ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT–068–7225b; A–1–FRL–7440–9]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; New Source Review/ Prevention of Significant Deterioration Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Connecticut Department of Environmental Protection (DEP). The revisions include new provisions that implement the core requirements of 1990 Clean Air Act Amendments (CAAA) regarding nonattainment New Source Review (NSR) in areas that have not attained the National Ambient Air Quality Standards (NAAQS). In addition, the changes amend the applicability requirements and certain other requirements of the Prevention of Significant Protection (PSD) program and NSR rules. Finally, the changes provide a definition for ''Practicably Enforceable'' that would allow sources a streamlined approach to limit potential to emit for PSD/NSR applicability purposes. In aggregate, these revisions will substantially strengthen the DEP's air permitting rules.

This action proposes to approve the revisions to section 22a–174–1, ''Definitions,'' section 22a–174–2a, ''Procedural Requirements for New Source Review and Title V Permitting,'' and section 22a–174–3a, ''Permit to Construct and Operate Stationary Sources.'' This action is being taken in accordance with the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before February 11, 2003.

ADDRESSES: Comments may be mailed to Steven A. Rapp, Manager, Air Permits, Toxics and Indoor Programs, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA-New England, 1 Congress Street—Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 West, 1301 Constitution Avenue, NW., Washington DC and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Brendan McCahill, (617) 918–1652; email at *McCahill.Brendan@EPA.GOV*.

SUPPLEMENTARY INFORMATION: On May 23, 1994, the DEP formally submitted revisions to its SIP for the purposes of meeting the 1990 CAAA requirements for nonattainment NSR. Due to various issues with these revisions and the pre-existing state rules, EPA did not take action on this SIP submittal. On June 14, 2002, after completing a top to bottom review of its entire state permitting program, the DEP formally withdrew the May 23, 1994 submittal and submitted new revisions to its SIP.

EPA has recently promulgated revisions to certain portions of the federal PSD and nonattainment NSR regulations (67 FR 80244 (Dec. 31, 2002). These rules have an effective date of March 3, 2003. With respect to Connecticut's rules relating to new source review, EPA has determined that Connecticut's rules meet the requirements of 40 CFR part 51, subpart I, as currently in effect, and is taking no position on whether Connecticut will need to make changes to its new source review rules to meet requirements that EPA has promulgated, but are not yet effective, as part of new source review reform.

The rule revisions proposed for approval today are the product of a comprehensive, multi-year, stakeholder process intended to increase the effectiveness of Connecticut's program. The rules proposed for approval include important flexibility provisions discussed below, including provisions that provide a framework for establishing ''practicably enforceable'' limits on ''potential to emit'' and provisions allow sources to consider decreases in emissions as well as increases in determining applicability. Not only do the rules proposed for approval increase flexibility, but they also enhance the enforceability of the state program. Therefore, EPA believes it is appropriate to propose approval of these rules under the rules that are currently in effect in order to significantly strengthen the state program.

I. Revisions to the Nonattainment NSR Rules

A. What Is Nonattainment NSR?

The CAA requires new major sources and major modifications to existing major sources to obtain an air pollution permit before commencing construction. The nonattainment NSR rules are the set of regulations specifying the minimum permit requirements for new major sources or major modifications in areas that are in nonattainment of the NAAQS. The nonattainment NSR rules include two major elements: (1) Requirements that subjected sources obtain emission reductions (''offsets'') from existing sources to ensure a progression toward achieving the NAAQS and; (2) requirements that sources apply controls that achieve Lowest Achievable Emission Rate (LAER) to ensure emissions are controlled to the greatest degree possible.

B. Why Does Connecticut Need To Revise Its Rules?

In 1990, Congress revised the CAA to include new general requirements that apply to all nonattainment areas and additional requirements that apply to ozone nonattainment areas. In particular, the amended provisions for NSR in ozone nonattainment areas require substantially more stringent applicability and offset requirements over the pre-1990 NSR requirements. All portions of Connecticut are currently designated as nonattainment areas for ozone.

