

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 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order.

The Congressional Review Act, 5 U.S.C. section 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. section 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 October 27, 2000. 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, Hydrocarbons, Ozone.

Dated: August 16, 2000.

**John H. Hankinson, Jr.,**  
Regional Administrator, Region 4.

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

#### PART 52—[AMENDED]

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

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

#### Subpart L—Georgia

2. In § 52.570 paragraph (e), the table is amended by adding a new entry "13." to read as follows:

#### § 52.570 Identification of plan.

*	*	*	*	*
(e)	*	*	*	*

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
13. Atlantic Steel Transportation Control Measure ...	Atlanta Metropolitan Area .....	March 29, 2000	August 28, 2000

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 300

[FRL-6854-1]

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

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

**ACTION:** Direct final deletion of the General Tire Landfill Site from the National Priorities List (NPL).

**SUMMARY:** EPA Region 4 announces the deletion of the General Tire Landfill Site (site) from the NPL and requests public comment on this action. The NPL constitutes appendix B to Part 300 of the National and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 (CERCLA) as amended. The EPA has determined that the site poses no significant threat to public health or the environment, as defined by CERCLA, and therefore, no further remedial measures pursuant to CERCLA is warranted.

**DATES:** This "direct final" action will be effective on October 27, 2000, unless EPA receives significant adverse or critical comments by September 28, 2000. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Nestor Young, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303, (404) 562-8812, [young.nestor@epa.gov](mailto:young.nestor@epa.gov). Comprehensive information on this site is available through the public docket which is available for viewing at the site information repositories at the following locations: U.S. EPA Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; and the Graves County Library, 601 North 17 Street, Mayfield, Kentucky 42066, (270) 247-2911.

**FOR FURTHER INFORMATION CONTACT:** Nestor Young, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303, (404) 562-8812, Fax (404) 562-8788, [young.nestor@epa.gov](mailto:young.nestor@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis of Intended Site Deletion
- V. Action

##### **I. Introduction**

The Environmental Protection Agency Region 4 announces the deletion of the General Tire Landfill Superfund Site, Mayfield, Graves County, Kentucky, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. EPA has determined that the site does not pose an imminent and substantial endangerment to the public health and welfare, and the environment. EPA will accept public comments for thirty days after

publication of this notice in the **Federal Register**.

Section II of this notice describes the criteria for deleting sites from the NPL. Section III discusses the history of the General Tire Site and explains how the site meets the deletion criteria. Section V states EPA's action to delete the site from the NPL unless dissenting comments are received during the comment period.

##### **II. NPL Deletion Criteria**

Section 300.425(e) of the NCP provides that sites may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria has been met:

- (i) Responsible parties or other persons have implemented all appropriate response action required;
- (ii) All appropriate fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- (iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

In the case of the General Tire Site, EPA's remedial investigation and subsequent follow up groundwater studies conducted under state supervision, indicated that the site does not pose a significant threat to public health or the environment, and, therefore, active remedial measures are not appropriate. If new information becomes available which indicates a need for future action, EPA may initiate any remedial action necessary. In accordance with the NCP (40 CFR 300.425 (e)(3)), whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without application of the Hazard Ranking System (HRS).

##### **III. Deletion Procedures**

The following procedures were used for the intended deletion of the site: (1) All appropriate response under CERCLA has been implemented and no further action by EPA is appropriate; (2) the Commonwealth of Kentucky has concurred with the proposed deletion decision; (3) a notice has been published in the local newspaper and has been distributed to appropriate federal, state and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Direct Final

Deletion; and, (4) all relevant documents have been made available for public review in the local site information repository. EPA is requesting only dissenting comments on the proposed action to delete.

For deletion of the release from the site, EPA's Regional Office will accept and evaluate public comments on EPA's Final Notice before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary, responding to each significant comment submitted during the public comment period. If no dissenting comments are received, no further activities will be implemented and this "direct final" action will become effective. Deletion of the site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. As mentioned in Section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

##### **IV. Basis for Intended Site Deletion**

The following site summary provides EPA's rationale for the proposal to delete the General Tire Site from the NPL.

The General Tire Landfill is located east of State Highway 45, approximately two miles north of Mayfield, in Graves County, Kentucky. The landfill is situated adjacent to the General Tire manufacturing plant, between the Paducah/Louisville Railroad and Mayfield Creek.

The General Tire Plant started operation in the early 1960s and currently continues to operate. Throughout its operational history, the plant manufactured automobile, truck and tractor tires. The process requires large quantities of cooling water that is supplied by six water wells located next to the plant. These wells supply approximately 10 million gallons per day of water for use in the manufacturing process.

In 1970, the General Tire Plant received approval from the Commonwealth of Kentucky Department for Environmental Protection (KYDEP) for construction and operation of a landfill at the Mayfield site. Wastes from the plant, consisting of hazardous and non-hazardous wastes, were buried in a series of trenches approximately 1,300 feet long, 40 feet wide and 30 feet deep. The trenches were oriented in a north-south direction over an approximate 58 acre area. Some of the plant wastes placed in the landfill

included carbon black, scrap rubber and tires, scrap hydraulic oil, lubricating oil, floor sweepings, rejected product material, trash, wood, paper packaging, and cements containing solvents.

