

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

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

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

### Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. From 9:15 p.m. on June 8, 2002, through 10:15 p.m. on June 9, 2002, add temporary § 165.T01-039 to read as follows:

### § 165.T01-039 Safety Zone: Patriots Weekend, Dockside Restaurant Fireworks Display, Port Jefferson, NY.

(a) *Location.* The following area is a safety zone: All waters of Port Jefferson Harbor within a 600-foot radius of the fireworks barge in approximate position 40°54'38" N, 073°04'47" W (NAD 1983).

(b) *Enforcement times and dates.* This section will be enforced from 9:15 p.m. until 10:15 p.m. on June 8, 2002. In the event of inclement weather on June 8, 2002, this section will be enforced from 9:15 p.m. until 10:15 p.m. on June 9, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) No vessels will be allowed to transit the safety zone without the permission of the Captain of the Port, Long Island Sound.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: March 21, 2002.

**J.J. Coccia,**

*Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.*

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**BILLING CODE 4910-15-U**

### NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Part 1254

**RIN 3095-AB01**

### Research Room Procedures; Correction

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Final rule; correction.

**SUMMARY:** NARA published in the **Federal Register** of February 22, 2002, a final rule revising its regulations on use of NARA research rooms to add a policy on use of public access personal computers (workstations) in the research rooms and clarifying researcher identification card issuance. We incorrectly stated that the researcher identification card is valid for one year instead of three years. This document corrects that error.

**EFFECTIVE DATE:** March 25, 2002.

**FOR FURTHER INFORMATION CONTACT:** Nancy Allard at telephone number 301-

713-7360, ext. 226, or fax number 301-713-7270.

**SUPPLEMENTARY INFORMATION:** NARA published a final rule document in the **Federal Register** of February 22, 2002 (67 FR 8199) that revised 36 CFR 1254.6 to clarify that, in research rooms where the plastic researcher identification card is also used with the facility's security system, we will issue a plastic card to researchers who have a paper card from another NARA facility. The proposed rule published on September 7, 2001 (66 FR 46752) correctly stated that the researcher identification card is valid for three years. The final rule incorrectly stated a one-year period. NARA is considering revising the length of time a researcher identification card is valid; however, we will issue a proposed rule for public comment before changing the period.

In the document FR 02-4211 published on February 22, 2002 (67 FR 8199), make the following correction:

### § 1254.6 [Corrected]

1. On page 8200, in the second column, in § 1254.6, correct the fourth line of paragraph (a) of that section to read "valid for three years, and may be renewed".

Dated: April 3, 2002.

**Nancy Y. Allard,**

*Federal Register Liaison Officer.*

[FR Doc. 02-8571 Filed 4-9-02; 8:45 am]

**BILLING CODE 7515-01-P**

### ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AL-058-200219(a); FRL-7169-1]

### Approval and Promulgation of Implementation Plans: Revision to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to the Alabama Department of Environmental Management's (ADEM) Administrative Code submitted on February 21, 2002, by the State of Alabama. The revisions comply with the regulations set forth in the Clean Air Act (CAA). The revision was submitted to correct a numbering inconsistency in chapter 335-3-14 "Air Permits."

**DATES:** This direct final rule is effective June 10, 2002 without further notice,

unless EPA receives adverse comment by May 10, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW; Atlanta, Georgia 30303-8960.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110-2059.

**FOR FURTHER INFORMATION CONTACT:**

Sean Lakeman; Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency Region 4; 61 Forsyth Street, SW; Atlanta, Georgia 30303-8960. Mr. Lakeman can also be reached by phone at (404) 562-9043 or by electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Analysis of State's Submittal**

On February 21, 2002, the State of Alabama through ADEM submitted revisions to chapter 335-3-14 "Air Permits" to correct a numbering inconsistency.

**II. Final Action**

EPA is approving the aforementioned change to the State of Alabama's SIP because it is consistent with the CAA and EPA policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 10, 2002 without further notice unless the Agency receives adverse comments by May 10, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 10, 2002 and no further action will be taken on the proposed rule.

**III. Administrative 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 (Public Law 104-4).

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

and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 10, 2002. 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, Lead, Intergovernmental relation, Reporting and recordkeeping requirements.

