and a final rule identifying the provisions of Part 132 that shall apply for discharges within the State.

The U.S. EPA received a submission from New York on February 27, 1998. The bulk of this submission consists of new, revised or existing water quality standards which EPA is reviewing for consistency with the Guidance in accordance with 40 CFR 131 and 132.5. EPA is not soliciting comments on the following portions of this submission: water quality criteria and methodologies, use designations, antidegradation, and 40 CFR Part 132, Appendix F: Implementation Procedures 1 (''Site Specific Modifications''); and 3 (''Addivity'') because those requirements constitute parts of the State's water quality standards, not its NPDES program. EPA also is not soliciting comment on the Guidance itself.

Instead, EPA is only requesting comment on whether it should approve, pursuant to 40 CFR 123.62, and 132.5(g), those portions of this submission that revise the State's approved National Pollutant Discharge Elimination System (NPDES) permitting program. These revisions generally relate to the following provisions of 40 CFR Part 132, Appendix F: Procedure 2 (''Variances''); Procedure 3 (''Total Maximum Daily Loads, Wasteload Allocations for Point Sources, Load Allocations for Nonpoint Sources, Wasteload Allocations in the Absence of a TMDL, and Preliminary Wasteload Allocations for Purposes of Determining the Need for Water Quality Based Effluent Limits''); Procedure 5 (''Reasonable Potential''); Procedure 6 (''Whole Effluent Toxicity''); Procedure 7 (''Loading Limits''); Procedure 8: (''Water Quality-based Effluent Limitations Below the Quantification Level''); and Procedure 9 (''Compliance Schedules'').

The revisions are found in the following: Technical Operational Guidance Series (TOGS) 1.2.1: Industrial Permit Drafting; TOGS 1.3.1: Procedures for developing TMDLs and Water Quality-based Effluent Limits; and TOGS 1.3.2: Toxicity Testing in the SPDES Program, a supplemental analysis to support the State's toxicity testing program as being as protective as the Guidance, 6 NYCRR § 702.17, and the Amended NPDES Memorandum of Agreement between NYSDEC and EPA Relating to the Implementation of the Requirements of the Great Lakes Water Quality Guidance in the Great Lakes Basin.

Under 40 CFR 123.62(b)(2) and 132.5(e), whenever EPA determines that a proposed revision to a State NPDES program is substantial, EPA must provide notice and allow public comment on the proposed revisions. The extent to which the States have modified their NPDES programs to be consistent with the Guidance varies significantly, depending on the extent to which their existing programs already were ''as protective as'' the implementation procedures in the Guidance. EPA has not conducted a State-by-State review of the submissions to ascertain for each state individually whether their changes constitute substantial program modifications. However, in light of the fact that the states have modified these programs in response to the explicit statutory mandate contained in section 118(c) of the Clean Water Act, EPA believes that it is appropriate to consider the NPDES component of the States' submission to be substantial program modifications, and therefore has decided to solicit public comment regarding those provisions.

Based on General Counsel Opinion 78–7 (April 18, 1978), EPA has long considered a determination to approve or deny a State NPDES program submission to constitute an adjudication because an ''approval'', within the meaning of the APA, constitutes a ''license'', which, in turn, is the product of an ''adjudication''. For this reason, the statutes and Executive Orders that apply to rulemaking action are not applicable here. Among these are provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* Under the RFA, whenever a federal agency proposes or promulgates a rule under section 553 [of the Administrative Procedures Act (APA)], after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency must prepare a regulatory flexibility analysis for the rule, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the Agency does not certify the rule, the regulatory flexibility analysis must describe and assess the impact of a rule on small entities affected by the rule.

Even if the NPDES program modification were a rule subject to the RFA, the Agency would certify that approval of the State's modified program would not have a significant economic impact on a substantial number of small entities. EPA's action to approve an NPDES program modification merely recognizes revisions to the program which have already been enacted as a matter of State law; it would, therefore, impose no additional obligations upon those subject to the State's program. Accordingly, the Regional Administrator would certify that this program modification, even if a rule, would not have a significant economic impact on a substantial number of small entities.

William Muszynski,

Acting Regional Administrator, Region II.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1195–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–1195–DR), dated January 6, 1998, and related determinations.

EFFECTIVE DATE: April 9, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 6, 1998:

Bay County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Deputy Associate Director, Response and Recovery Directorate.

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