shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.

1.1.2 Fluid bed catalytic cracking unit catalyst regenerators, as specified in paragraph 2.4 of this appendix, shall be monitored for opacity.

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[FR Doc. 99–55507 Filed 2–2–99; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6229–9]

Section 112(l) Approval of the State of Florida's Construction Permitting Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule: Clarification.

SUMMARY: On February 1, 1996 (61 FR 3572), the Environmental Protection Agency published in the **Federal Register** a direct final rule for State Implementation Plan (SIP) and section 112(l) approval of the State of Florida's minor source operating permit program so that Florida could begin to issue federally-enforceable operating permits on a source's potential emissions and thereby avoid major source applicability. Today's action is taken to clarify that EPA's section 112(l) approval of the Florida minor source operating permit program be extended to the State's minor source preconstruction permitting program as well as the operating permit program to allow Florida to issue both Federally-enforceable construction permits and Federally-enforceable operating permits pursuant to section 112 of the Clean Air Act (CAA) as amended in 1990.

DATES: This direct final rule clarification is effective April 5, 1999 without further notice, unless EPA receives adverse comment by March 5, 1999. 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: Lee Page, U.S. Environmental Protection Agency, Region 4, Air and Radiation Technology Branch, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8909; page.lee@epamail.epa.gov. Copies of Florida's original submittal and accompanying documentation are available for public review during normal business hours, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Lee Page, U.S. Environmental Protection Agency, Region 4, Air and Radiation Technology Branch, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, GA 30303, Phone: (404) 562–9131; page.lee@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 1994, the State of Florida, through the Florida Department of Environmental Protection (FDEP) submitted a SIP revision designed to make certain permits issued under the State's existing minor source operating permit program Federally-enforceable pursuant to EPA requirements as specified in a **Federal Register** notice, ''Requirements for the preparation, adoption, and submittal of implementation plans; air quality, new source review; final rules,'' (see 54 FR 22274, June 28, 1989). Additional materials were provided by the FDEP to EPA in a supplemental submittal on April 24, 1995.

The intent of Florida's December 21, 1994, submittal was to request SIP approval and 112(l) approval of certain operating permits issued under the State's existing minor source operating permit program and also to request 112(l) approval of certain construction permits issued under the same minor source operating permit program. However, the EPA approval of the state's construction permit program was not addressed in the February 1, 1996, FR notice.

Florida will continue to issue permits which are not Federally-enforceable under its existing minor source operating permit program and the minor source construction permit program as it has done in the past. Today's action clarifies that certain operating and construction permits issued under the State's minor source permitting program that has been approved under section 112(l), provide Federally-enforceable permit limits to sources of hazardous air pollutants pursuant to section 112 of the CAA.

Eligibility for Federally-enforceable construction permits extends not only to permits issued after the effective date of this rule, but also to permits issued under the State's current rule after February 1, 1996. For minor source construction permits issued in a manner consistent with both State regulations and established federal criteria, EPA considers all such construction permits as federally-enforceable as of February 1, 1996.

II. Final Action

In this action, EPA is clarifying that previous section 112(l) approve of the State of Florida's minor source operating permit program be extended to the State's minor source preconstruction permitting program as well as the operating permit program to allow Florida to issue both Federally-enforceable construction permits and Federally-enforceable operating permits pursuant to section 112 of the Clean Air Act as amended in 1990.

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 section 112(l) revision should adverse comments be filed. This rule will be effective April 5, 1999 without further notice unless the Agency receives adverse comments by March 5, 1999.

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 April 5, 1999 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to

issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because section 112(l) approvals of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the section 112(l) approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 April 5, 1999. 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).)

Dated: November 13, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–2555 Filed 2–2–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300733A; FRL–6043–7]

RIN 2070–AB78

Revocation of Tolerances for Canceled Food Uses; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA published in the **Federal Register** of October 26, 1998, a document announcing the revocation of tolerances for residues of the pesticides listed in the regulatory text. The amendatory language for two of the