C. Where Can One Locate Additional Information on the General Requirements for Nonattainment NSR?

The air quality planning requirements for nonattainment NSR are set out in part D of subchapter I of the CAA The EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those state submittals containing nonattainment area NSR SIP requirements (*see* 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because this notice describes EPA's interpretations only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of part D advanced in today's proposal and the supporting rationale.

D. How Did Connecticut Satisfy the General NSR Requirements?

The general nonattainment NSR requirements are found in sections 172 and 173 of part D of subchapter I of the

Act and must be met by all nonattainment areas. The following paragraphs reference the nonattainment NSR requirements required to be submitted to EPA by November 15, 1992 and explain how Connecticut's rules meet those requirements. Connecticut's existing SIP already contained some of these provisions while others are being proposed for approval today.

1. Section 22a–174–3a(l)(5)(D), establishes provisions in accordance with section 173(a)(1)(A) of the CAA to assure that calculations of emissions offsets are based on the same emissions baseline used in the demonstration of Reasonable Further Progress (RFP).

2. Section 22a–174–3a(l)(4)(B)(viii) establishes provisions in accordance with section 173(c)(1) of the CAA to allow offsets to be obtained in another nonattainment area if: (i) The area has an equal or higher nonattainment classification and, (ii) emissions from the other nonattainment area contribute to an NAAQS violation in the area in which the source would construct.

3. Section 22a–174–3a(l)(4)(B)(i)&(iii), establishes provisions in accordance with sections 173(a) and 173 (c)(1) of the CAA that any emissions offsets obtained in conjunction with the issuance of a license to a new or modified source shall be federally enforceable before permit issuance and must be in effect and enforceable by the time the new or modified source commences operation.

4. Sections 22a–174–1(26), ''CERC,'' 22a–174–3a(l)(4)(B)(ii) &, 22a–174–3a(l)(5), establish provisions in accordance with section 173(c)(1) of the CAA to assure that emission increases from new or modified sources are offset by real reductions in actual emissions.

5. Sections 22a–174–1(26), ''CERC,'' 22a–174–3a(l)(4)(B)(ii) &, 22a–174–3a(l)(5) establishes provisions in accordance with section 173(c)(2) of the CAA to prevent emissions reductions otherwise required by the Act from being credited for purposes of satisfying part D offset requirements.

6. The 1990 CAAA modified the Act's provisions on growth allowances in nonattainment areas by (1) Eliminating existing growth allowances in the nonattainment area that received a notice prior or subsequent to the Amendments that the SIP was substantially inadequate, and (2) restricting growth allowances to only those portions of nonattainment areas formally targeted as special zones for economic growth (Sections 173(b) and 173(a)(1)(B) of the CAA). Connecticut's regulations do not contain provisions for growth allowances and are consequently consistent with the Act.

7. Connecticut has a practice of supplying information from nonattainment NSR licenses to EPA's RACT/BACT/LAER clearinghouse in accordance with section 173(d) of the CAA.

8. Section 22a–174–3a(l)(6) establishes provisions, in accordance with section 173(a)(3) of the CAA, to ensure that owners or operators of each proposed new or modified major stationary source demonstrate, as a condition of license issuance, that all other major stationary sources under the same ownership in the State are in compliance with the CAA.

9. Section 22a–174–3a(l)(2) establishes provisions in accordance with section 173(a)(5) of the CAA that, as a prerequisite to issuing any Part D permit, require an analysis of alternative sites, sizes, production processes and environmental control techniques for proposed sources that demonstrate that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, and modification.

10. Section 22a–174–3a(l)(8)(A) establishes provisions in accordance with section 173(a)(4) of the CAA that, as a prerequisite to issuing any Part D permit, the Administrator has not determined that the applicable implementation plan is not being adequately implemented for the proposed nonattainment area in which the proposed source is to construct or be modified.

