 20227, (202) 287–0336, (FTS) 287–0336.

SUPPLEMENTARY INFORMATION: Prior to passage of the National Defense Authorization Act for Fiscal Years 1988 and 1989, no authority existed to withhold state or local income or employment taxes from the drill pay of members of National Guard units or reserve components for those taxing jurisdictions that enter into an agreement with the Secretary of the Treasury as part of the withholding program for civilian Federal employees.

Changes have been made to 31 CFR 215.2(h)(1) to permit National Guardsmen and Reservists to be included in state withholding as members of the armed forces, and in the city and county withholding programs as Federal employees, but only while participating in exercises, drills, training periods, or serving on active duty for training under section 270(a) of title 10 United States Code. Section 215.2(i) of 31 CFR has been changed to include National Guardsmen and Reservists as "Members of the Armed Forces" while participating in the same functions.

The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with the adoption of these regulations because the regulations involve adjustments prescribed by statutory authority and which implement the statute. Accordingly, the Treasury finds for good cause that notice and public participation are unnecessary and contrary to the public interest of realizing in regulations what has been enacted in statutory law.

Executive Order 12291

The United States Department of the Treasury has determined that the proposed regulation is not a "major rule" within the meaning of Executive Order 12291 [46 FR 13193, February 19, 1981]. It is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign based-enterprises in domestic or export markets.

Therefore, preparation of a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) do not apply.

Paperwork Reduction Act

These regulations impose no additional reporting or recordkeeping requirements necessitating clearance by the Office of Management and Budget.

List of Subjects in 31 CFR Part 215

Employment taxes, Government employees, Income tax, Intergovernmental relations.

For the reasons set forth in the preamble, title 31, chapter II, subchapter A, part 215 of the Code of Federal Regulations is amended as set forth below.

PART 215—WITHHOLDING OF DISTRICT OF COLUMBIA, STATE, CITY, AND COUNTY INCOME OR EMPLOYMENT TAXES BY FEDERAL AGENCIES

Subpart A—General Information

1. The authority citation for part 215 continues to read as follows:

Authority: 5 U.S.C. 5516, 5517, and 5520 and section 4 of Executive Order 11997, June 22, 1977 (42 FR 31759). § 215.2 also issued under 5 U.S.C. 5517(d), 5520(a).

2. Section 215.2 is amended by revising paragraphs (h)(1) and (i) to read as follows:

§ 215.2 Definitions.

* * * * *

(h)(1) "Employees" for the purpose of State income tax withholding, means all employees of an agency, other than members of the armed forces. For city and county income or employment tax withholding, it means:

(i) Employees of an agency;

(ii) Members of the National Guard, participating in exercises or performing duty under 31 U.S.C. 502; or

(iii) Members of the Ready Reserve, participating in scheduled drills or training periods, or serving on active duty for training under 10 U.S.C. 270(a).

The term does not include retired personnel, pensioners, annuitants, or similar beneficiaries of the Federal Government, who are not performing active civilian service or persons receiving remuneration for services on a contract-fee basis.

(2) * * *

(i) "Members of the Armed Forces" means all individuals in active duty status (as defined in 10 U.S.C. 101(22)) in regular and reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard, including members of the National Guard while participating in exercises or performing duty under 31 U.S.C. 502, and members of the Ready Reserve while participating in scheduled drills or training periods or serving on active duty for training under 10 U.S.C. 270(a).

* * * * *

W.E. Douglas,

Commissioner.

[FR Doc. 90–2400 Filed 2–1–90; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Restricted Area, Cooper River and Tributaries, Charleston, SC

AGENCY: Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is amending the regulations to expand the existing restricted areas in the Cooper River and its tributaries in the vicinity of the Charleston Naval Base and the Naval Weapons Station in Charleston and Berkeley Counties, South Carolina. The purpose of these changes is to provide effective security in the area of the Charleston Naval Base and the Charleston Naval Weapons Station.

EFFECTIVE DATE: March 5, 1990.

