

Register at 65 FR 3127, January 20, 2000, as a final rule with the following change:

1. The authority citation for 37 CFR part 4 continues to read as follows:

PART 4—[AMENDED]

Authority: 35 U.S.C. 6 and 297.

2. Section 4.5 is revised to read as follows:

§ 4.5 Notice by publication.

If the copy of the complaint that is mailed to the invention promoter is returned undelivered, then the USPTO will primarily publish a Notice of Complaint Received on the USPTO's Internet home page at <http://www.uspto.gov>. Only where the USPTO's Web site is unavailable for publication will the USPTO publish the Notice of Complaint in the *Official Gazette* and/or the **Federal Register**. The invention promoter will be given 30 days from such notice to submit a reply to the Notice of Complaint. If the USPTO does not receive a reply from the invention promoter within 30 days, the complaint alone will become publicly available.

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Dated: February 14, 2003.

James E. Rogan,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 03-4428 Filed 2-27-03; 8:45 am]

BILLING CODE 3510-16-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL-200313; FRL-7453-7]

Approval and Promulgation of Air Quality Implementation Plans; Florida Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is updating the materials submitted by Florida that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the State agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the Office of the Federal Register (OFR), Office of Air and Radiation Docket and

Information Center, and the Regional Office.

EFFECTIVE DATE: This action is effective February 28, 2003.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303; Office of Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, (Mail Code 6102T), NW., Washington, DC 20460, and Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Heidi LeSane at the above Region 4 address or at (404) 562-9035.

SUPPLEMENTARY INFORMATION: The SIP is a living document which the State can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997, (62 FR 27968) EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and OFR. The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document. On June 16, 1999, EPA published a document in the **Federal Register** (64 FR 32348) beginning the new IBR procedure for Florida. In this document EPA is doing the update to the material being IBRed.

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by updating citations.

Statutory and Executive Order Reviews

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 April 29, 2003. 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 10, 2003.

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 for citation for part 52 continues to read as follows:

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

Subpart K—Florida

2. Section 52.520 paragraphs (b), (c), (d) and (e) are revised to read as follows:

EPA-APPROVED FLORIDA REGULATIONS

§ 52.520 Identification of plan.

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(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to January 1, 2003, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after January 1, 2003, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of January 1, 2003.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street, SW., Atlanta, GA 30303; the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC; or at the EPA, Office of Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, (Mail Code 6102T), NW., Washington, DC 20460.

(c) *EPA-approved regulations.*

State citation (Section)	Title/subject	State effective date	EPA approval date	Explanation
Chapter 62–204 Air Pollution Control—General Provisions				
62–204.100	Purpose and Scope	3/13/96	6/16/99 64 FR 32346	
62–204.200	Definitions	3/13/96	6/16/99 64 FR 32346	
62–204.220	Ambient Air Protection	3/13/96	6/16/99 64 FR 32346	
62–204.240	Ambient Air Quality Standards	3/13/96	6/16/99 64 FR 32346	
62–204.260	Prevention of Significant Deterioration Increments	3/13/96	6/16/99 64 FR 32346	
62–204.320	Procedures for Designation and Redesignation of Areas	3/13/96	6/16/99 64 FR 32346	
62–204.340	Designation of Attainment, Nonattainment, and Maintenance Areas	3/13/96	6/16/99 64 FR 32346	
62–204.360	Designation of Prevention of Significant Deterioration Areas	3/13/96	6/16/99 64 FR 32346	
62–204.400	Public Notice and Hearing Requirements for State Implementation Plan Revisions.	11/30/94	6/16/99 64 FR 32346	
Chapter 62–210 Stationary Sources—General Requirements				
62–210.100	Purpose and Scope	11/23/94	6/16/99 64 FR 32346	