E. What Are the Requirements for NSR in Ozone Nonattainment Areas?

As mentioned, the general nonattainment NSR requirements found in sections 172 and 173 of part D of subchapter I of the Act must be met by all nonattainment areas. The requirements for ozone nonattainment areas that supplement or supersede these requirements are found in subpart 2 of part D. In addition to requirements for ozone nonattainment areas, subpart 2 includes section 182(f), which states that requirements for major stationary sources of VOC shall apply to major stationary sources of oxides of nitrogen (NO_X) unless the Administrator makes certain determinations related to the benefits or contribution of NO_X control to air quality, ozone attainment, or ozone air quality. States were required under section 182(a)(2)(C) to adopt new NSR rules for ozone nonattainment areas by November 15, 1992.

F. How Did Connecticut Comply With the Subpart 2 Requirements?

Pursuant to section 172(c)(5) of the CAA, State implementation plans must require permits for the construction and operation of new or modified major stationary sources in nonattainment areas. The federal statutory permit requirements for ozone nonattainment areas are generally contained in revised section 173, and in subpart 2 of subchapter I, part D of the CAA. These are the minimum requirements that States must include in an approvable implementation plan. For all classifications of ozone nonattainment areas, States must adopt the appropriate major source thresholds and offset ratios, and must adopt provisions to ensure that any new or modified major stationary source of NO_X satisfies the requirements applicable to any major source of VOC, unless a special NO_X exemption is granted by the Administrator under the provision of section 182(f).

Connecticut was required to meet the subpart 2 requirements because all portions of the state are designated as in nonattainment for ozone. Most of Connecticut is designated as in ''serious'' nonattainment, except for southwest Connecticut, which is designated as in ''severe'' nonattainment. The following paragraphs reference the serious and severe ozone nonattainment requirements that Connecticut was required to submit to EPA by November 15, 1992 and how Connecticut has met those requirements.

1. Section 22a–174–1(57) ''Major Stationary Source,'' establishes provisions in accordance with the serious nonattainment area requirements provided in sections 182(c) and 182(f) of the CAA, by setting a major source threshold level of 50 TPY for VOC and for NO_X.

2. Section 22a–174–1(57) ''Major Stationary Source,'' establishes provisions in accordance with the severe nonattainment area requirements provided in sections 182(d) and 182(f) of the CAA, by setting a major source threshold level of 25 TPY for VOC and for NO_X.

3. Section 22a–174–1 (55) ''Major Modification,'' establishes provisions in accordance with the serious and severe nonattainment area requirements provided in sections 182(c)(6) and 182(d) of the CAA, by setting a major modification threshold level of 25 TPY for VOC and for NO_X.

4. Section 22a–174–3a(l)(4)(B)(x) establishes provisions in accordance with the serious nonattainment areas

provided in sections 183(c)(10) and 182(f) of the CAA, by setting an offset ratio of 1.2 to 1 for major sources or major modifications of VOC or NO_X.

5. Section 22a–174–3a(l)(4)(B)(x) establishes provisions in accordance with the severe nonattainment areas provided in sections 183(d)(2) and 182(f) of the CAA, by setting an offset ratio of 1.3 to 1 for major sources or major modifications of VOC or NO_X.

6. Connecticut's regulations do not include provisions that apply EPA's special rules for modifications as defined in sections 182(c)(7) and (8) of the CAA. The special rules for modifications are optional, less stringent applicability/permitting requirements that apply to a small number of modifications in serious and severe nonattainment areas. By not including provisions for section 182(c)(7) and (8), DEP's rules are more stringent than the CAA. Since the DEP rules only allows the most stringent applicability/permitting option, its SIP meets the federal requirements.