ADDRESSES: HQUSACE, CECW–OR, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Eppard at (202) 272–1783 or Ms. Tina Hadden at (803) 724–4613.

SUPPLEMENTARY INFORMATION: On September 30, 1989, the Corps published a notice of proposed rulemaking in the **Federal Register** soliciting comments on the proposed amendments to 33 CFR 334.460. The purpose of the amendment is to expand the existing restricted areas in the vicinity of the Charleston Naval Base and the Naval Weapons Station, Charleston and Berkeley Counties, South Carolina. The comment period expired on 20 October 1989, and we received no comments. According, we are publishing the amendments as a final rule.

The following is a brief description of the changes to the regulations.

1. Area (a)(1) is revised to include the reach of Noisette Creek upstream to the property line on the Charleston Naval Base. The regulations for areas (a)(1) and (a)(2) remain the same.

2. Area (a)(3) has been added to include the eastern shoreline of Shipyard Creek. The new regulation allows the area to be restricted when the Commander of the Charleston Naval Base determines it necessary for security or other military operations.

3. Areas (a)(4) and (a)(6) have been extracted from existing area (a)(1), a totally restricted area. These new regulations allow area (a)(6) to be restricted when deemed necessary by the Commander of the Charleston Naval Base for purposes of security or other military operations. The regulations for area (a)(4) remain the same.

4. Areas (a)(2) and (a)(5) and the regulations affecting them remain unchanged.

5. Area (a)(7) has been added to include that portion of Goose Creek from its confluence with the Cooper River upstream to the Seaboard Coastline Railway trestle. Area (a)(11) has been added to include Foster Creek from its confluence with the Black River upstream to its terminus. These areas may be closed in the interest of national security at the discretion of the Commanding Officer of the Charleston Naval Base, until such time as he determines such restriction may be terminated.

6. Area (a)(8) remains unchanged.

7. Area (a)(9) has been added to include the western shoreline of the Cooper River in the vicinity of the Naval Weapons Station and area (a)(10) has been added to include the area surrounding the USS Alamogordo. These areas have new regulations which prohibits vessels and other watercraft from getting closer than one hundred (100) yards of the shoreline of the Cooper River in those areas devoid of vessels or man-made structures. In those areas where vessels or man-made structures are present, the restricted area will be 100 yards from the shoreline or 50 yards beyond those vessels or other man-made structures, whichever is greater.

Economic Assessment and Certification

This final rule is issued with respect to a military function of the Defense Department and the provisions of E.O. 12291 do not apply. I hereby certify that this rule will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

Accordingly, the Corps of Engineers is amending 33 CFR 334.460 as set forth below.

PART 334—DANGER ZONES AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.460 is revised as follows:

§ 334.460 Cooper River and tributaries at Charleston, SC.

(a) The areas:

(1) That portion of the Cooper River beginning on the west shore at latitude 32° 52′ 37″, longitude 79° 58′ 06″, thence to latitude 32° 52′ 37″, longitude 79° 58′ 03″, thence to latitude 32° 52′ 27″, longitude 79° 68′ 01″, thence to latitude 32° 52′ 06″, longitude 79° 57′ 54″ at the west channel edge, thence to latitude 32° 51′ 48.5″, longitude 79° 57′ 41.5″, thence to latitude 32° 51′ 33″, longitude 79° 57′ 27″, thence to latitude 32° 51′ 19″, longitude 79° 57′ 05″, thence to latitude 32° 51′ 01″, longitude 79° 56′ 07″, thence to latitude 32° 50′ 50″, longitude 79° 56′ 02″, thence to latitude 32° 50′ 48″, longitude 79° 56′ 07″ on the west shore, thence north along the shoreline including the reach of Noisett Creek to the eastern boundary of the Navy Base to the beginning point at the west shore at latitude 32° 52′ 37″, longitude 79° 58′ 06″.

(2) The reach of Shipyard Creek upstream from a line 300 feet from and parallel to the upstream limit of the Improved Federal Turning Basin.