EPA-APPROVED FLORIDA REGULATIONS—Continued

State citation (Section)	Title/subject	State effective date	EPA approval date	Explanation
62-210.200	Definitions	10/15/96	5/27/98 63 FR 28905	
62-210.220	Small Business Assistance Program	10/15/96	5/27/98 63 FR 28905	
62-210.300	Permits Required	8/15/96	1/17/97 62 FR 2587	
62-210.350	Public Notice and Comment	11/23/94	6/16/99 64 FR 32346	
62-210.360	Administrative Permit Corrections	11/23/94	6/16/99 64 FR 32346	
62-210.370	Reports	11/23/94	6/16/99 64 FR 32346	
62-210.550	Stack Height Policy	11/23/94	6/16/99 64 FR 32346	
62-210.650	Circumvention	10/15/92	10/20/94 59 FR 52916	
62-210.700	Excess Emissions	11/23/94	6/16/99 64 FR 32346	
62-210.900	Forms and Instructions	2/9/93	11/7/94 59 FR 46157	
Chapter 62-212 Stationary Sources—Preconstruction Review				
62-212.100	Purpose and Scope	3/13/96	6/16/99 64 FR 32346	
62-212.300	General Preconstruction Review Requirements	11/23/94	6/16/99 64 FR 32346	
62-212.400	Prevention of Significant Deterioration (PSD)	3/13/96	6/16/99 64 FR 32346	
62-212.500	Preconstruction Review for Nonattainment Areas	3/13/96	6/16/99 64 FR 32346	
62-212.600	Sulfur Storage and Handling Facilities	3/13/96	6/16/99 64 FR 32346	
Chapter 62-242 Motor Vehicle Emissions Standards and Test Procedures				
62-242.100	Purpose and Scope	3/21/91	3/22/93 58 FR 15277	
62-242.200	Definitions	3/13/96	6/16/99 64 FR 32346	
62-242.400	Standards and Procedures for Inspection of Gasoline Fueled Vehicles; Pass/Fail Criteria.	2/2/93	10/11/94	
62-242.500	Standards and Procedures for Inspection of Diesel Fueled Vehicles; Pass/Fail Criteria.	2/2/93	59 FR 51382	
62-242.600	Equipment Performance Specifications	2/2/93	10/11/94 59 FR 51382	
62-242.700	Tampering Inspection	2/2/93	10/11/94 59 FR 51382	
62-242.800	Low Emissions Adjustment	2/2/93	10/11/94 59 FR 51382	
62-242.900	Training Criteria For Motor Vehicle Emissions Inspection Personnel ...	2/2/93	10/11/94 59 FR 51382	
Chapter 62-243 Tampering With Motor Vehicle Air Pollution Control Equipment				
62-243.100	Purpose and Scope	5/29/90	6/9/92 57 FR 24370	
62-243.200	Definitions	1/2/91	6/9/92 57 FR 24378	
62-243.300	Exemptions	1/2/91	6/9/92 57 FR 24378	
62-243.400	Prohibitions	1/2/91	6/9/92 57 FR 24378	
62-243.500	Certification	1/2/91	6/9/92 57 FR 24378	
62-243.600	Enforcement	1/2/91	6/9/92 57 FR 24378	
62-243.700	Penalties	5/29/90	6/9/92 57 FR 24370	