G. What Provisions of the 1990 CAAA Has Connecticut Not Properly Addressed?

For serious and severe ozone nonattainment areas, State plans must implement section 182(c)(6) with regard to modifications of major sources. Commonly referred to as the *de minimis* rule, the provision requires state permitting authorities to submit rules that require sources to consider all contemporaneous emission changes occurring within the last five calender years of a physical change when determining if the change is major modification.

As noted above, Connecticut contains serious and severe nonattainment areas and therefore must implement the de-minimis rule. However, the DEP's SIP submittal is not clear regarding implementation of this rule. The rule only requires sources to keep records of de-minimis emission increases but does not explain how these emissions will be used to define a major modification. As a result, the DEP's NSR rules do not completely satisfy the requirements of the CAA. Since this submittal includes the remaining NSR requirements of the CAA and substantially strengthens the DEP's SIP, EPA is proposing to approve as a SIP strengthening measure all portions of the submittal except for the provisions for the de-minimis rule. EPA intends to work with DEP to develop an approvable de-minimis provision in the future.

II. Revisions to the Major Modification Applicability Requirements for the PSD Program and Nonattainment NSR Rules

A. How Does EPA Define a Major Modification Under Its Rules That Are in Effect?

EPA defines a major modification as a physical change or a change in the method of operation of a major stationary source that results in a significant net emissions increase. EPA's definition for net emission increase consists of two additive components: (a) Any increase in actual emissions from a particular physical change or change in method of operation and; (b) any other increase or decrease in actual emissions at the source that are contemporaneous with the particular change and are creditable. If the resultant net emissions increase is greater than the significance level for any Title I regulated pollutant, the physical change is a major modification and subject to PSD/NSR requirements.

The first component of net emission increase narrowly includes only the emission increase associated with a particular change at the source. When calculating the emission increase, EPA's rules in effect generally employ what is commonly called the actual-to-potential test (special provisions in effect for electric utility steam generating units are discussed below). The maximum potential emissions from a modified emission unit after the modification is compared to the actual emissions from the emission unit before the modification. The difference between the unit's potential emissions and its current actual emissions is the actual emission increase from the modification.

The second component allows sources to broadly include changes in actual emissions that have occurred anywhere at the source within the contemporaneous period, typically defined by state rules as five years from the time of the modification under review. It provides sources the opportunity to avoid major PSD/NSR applicability by giving a source credit for reducing emissions at other emission units located anywhere at its facility. If the actual emission increase from the modification under review combined with emission decreases source-wide are below significance level for any given regulated pollutant, the modification is not major and not subject to PSD/NSR. When employing component two, federal rules also require sources to include any creditable emission increases occurring source-wide when calculating the net emission increase.

B. Why Is Connecticut Changing Its Rules?

The DEP's existing SIP-approved rules use a different approach for calculating the emission increase from a modification. Instead of the actual-to-potential test, the DEP uses the potential-to-potential test. This method compares the emission units potential before the modification with its potential after the modification. The DEP also does not allow sources the option to take credit for emission changes occurring source-wide. Adopting provisions that reflect the EPA rules that are currently in effect significantly improves Connecticut's program.

C. How Does Connecticut's Submittal Meet the Federal Requirements?

EPA's ''actual to potential'' applicability test and ''net emissions increase'' requirements for PSD/NSR applicability are established in the federal definitions for ''Actual emissions,'' ''Potential emissions,'' ''Net emission increase,'' and ''Significant emissions.'' In section 22a–174–1, the DEP is adopting with minor revisions the definitions for ''Actual emissions,'' ''Net emission increase,'' and ''Significant emissions'' located in 40 CFR 51.165 and 51.166. In addition, the DEP is adopting a definition of ''Potential emissions'' that requires sources to effectively limit PTE using either federally or practicably enforceable limits. With these definitions, the DEP's PSD/NSR applicability requirements are consistent with existing federal requirements.