(3) That portion of the interior Shipyard Creek commencing at latitude 32° 49′ 50″, longitude 79° 56′ 10″, being a point at the southern tip of the shoreline where the northern shore of Shipyard Creek joins the Cooper River, thence going along the northern shore of Shipyard Creek to the southern portion of the existing restructed area in paragraph (a)(2) of this section; thence along said line being 300 feet from and parallel to the upstream limit of the Improved Federal Turning Basin for a distance of 15 feet, thence to the most northerly point of the Improved Federal Turning Basin, thence along the northeastern edge for the Improved Turning Basin to the northeast edge of the main channel of Shipyard Creek to a point lying in the mouth of Shipyard Creek where it reaches the Cooper River at the northeast edge of the main channel of the Shipyard Creek and longitude 79° 56′ 10″, thence to the beginning point at latitude 32° 49′ 50″, longitude 79° 56′ 10″.

(4) That portion of the Cooper River surrounding Pier Yankee beginning at a point on the west shore of the Cooper River at latitude 32°50′00″, longitude 79°56′10.5″, thence to latitude 32°50′00″, longitude 79°55′55″, thence to latitude 32°49′54″, longitude 79°55′55″, to latitude 32°49′50″, longitude 79°56′10″, thence north along the shore to the beginning point at the west shore of the Cooper River at latitude 32°50′00″, longitude 79°56′10.5″.

(5) That portion of the Cooper River beginning on the west channel edge at latitude 32°52′06″, longitude 79°57′54″, thence to the east shore at latitude 32°52′13″, longitude 79°57′30″, thence along the eastern shore to latitude 32°51′30″, longitude 79°56′15.5″, thence

to latitude 32°51'01", longitude 79°55'50", thence to latitude 32°50'52", longitude 79°56'03.5", thence to latitude 32°51'01", longitude 79°56'07", thence to latitude 32°51'19", longitude 79°57'05", thence to latitude 32°51'33", longitude 79°57'27", thence to latitude 32°51'48.5", longitude 79°57'41.5", thence to the beginning point at the west channel edge at latitude 32°52'06", longitude 79°57'54".

(6) That portion of the Cooper River beginning on the west shore at latitude 32°50'48", longitude 79°56'07", thence to latitude 32°50'50", longitude 79°56'02", thence to latitude 32°50'32", longitude 79°55'55", thence to latitude 32°50'00", longitude 79°55'55", thence to latitude 32°50'00", longitude 79°56'10.5" on the west shore, thence along the shoreline to the beginning point on the west shore at latitude 32°50'48", longitude 79°56'07".

(7) That portion of Goose Creek beginning at a point on the west shore of Goose Creek at its intersection with the Cooper River at latitude 32°54'32", longitude 79°57'04"; thence proceeding along the western shoreline of Goose Creek for approximately 6.9 miles to its intersection with the Seaboard Coastline Railroad at latitude 32°55'34", latitude 79°59'30"; thence in a northwesterly direction along the Seaboard Coastline Railroad to latitude 32°55'37", longitude 79°59'32"; thence proceeding along the eastern shoreline of Goose Creek in a southeasterly direction to latitude 32°54'33" by 79°56'59" thence back to 32°54'32", longitude 79°57'04".

(8) That portion of the Cooper River, extending from the mouth of Goose Creek, to a point approximately five-hundred (500) yards north of Red Bank Landing, a distance of approximately 4.8 miles, and the tributaries to the Cooper River within the area enclosed by the following arcs and their intersections:

(i) Radius = 8255' center of radius, latitude 32°55'45", longitude 79°45'23".

(ii) Radius = 3790' center of radius, latitude 32'55'00", longitude 79°55'41".

(iii) Radius = 8255' center of radius, latitude 32°55'41", longitude 79°56'15".

(iv) Radius = 8255' center of radius, latitude 32'56'09", longitude 79°56'19".