EPA-APPROVED FLORIDA REGULATIONS—Continued

State citation (Section)	Title/subject	State effective date	EPA approval date	Explanation
Chapter 62–244 Visible Emissions From Motor Vehicles				
62–244.100	Purpose and Scope	5/29/90	6/9/92 57 FR 24370	
62–244.200	Definitions	1/2/91	6/9/92 57 FR 24378	
62–244.300	Exemptions	1/2/91	6/9/92 57 FR 24378	
62–244.400	Prohibitions	1/2/91	6/9/92 57 FR 24378	
62–244.500	Enforcement	1/2/91	6/9/92 57 FR 24378	
62–244.600	Penalties	5/29/90	6/9/92 57 FR 24370	
Chapter 62–252 Gasoline Vapor Control				
62–252.100	Purpose and Scope	2/2/93	3/24/94 59 FR 13883	
62–252.200	Definitions	2/2/93	3/24/94 59 FR 13883	
62–252.300	Gasoline Dispensing Facilities—Stage I Vapor Recovery	2/2/93	3/21/94 59 FR 13883	
62–252.400	Gasoline Dispensing Facilities—Stage II Vapor Recovery	11/23/94	6/16/99 64 FR 32346	
62–252.500	Gasoline Tanker Trucks	9/10/96	7/21/97 62 FR 38918	
62–252.800	Penalties	2/2/93	3/24/94 59 FR 13883	
62–252.900	Form	2/2/93	7/21/97 62 FR 38918	
Chapter 62–256 Open Burning and Frost Protection Fires				
62–256.100	Declaration and Intent	12/09/75	11/1/77 42 FR 57124	
62–256.200	Definitions	11/30/94	6/16/99 64 FR 32346	
62–256.300	Prohibitions	11/30/94	6/16/99 64 FR 32346	
62–256.400	Agricultural and Silvicultural Fires	7/1/71	5/31/72 37 FR 10842	
62–256.450	Burning for Cold or Frost Protection	6/27/91	9/9/94 59 FR 46552	
62–256.500	Land Clearing	11/30/94	6/16/99 64 FR 32346	
62–256.600	Industrial, Commercial, Municipal, and Research Open Burning	7/1/71	5/31/72 37 FR 10842	
62–256.700	Open Burning Allowed	11/30/94	6/16/99 64 FR 32346	
62–256.800	Effective Date	7/1/71	5/31/72 37 FR 10842	
Chapter 62–296 Stationary Sources—Emission Standards				
62–296.100	Purpose and Scope	3/13/96	6/16/99 64 FR 32346	
62–296.320	General Pollutant Emission Limiting Standards	3/13/96	6/16/99 64 FR 32346	
62–296.401	Incinerators	3/13/96	6/16/99 64 FR 32346	
62–296.402	Sulfuric Acid Plants	3/13/96	6/16/99 64 FR 32346	
62–296.403	Phosphate Processing	3/13/96	6/16/99 64 FR 32346	
62–296.404	Kraft (Sulfate) Pulp Mills and Tall Oil Plants	3/13/96	6/16/99 64 FR 32346	
62–296.405	Fossil Fuel Steam Generators with more than 250 million Btu per Hour Heat Input.	3/13/96	6/16/99 64 FR 32346	

EPA-APPROVED FLORIDA REGULATIONS—Continued

State citation (Section)	Title/subject	State effective date	EPA approval date	Explanation
62-296.406	Fossil Fuel Steam Generator with less than 250 million Btu per Hour Heat Input, New and Existing Emissions Units.	3/13/96	6/16/99	
62-296.407	Portland Cement Plants	11/23/94	6/16/99	64 FR 32346
62-296.408	Nitric Acid Plants	11/23/94	6/16/99	64 FR 32346
62-296.409	Sulfur Recovery Plants	11/23/94	6/16/99	64 FR 32346
62-296.410	Carbonaceous Fuel Burning Equipment	11/23/94	6/16/99	64 FR 32346
62-296.411	Sulfur Storage and Handling Facilities	11/23/94	6/16/99	64 FR 32346
62-296.412	Dry Cleaning Facilities	3/13/96	6/16/99	64 FR 32346
62-296.413	Synthetic Organic Fiber Production	3/13/96	6/16/99	64 FR 32346
62-296.414	Concrete Batching Plants	3/13/96	6/16/99	64 FR 32346
62-296.415	Soil Thermal Treatment Facilities	3/13/96	6/16/99	64 FR 32346
62-296.500	Reasonably Available Control Technology (RACT)—Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO _x) Emitting Facilities.	11/23/94	6/16/99	64 FR 32346
62-296.501	Can Coating	11/23/94	6/16/99	64 FR 32346
62-296.502	Coil Coating	11/23/94	6/16/99	64 FR 32346
62-296.503	Paper Coating	11/23/94	6/16/99	64 FR 32346
62-296.504	Fabric and Vinyl Coating	11/23/94	6/16/99	64 FR 32346
62-296.505	Metal Furniture Coating	11/23/94	6/16/99	64 FR 32346
62-296.506	Surface Coating of Large Appliances	11/23/94	6/16/99	64 FR 32346
62-296.507	Magnet Wire Coating	11/23/94	6/16/99	64 FR 32346
62-296.508	Petroleum Liquid Storage	11/23/94	6/16/99	64 FR 32346
62-296.509	Bulk Gasoline Plants	10/15/92	10/20/94	59 FR 52916
62-296.510	Bulk Gasoline Terminals	11/23/94	6/16/99	64 FR 32346
62-296.511	Solvent Metal Cleaning	11/23/94	6/16/99	64 FR 32346
62-296.512	Cutback Asphalt	11/23/94	6/16/99	64 FR 32346
62-296.513	Surface Coating of Miscellaneous Metal Parts and Products	11/23/94	6/16/99	64 FR 32346
62-296.514	Surface Coating of Flat Wood Paneling	11/23/94	6/16/99	64 FR 32346
62-296.515	Graphic Arts Systems	11/23/94	6/16/99	64 FR 32346
62-296.516	Petroleum Liquid Storage Tanks with External Floating Roofs	11/23/94	6/16/99	64 FR 32346
62-296.570	Reasonably Available Control Technology (RACT)—Requirements for Major VOC and NO _x —Emitting Facilities.	11/23/94	6/16/99	64 FR 32346
62-296.600	Reasonably Available Control Technology (RACT)—Lead	3/13/96	6/16/99	64 FR 32346
62-296.601	Lead Processing Operations in General	8/8/94	9/18/96	61 FR 49064
62-296.602	Primary Lead Acid Battery Manufacturing Operations	3/13/96	9/18/96	61 FR 49064
62-296.603	Secondary Lead Smelting Operations	8/8/94	9/18/96	61 FR 49064
62-296.604	Electric Arc Furnace Equipped Secondary Steel Manufacturing Operations.	8/8/94	9/18/96	61 FR 49064
62-296.605	Lead Oxide Handling Operations	8/8/94	9/18/96	61 FR 49064
62-296.700	Reasonably Available Control Technology (RACT)—Particulate Matter	11/23/94	6/16/99	64 FR 32346