EPA notes that federal applicability requirements also provide a separate applicability method for sources defined as electric steam utility generators. For this source category, EPA regulation applies an actual-to-representative actual emissions test. A sources current actual emissions are compared to the source's predicted future actual emissions to determine the emission increase from a modification.

The provisions for this applicability test, referred to as the WEPCO applicability test, were added to the federal NSR regulations following the Seventh Circuit Court of Appeals decision in 1990 ((*Wisconsin Electric Power Company (WEPCO)* v. *Reilly*)). These provisions include definitions for ''electric steam utility generator'' and ''representitive actual annual emissions.'' While these definitions are referred to in the DEP's new definition of actual emissions, the DEP did not explicitly define these two terms.

However, the DEP's interpretation of state law provides it the authority to implement all provisions of the federal ''actual emissions'' definition that is incorporated by reference into its rules. This authority extends to the definitions for ''Electric steam utility generator'' and ''Representative actual annual emissions'' that are referenced in the federal definition but not explicitly defined in the state rule. Consequently, the DEP's rules comply with all provisions of the federal definition for ''actual emissions'' including the provisions for the WEPCO applicability test.

III. Revisions That Make Various Definitions Used in the State's Nonattainment NSR Rules and PSD Program Consistent With Federal Definitions

A. What Definitions Is the DEP Adding or Revising?

The DEP is adding or revising definitions to clarify general requirements of its permitting rules and to make the rules consistent with the federal permitting requirements. The list of new or revised definitions includes: Allowable Emissions; Baseline concentration; Begin Actual Construction; Commence construction; Construction; Emission limitation and emission standard; Emissions Unit; Excessive concentration; Federally enforceable; Good engineering practice; Innovative control technology, Malfunction; Secondary emissions; and Volatile organic compound.

Several definitions and other terms in Connecticut's rules reference EPA's NSR and PSD rules in the Code of Federal Regulations (CFR). Under Connecticut law, when the reference is to a CFR section ''as amended from time to time,'' the reference is intended to incorporate amendments to the CFR made subsequent to state publicly noticing its proposal to adopt these rules. When the reference is simply to the CFR, it is to the EPA rules in effect as of July 17, 2001, which is the date DEP publicly noticed the proposed rule amendments.

B. How Will These Definitions Affect Permitting in Connecticut?

The DEP's decision to incorporate the federal permitting program definitions under 40 CFR 51.100–166 will ensure the DEP's permit procedures and permit decisions will be consistent with federal requirements. In addition, EPA policies and guidance will be directly applicable to the DEP's rules ensuring more consistent program implementation and improved program compliance.

For further details concerning the revisions to Connecticut's SIP and EPA's analysis, please refer to the memorandum from Brendan McCahill, Environmental Engineer, to Steven Rapp, Manager, Air Permits Program entitled, ''Technical Support Document—Connecticut New Source Review/Prevention of Significant Deterioration Program Revisions,'' dated January 10, 2003, available upon request from the EPA regional office noted in the **ADDRESSES** section of this document.

IV. Proposal To Approve Revisions To Allow Sources To Limit Potential To Emit (PTE) Through Practicably Enforceable Limitations

A. Why Is PTE Important?

As explained in section II, the emissions increase from a modification is the difference between an emission unit's PTE after the modification and its actual emissions before the modification. Therefore, the rules governing how PTE limits are created and enforced is critically important in any PSD/NSR applicability determination. EPA defines ''potential to emit'' as the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Absent an inherent physical or operational restriction, EPA calculates PTE assuming the source operating full time (*i.e.*, 8760 hours/year) at its maximum emission rate. Federal rules allow sources to overcome this assumption by accepting physical or operation restrictions that limit PTE. Typically, sources accept PTE limits to reduce the net emission increase from a modification and avoid NSR applicability. For example, a source may accept a restriction on hours of operation (*e.g.*, 4000 hours/year) if the restriction results in a PTE that reduces the net emission increase calculation to below the NSR/PSD applicability threshold levels.