(9) That portion of the Cooper River beginning on the western shoreline at latitude 32°54'37", longitude 79°57'01"; thence proceeding along the western shoreline in a northerly direction for approximately 4.8 miles to latitude 32°57'32", longitude 79°55'27"; thence in a southerly direction for approximately 100 yards to latitude 32°57'29", longitude 79°55'23", thence in a southwesterly direction, paralleling the shoreline to latitude 32°56'48", longitude 79°55'48"; thence in an easterly direction for approximately 50 yards to latitude 32°56'49", longitude 79°55'46", thence in a southerly direction, paralleling the shoreline, to latitude 32°56'40", longitude 79°55'40"; thence in a westerly direction for approximately 50 yards to latitude 32°56'39", longitude 79°55'42"; thence in a southwesterly direction, paralleling the shoreline, to latitude 32°56'15", longitude 79°56'07"; thence in a southwesterly direction to latitude 32°56'05", longitude 79°56'17"; thence in a westerly direction, for approximately 50 yards to latitude 32°56'05", longitude 79°56'19"; thence in a southerly direction, paralleling the shoreline to latitude 32°55'45", longitude 79°56'19"; thence in a southwesterly direction to latitude 32°55'42", longitude 79°56'13"; thence in a southeasterly direction, parallel the shoreline, to latitude 32°55'18", longitude 79°55'55"; thence in a southwesterly direction to latitude 32°55'16", longitude 79°56'00"; thence in a southwesterly direction paralleling the shoreline to latitude 32°54'35"; longitude 79°56'57", thence back to latitude 32°54'37", and longitude 79°57'01".

(10) That portion of the Cooper River beginning at a point near the center of the Cooper River at latitude 32°55'03", longitude 79°55'42"; thence proceeding in an easterly direction to latitude, 32°55'03"; longitude 79°55'35""; thence in a southerly direction to latitude 32°54'52"", longitude 79°55'33""; thence in a westerly direction to latitude 32°54'53"", longitude 79°55'42""; thence in a northerly direction to latitude 32°55'03"", longitude 79°55'42".

(11) That portion of Foster Creek beginning at a point on the southern shoreline of Foster Creek at its intersection with Back River at latitude 32°58'30", longitude 79°56'33"; thence proceeding along the southern shoreline to the terminus of Foster Creek; thence back down its northern shoreline of Foster Creek to latitude 32°58'34", longitude 79°56'34"; thence back to latitude 32°58'30", longitude 79°56'33".

(b) The regulations:

(1) Unauthorized vessels and other watercraft shall not enter at any time, the restricted areas described in paragraph (a)(1), (a)(2), and (a)(4) of this section.

(2) Vessels and other watercraft entering the restricted area described in paragraph (a)(5) of this section, shall proceed at normal speed and under no circumstances anchor, fish, loiter, or photograph until clear of the restricted area.

(3) Vessels and other watercraft may be restricted from using any or all of the area described in paragraph (a)(3), and (a)(6) of this section when deemed necessary and appropriately noticed by Commander, Naval Base, Charleston, SC, for security or other military operations without first obtaining escort or other approval from Commander, Naval Base, Charleston.

(4) Vessels and other watercraft, other than those specifically authorized by Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, entering the restricted area described in paragraph (a)(8) of this section, shall proceed at normal speed, and under no circumstances anchor, fish, loiter, or photograph in any way until clear of the restricted areas.

(5) Vessels and other watercraft, other than those specifically authorized by Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, entering the area described in paragraphs (a)(9) and (a)(10) of this section are prohibited from entering within one-hundred (100) yards of the west bank of the Cooper River, in those portions devoid of any vessels or man-made structures. In those areas where vessels or man-made structures are present, the restricted area will be 100 yards from the shoreline or 50 yards beyond those vessels or other man-made structures, whichever is greater. This includes area in paragraph (a)(10) of this section.

(6) In the interests of National Security, Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, may, at his/her discretion, restrict passage of watercraft and vessels in the areas described in paragraphs (a)(7) and (a)(11) of this section until such time as he/she determines such restriction may be terminated.

(7) All restricted areas will be marked with suitable warning signs.