EPA-APPROVED FLORIDA REGULATIONS—Continued

State citation (Section)	Title/subject	State effective date	EPA approval date	Explanation
62–296.701	Portland Cement Plants	11/23/94	6/16/99 64 FR 32346	
62–296.702	Fossil Fuel Steam Generators	11/23/94	6/16/99 64 FR 32346	
62–296.703	Carbonaceous Fuel Burners	11/23/94	6/16/99 64 FR 32346	
62–296.704	Asphalt Concrete Plants	11/23/94	6/16/99 64 FR 32346	
62–296.705	Phosphate Processing operations	11/23/94	6/16/99 64 FR 32346	
62–296.706	Glass Manufacturing Process	11/23/94	6/16/99 64 FR 32346	
62–296.707	Electric Arc Furnaces	11/23/94	6/16/99 64 FR 32346	
62–296.708	Sweat of Pot Furnaces	11/23/94	6/16/99 64 FR 32346	
62–296.709	Lime Kilns	11/23/94	6/16/99 64 FR 32346	
62–296.710	Smelt Dissolving Tanks	11/23/94	6/16/99 64 FR 32346	
62–296.711	Materials Handling, Sizing, Screening, Crushing and Grinding operations.	11/23/94	6/16/99 64 FR 32346	
62–296.712	Miscellaneous Manufacturing Process Operations	11/23/94	6/16/99 64 FR 32346	

Chapter 62–297 Stationary Sources—Emissions Monitoring

62–297.100	Purpose and Scope	3/13/96	6/16/99 64 FR 32346	
62–297.310	General Test Requirements	3/13/96	6/16/99 64 FR 32346	
62–297.400	EPA Methods Adopted by Reference	11/23/94	6/16/99 64 FR 32346	
62–297.401	Compliance Test Methods	3/13/96	6/16/99 64 FR 32346	
62–297.411	DEP Method 1	11/23/94	6/16/99 64 FR 32346	
62–297.412	DEP Method 2	10/15/92	10/20/94 59 FR 52916	
62–297.413	DEP Method 3	10/15/92	10/20/94 59 FR 52916	
62–297.415	DEP Method 5	11/23/94	6/16/99 64 FR 32346	
62–297.416	DEP Method 5A	10/15/92	10/20/94 59 FR 52916	
62–297.417	DEP Method 6	11/23/94	6/16/99 64 FR 32346	
62–297.423	EPA Method 12—Determination of Inorganic Lead Emissions from Stationary Emissions Units.	11/23/94	6/16/99 64 FR 32346	
62–297.440	Supplementary Test Procedures	11/23/94	6/16/99 64 FR 32346	
62–297.450	EPA VOC Capture Efficiency Test Procedures	11/23/94	6/16/99 64 FR 32346	
62–297.620	Exceptions and Approval of Alternate Procedures and Requirements	11/23/94	6/16/99 64 FR 32346	

(d) EPA-approved State Source-specific requirements.