Up to 1995, EPA's NSR and PSD rules required limits on PTE to be federally enforceable. The term ''federally enforceable'' incorporates two fundamental elements. First, EPA must have direct right to enforce restrictions and limitations. Second, limits must be enforceable as a practicable manner or ''practicably enforceable.'' EPA has issued several guidance documents explaining the requirements of practicably enforceable. In brief, EPA has interpreted ''practicably enforceable'' to mean that sufficient monitoring, recordkeeping and reporting exists such that the source and/or permitting authority can show continual compliance with the emission limitation.

EPA's requirement that a PTE limitation that keeps a source out of a CAA requirement must be federally enforceable was legally challenged by industry. In *Chemical Manufacturer's Association* V. *EPA,* No. 89–1514 (D.C. Cir. Sept. 15 1995), the court vacated the EPA's requirements that physical or operational restrictions on a source's PTE be federally enforceable. As a result, states may develop and submit for EPA approval NSR/PSD programs under 40 CFR 51.165/51.166 that include provisions for state-enforceable PTE limits provided that the provisions are practicably enforceable and effectively limit the source's emissions.

B. What Are Connecticut's Provisions Regarding PTE?

The DEP's new definition of ''practicably enforceable'' will allow sources the option of taking either federally enforceable or practicably enforceable PTE limits. In developing this definition, the DEP closely followed EPA's guidance on practicably enforceable limitations in a January 25, 1995 memorandum from John Sietz, director of the Office of Air Quality Planning and Standards entitled ''Options for Limiting the Potential to Emit of a Stationary Source Under Section 112 and title V of the Clean Air Act.'' The policy specifies the following minimum elements required for a practicably enforceable limitation: (1) A technically accurate limitation and identifying the portions of the source subject to the limitation; (2) the time period for the limitation and; (3) the method to determine compliance including appropriate monitoring, recordkeeping and reporting. The DEP worked closely with EPA to ensure its definition followed EPA guidance on practicably enforceable limits and included these three minimum requirements. As a result, in the absence of any federal rules reimposing mandated federally enforceable PTE limits, EPA proposes to approve the DEP's ''practicably enforceable'' definition.

V. Proposed Action

EPA is proposing to approve the SIP revision submitted by Connecticut on June 14, 2002.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New

England Regional Office listed in the **ADDRESSES** section of this action. Comments must be received on or before February 11, 2003. Comments received after this date will be considered late. EPA is not required to consider late comments.

VI. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it 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.*)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 10, 2003.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 03–1239 Filed 1–17–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7440–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete a portion of the Former Nansemond Ordnance Depot Site from the National Priorities List.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region III announces its intent to delete soil in the Impregnation Kit Area of the Former Nansemond Ordnance Depot site (Nansemond) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). EPA and the Commonwealth of Virginia (Commonwealth), acting through the Department of Environmental Quality, have determined that all appropriate CERCLA response actions have been implemented for the soil and that no further action for soil is appropriate. This partial deletion pertains only to the soil in the Impregnation Kit Area and does not include the ground water beneath the Impregnation Kit Area, nor any other portion of Nansemond.

DATES: EPA will accept comments concerning its proposal for partial deletion until February 20, 2003, and publication of a notice of availability of this document in a newspaper of record.

ADDRESSES: Comments may be submitted to Mr. Robert Thomson, PE, Remedial Project Manager, U.S. EPA, Region III (3HS13), 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029, Telephone: (215) 814–3357, e-mail *thomson.bob@epa.gov.*

Information Repositories: Comprehensive information on the Nansemond site, information specific to this proposed partial deletion, the Administrative Record and the Deletion Docket for this partial deletion are available for review at the following Nansemond document/information repositories:

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, e-mail *thomson.bob@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

The United States Environmental Protection Agency (EPA) Region III announces its intent to delete a portion of the Former Nansemond Ordnance Depot site (Nansemond) located in