Dated: March 28, 2002.  
**A. Stanley Meiburg,**  
*Acting Regional Administrator, Region 4.*

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

**PART 52—[AMENDED]**

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

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

**Subpart B—Alabama**

2. Section 52.50(c) is amended by revising the entry for “Section 335–3–14.04” to read as follows:

**§ 52.50 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*

**EPA APPROVED ALABAMA REGULATIONS**

State citation	Title subject	Adoption date	EPA approval date	Federal Register notice
*	*	*	*	*
<b>Chapter No. 335–3–14—Air Permits</b>				
Section 335–3–14.04.	Air Permits Authorizing Construction in Clean Air Areas [prevention of Significant Deterioration Permitting (PSD)].	February 5, 2002 .....	April 10, 2002 .....	[Insert citation of publication]
*	*	*	*	*

[FR Doc. 02–8531 Filed 4–9–02; 8:45 am]  
 BILLING CODE 6560–50–P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 2, 25 and 87**

[ET Docket No. 98–142; FCC 02–23]

**Mobile-Satellite Service above 1 GHz**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document makes new spectrum available on a co-primary basis to the fixed-satellite service (“FSS”). These FSS allocations will provide necessary feeder link spectrum for a number of commercial Non-Geostationary Satellite Orbit Mobile-Satellite Service (“NGSO MSS”) systems. Specifically, we allocate the bands 5091–5250 MHz and 15.43–15.63 GHz for Earth-to-space transmissions (“uplinks”) and the band 6700–7025 MHz for space-to-Earth transmissions (“downlinks”). In addition, we grandfather two satellite systems and their associated earth stations at three sites in the downlink band 7025–7075 MHz. In accordance with international regulations, the use of these FSS allocations is limited to feeder links that will be used in conjunction with the service links of NGSO MSS systems. These actions are intended to facilitate

the introduction of innovative global radiocommunication services, consistent with international allocations for these frequency bands, and will provide incumbent operations with adequate protection from harmful interference.

**DATES:** Effective May 10, 2002.

**FOR FURTHER INFORMATION CONTACT:** Tom Mooring, Office of Engineering and Technology, (202) 418–2450, TTY (202) 418–2989, email: [tmoothing@fcc.gov](mailto:tmoothing@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s *Report and Order*, ET Docket No. 98–142; FCC 02–23, adopted January 28, 2002, and released February 7, 2002. The full text of this document is available on the Commission’s internet site at [www.fcc.gov](http://www.fcc.gov). It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 Twelfth Street, SW, Washington, DC 20554. The complete text of this document may be purchased from the Commission’s duplication contractor Qualex International, (202) 863–2893 voice, (202) 863–2898 Fax, [qualexint@aol.com](mailto:qualexint@aol.com) email, Portals II, 445 12th St., SW, Room CY–B402, Washington, DC 20554.

**Summary of Report and Order**

1. We are allocating 325 megahertz of spectrum on a co-primary basis for NGSO MSS feeder downlinks, with an additional 50 megahertz limited to two grandfathered satellite systems and their associated earth stations at three sites.

The grandfathered sites are listed in footnote NG173. In addition, we are allocating 359 megahertz of spectrum on a co-primary basis for NGSO MSS feeder uplinks. A portion of this primary uplink allocation (59 megahertz) is temporary in nature. The need for this amount of feeder link spectrum is based on the amount of NGSO MSS service link spectrum that is available, the frequency reuse of the service link spectrum, the need for NGSO MSS feeder link earth stations (“gateways”) to service multiple satellites, and the need to coordinate with incumbent terrestrial operations. These allocations will be used exclusively by commercial NGSO MSS systems for the connection between their satellites and gateways. We have previously allocated spectrum for 2 GHz MSS and Big LEO service links. (Big LEO service links are at 1610–1626.5 MHz and 2483.5–2500 MHz and 2 GHz MSS service links are at 1990–2025 MHz and 2165–2200 MHz.) The adoption of these FSS allocations will allow us to remove conditions placed on Big LEO and 2 GHz MSS licensees’ feeder links, which we have previously licensed by waiver.

2. The band 5000–5250 MHz is currently allocated to the aeronautical radionavigation service (“ARNS”) and to several aeronautical support services on a primary basis. ARNS is a radionavigation service intended for the safe operation of aircraft. The microwave landing system (“MLS”), an