EPA-APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanation
Harry S Truman, animal import center	NA	11/26/1996	1/19/2000 65 FR 2882	

(e) EPA-approved Florida non-regulatory provisions.

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
Revision to Maintenance Plans for Jacksonville and Southeast Florida Areas	12/10/1999	8/2/2001	66 FR 40137	
Revision to Maintenance Plan for the Tampa, Florida Area	7/9/2000	8/15/2002	67 FR 53314	

[FR Doc. 03-4631 Filed 2-27-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[WV055-6025a; FRL-7449-4]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the West Virginia State Implementation Plan (SIP). The revisions change portions of West Virginia's minor new source review and existing stationary source operating permit program. Specifically, today's action converts the partial approval and partial disapproval of West Virginia's minor new source review permit program, published on January 13, 2000 to a full approval. EPA's full approval of the revision to the West Virginia SIP is based on the findings that the deficiencies that formed the basis for the partial approval/disapproval of West Virginia's minor new source review permit program have been corrected in this SIP revision. The rule, as submitted, is in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on April 29, 2003 without further notice, unless EPA receives adverse written comment by March 31, 2003. If EPA receives such comments, it 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: Written comments should be mailed to Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street,

Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW, Room B108, Washington, DC 20460; and West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE., Charleston, WV 25304-2943.

FOR FURTHER INFORMATION CONTACT: Michael I. Ioff, P.E., (215) 814-2166, or by e-mail at ioff.mike@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On January 13, 2000 (65 FR 2042), EPA published a final rule notice (FRN) regarding West Virginia's minor new source review and existing stationary source operating permit program. The FRN approved in part, and disapproved in part, changes to West Virginia's minor new source review permit program as a revision to the West Virginia SIP. With the exception of the two separate provisions included in West Virginia's submission, the FRN approved West Virginia's minor new source review and existing stationary source operating permit program under section 110 of the Act as meeting the criteria set forth in a June 28, 1989 **Federal Register** document (54 FR 27274) for state permit programs that can limit a source's potential to emit criteria pollutants. The FRN also approved West Virginia's minor new source review and existing stationary source operating permit program under section 112(l) of the Act as meeting the statutory criteria for state permit programs that can limit a source's potential to emit hazardous air pollutants (HAPs).

Concurrently, the FRN disapproved two separate provisions included in West Virginia's minor new source review and existing stationary source operating permit program. Specifically, the FRN disapproved an exemption from minor new source review for

sources that have been issued permits under the State's Federally approved major source operating permit program (developed pursuant to Title V of the Clean Air Act) as such exemption did not comport with the federal requirements of 40 CFR 51.160 regarding the scope of the program. In addition, the FRN disapproved provisions governing the issuance of temporary construction or modification permits with only a 15-day public comment period as such provisions did not satisfy the Federal requirements for a 30-day comment period required by 40 CFR 51.161(b).

Summary of SIP Revision

To address the deficiencies of West Virginia Regulation CSR13 described in the January 13, 2000 rulemaking action, the State of West Virginia submitted on September 21, 2000, a formal revision to its SIP. The submitted SIP, which consists of changes to West Virginia Regulation CSR13, applies statewide and corrects the deficiencies that formed the basis for the partial disapproval of West Virginia's minor new source review and existing stationary source operating permit program. In order to correct the deficiencies, the exemption from minor new source review for sources that have been issued permits under the State's Federally-approved major source operating permit program was removed. In addition, the provision governing the issuance of temporary construction or modification permits with a 15-day public comment period was revised to provide for a 30-day public comment period in order to be consistent with the federal requirements for public participation found at 40 CFR 51.161(b).

As part of its September 21, 2000 SIP revision, West Virginia also submitted a number of additional revisions intended to, among other things, streamline the permitting process. Those revisions include changes to the construction and modification thresholds; creation of a "de-minimis" source list; changes in the definitions of volatile organic compounds (VOCs) and HAPs; and, clarification of the definition of when "construction" commences. Also, West Virginia Regulation CSR13 was revised to incorporate an administrative process