In 1979, "hazardous wastes" defined by the Resource Conservation and Recovery Act were no longer disposed of in the landfill. However, General Tire continued to dispose of "non-hazardous" wastes from the plant until late 1984, under a permit issued by the KYDEP. KYDEP approved a closure plan for the landfill in 1985. The plan consisted of covering the trenches with two feet of clean soil, and monitoring the groundwater for a two year period after construction of the cover was properly completed. The landfill was covered and seeded in the fall of 1985.

After completing a preliminary assessment and site investigation, EPA proposed the landfill for inclusion on the National Priorities List (NPL) in June 1988. In February 1990, the site was added to the NPL.

In December 1989, General Tire and EPA entered into an Administrative Order by Consent for performance of a Remedial Investigation/Feasibility Study (RI/FS). The RI/FS was started in October 1990 and completed in May 1993.

After careful evaluation of all the exposure routes, estimated carcinogenic and non-carcinogenic health risks, and ecological impacts, EPA concluded that the landfill does not pose an unacceptable risk to the environment or to human health and welfare.

Operation of the plant wells has significantly limited the migration and potential human and environmental exposure to any contaminants that may have been released from the landfill into the groundwater. Since migration of contaminants through the groundwater is the primary mechanism by which the landfill can impact human health or the environment, EPA believes that the plant wells have provided a significant level of protection by capturing those contaminants released into the groundwater. The landfill does not pose a threat to human health or the environment provided the plant wells continue to operate. However, based on known characteristics of the aquifer, EPA is concerned that environmental conditions at the site may become worse if General Tire's plant wells cease operating. Consequently, an evaluation of the groundwater will be necessary in the future to determine the landfill's impact on the shallow aquifer without the influence of the plant wells. EPA deferred this site to the Commonwealth of Kentucky, Department for Environmental Protection for continued

monitoring of the site and future evaluation of the groundwater upon shut down of the General Tire plant wells.

Based on the data collected in the Remedial Investigation and the health risks estimated in the Baseline Risk Assessment, EPA selected a no-further-action remedy in the Record of Decision issued on October 1, 1993.

The KYDEP did not concur with EPA's remedy selection, or subsequent request for NPL deletion. In the years following the ROD, KYDEP conducted a follow-up groundwater study which did not show any significant worsening conditions in the groundwater. Currently, KYDEP continues to monitor groundwater at the site through a groundwater monitoring plan performed by Continental General Tire Inc (the potentially responsible party). Based on the additional groundwater data collected, EPA requested KYDEP to reconsider its position on NPL deletion. On April 27, 2000, KYDEP agreed that the NPL listing could be removed.

#### V. Action

The Environmental Protection Agency and the Kentucky Department for Environmental Protection agrees that no further CERCLA action is necessary and that the site does not pose a threat to human health and the environment. KYDEP will continue to monitor the groundwater, and in the event of a significant future release of contamination that may impact human health or the environment, EPA may initiate appropriate CERCLA actions in accordance with the NCP.

#### VI. State Concurrence

The Commonwealth of Kentucky, in a letter dated April 27, 2000, concurs with EPA that the criteria for deletion of the NPL listing have been met. Therefore, EPA is deleting the General Tire Landfill site from the NPL, effective on October 27, 2000. However, if EPA receives dissenting comments by September 28, 2000, EPA will publish a document that withdraws this action.

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

Environmental protection, Chemicals, Hazardous substances, Hazardous wastes, Intergovernmental relations, Penalties, Superfund, Water pollution control, Water supply.

Dated: August 9, 2000.

**A. Stanley Meiburg,**  
*Acting Regional Administrator,*  
*EPA Region 4.*

Part 300, title 40 of chapter I of the Code of Federal Regulations 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.

#### Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site for "General Tire & Rubber (Mayfield Landfill) Mayfield, Kentucky".

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Health Care Financing Administration

#### 42 CFR Part 457

[HCFA–2114–CN]

RIN 0938–AI65

#### State Child Health; State Children's Health Insurance Program Allotments and Payments to States; Correction

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a typographical error that appeared in the final rule concerning the State Children's Health Insurance Program published in the **Federal Register** on May 24, 2000.

**EFFECTIVE DATE:** This correction is effective June 23, 2000.

**FOR FURTHER INFORMATION CONTACT:** Richard Strauss, (410) 786–2019.

**SUPPLEMENTARY INFORMATION:** On May 24, 2000, we published a final rule in the **Federal Register** (65 FR 33616) that sets forth the methodologies and procedures to determine the Federal fiscal year allotments of Federal funds available to individual States, Commonwealth and Territories for the new State Children's Health Insurance Program established under title XXI of the Social Security Act. This document corrects the error made in this final rule.

In rule FR Doc. 00–12879 published on May 24, 2000, make the following correction.

#### § 457.218 [Corrected]

On page 33625, in column 1, in § 457.218(b) "22 percent" is corrected to read "2½ percent".

(Section 1102 of the Social Security Act (41 U.S.C. 1302))