(8) The regulations described in paragraphs (b) (1), (2) and (3) of this section shall be enforced by Commander, Naval Base, Charleston, and such agencies as he/she may designate.

(9) The regulations described in paragraphs (b) (4), (5) and (6) of this section shall be enforced by the Commanding Officer, U.S. Naval Weapons Station, Charleston, SC, and such agencies as he/she may so designate.

(10) It is understood that none of the restrictions herein will apply to properly marked Federal vessels performing official duties. It is further understood that Federal employees will not take photographs from within the above described restricted areas.

Dated: January 1, 1990.

Patrick J. Kelly,

Brigadier General (P), USA, Director of Civil Works.

[FR Doc. 90-2057 Filed 2-1-90; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3718-3; KY-061]

Approval and Promulgation of Implementation Plans Kentucky: Approval of Revisions to Appendix N

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves revisions to Appendix N of the Kentucky State Implementation Plan (SIP). Appendix N consists of regulations developed by the Air Pollution Control District of Jefferson County (the District), and applies only in Jefferson County, Kentucky; they are implemented by the District. EPA approval of the regulations enables the District to retain authority for all subject activities in Jefferson County.

EFFECTIVE DATE: This action will be effective April 3, 1990, unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Written comments should be addressed to Richard A. Schutt of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the material submitted by Kentucky may be examined during normal business hours at the following locations:

Public Information reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington DC 20460.

Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365.

Kentucky Department for Environmental Protection, Frankfort Office Park 18 Reilly Road, Frankfort, Kentucky 40601.

Air Pollution Control District of Jefferson County, 914 East Broadway, Louisville, Kentucky 40204.

FOR FURTHER INFORMATION CONTACT: Richard A. Schutt of the EPA Region IV Air Programs Branch at 404-347-2864 (FTS-257-2864) and at the above address.

SUPPLEMENTARY INFORMATION: The Air Pollution Control District of Jefferson County (the District) develops and implements air quality regulations in Jefferson County, Kentucky. The District's regulations are at least as stringent as corresponding Kentucky regulations. The District's regulations are incorporated by the State as part of the Kentucky SIP; in this manner, the State has the authority to implement the regulations in Jefferson County if the District cannot.

The SIP revisions affected by today's approval were adopted by the Air Pollution Control Board of Jefferson County on February 16, 1983, and revised on April 20, 1988. The revisions were submitted to EPA by Kentucky on January 19, 1989 and July 12, 1989. The regulation being approved by this notice is Regulation 4, Emergency Episode.

Regulation 4 was originally submitted by Kentucky June 29, 1979, as part of the 79 part D SIP. However, EPA did not take action on Regulation 4 because section 2 of 4.02 did not have an alert level for NO_2 in subparagraph (b) as contained in the State's regulation 401 KAR 55:010. The District has since made the necessary change to add the alert level for NO_2. In addition the District made changes to Regulation 4.02 to drop TSP and add PM_{10} in all three phases of the episode criteria such that alerts, warnings and emergencies reflect the concentration levels as set forth in 40 CFR part 51, appendix L. This amendment for PM_{10} was submitted to EPA on January 19, 1989 and discussed in an April 20, 1989, **Federal Register** at 54 FR 15932.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective April 3, 1990 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective April 3, 1990.

Final Action

EPA is today finalizing approval of the entire Emergency Episode regulations as contained in Appendix N of the Kentucky State Implementation Plan. This revision also reflects the adoption of the PM_{10} standard for particulates.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 3, 1990. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations.

Note: Incorporation by reference of Kentucky State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 11, 1989.

Lee A. DeHihns,

Acting Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart S—Kentucky

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.920 is amended by revising paragraph (c)(59) to read as follows:

§ 52.920 Identification plan.

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(c) * * *

(59) Revision to Jefferson County Regulations 3.05, Methods of Measurement submitted on January 19, 1989, by the Kentucky Natural Resources and Environmental Protection Cabinet.

(i) Incorporation by reference.

(A) Revisions to the Jefferson County Regulations, 3.05. Methods of Measurement.