Limitations, Section 2—Source Specific Provisions, subsection (a), subdivision 7, clauses (A) through (G). Amended at 22 Indiana Register 1427, effective February 5, 1999.

[FR Doc. 99–33025 Filed 12–27–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE 047–1024a, MD 089–3042a, PA 140–4092a, VA 104–5043a; FRL–6483–9]

Approval and Promulgation of Air Quality Implementation Plans; Delaware, Maryland, Pennsylvania, and Virginia; Approval of National Low Emission Vehicle Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve State Implementation Plan (SIP) revisions submitted by the Commonwealths of Pennsylvania and Virginia, and by the States of Maryland and Delaware. These SIP revisions formalize each of the respective State's commitments to accept sales of motor vehicles that comply with the requirements of the National Low Emission Vehicle (National LEV) program. Delaware originally submitted its National LEV SIP revision to EPA on February 25, 1999, but later revised the SIP on September 1, 1999 to supercede the prior submittal. Maryland submitted its National LEV SIP revision to EPA on March 3, 1999, and amended the plan on March 24, 1999. Pennsylvania submitted its National LEV SIP revision to EPA on January 8, 1999. Virginia submitted its National LEV SIP revision to EPA on May 27, 1999.

Delaware, Maryland, Pennsylvania, and Virginia have agreed to the sale of National LEV compliant vehicles within their borders, in lieu of implementing a California LEV program. Under the National LEV Program, auto manufacturers have agreed to sell cleaner vehicles meeting the National LEV standards throughout these states for the duration of the manufacturers' commitments to the National LEV Program. A SIP revision from each participating state is required as part of the agreement between states and automobile manufacturers to ensure the continuation of the National LEV Program to supply clean cars throughout most of the country. The sale of vehicles complying with National LEV program standards began with 1999 model year vehicles in Northeast states, and will extend to other states outside the Northeast beginning with 2001 model year vehicles.

DATES: This rule is effective on February 28, 2000 without further notice, unless EPA receives adverse comment by January 27, 2000. If we receive such comment, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, 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; or at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of state-specific materials may be reviewed at each respective state's offices, at: the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, Dover, Delaware 19903; the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224; the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; or at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Brian K. Rehn, (215) 814–2176, or by e-mail at Rehn.Brian@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The National Low Emission Vehicle (National LEV) program is a voluntary, nationwide clean car program, designed to reduce ground level ozone (or smog) and other air pollution emitted from newly manufactured motor vehicles. On June 6, 1997 (62 FR 31192) and on January 7, 1998 (63 FR 926), the Environmental Protection Agency (EPA) promulgated rules outlining the framework for the National LEV program. These National LEV regulations allow auto manufacturers to commit to meet tailpipe standards for cars and light-duty trucks that are more stringent than EPA could otherwise mandate under the authority of the Clean Air Act. The regulations provided that the program would come into effect only if Northeast states and auto manufacturers agreed to participate. On March 9, 1998 (63 FR 11374), EPA published a finding that the program was in effect. Nine northeastern states (Connecticut, Delaware, Maryland, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Virginia, and the District of Columbia) and 23 auto manufacturers (BMW, Chrysler, Fiat, Ford, General Motors, Honda, Hyundai, Isuzu, Jaguar, Kia, Land Rover, Mazda, Mercedes-Benz, Mitsubishi, Nissan, Porsche, Rolls-Royce, Saab, Subaru, Suzuki, Toyota, Volkswagon, and Volvo) had opted to participate in the National LEV program. Once in effect, the National LEV Program became enforceable in the same manner as any other Federal new motor vehicle emission control program. The National LEV Program will achieve significant air pollution reductions nationwide. In addition, the program provides substantial harmonization of Federal and California new motor vehicle standards and test procedures, which enables manufacturers to move towards the design and testing of vehicles to satisfy one set of nationwide standards. The National LEV Program demonstrates how cooperative partnership efforts can produce a smarter, cheaper emissions control program, which reduces regulatory burden while increasing protection of the environment and public health.

The National LEV Program will result in substantial reductions in non-methane organic gases (NMOG) and nitrous oxides (NOx), which contribute to unhealthy levels of smog in many areas across the country. National LEV vehicles are 70% cleaner than today's model requirements under the Clean Air Act. This voluntary program provides auto manufacturers flexibility in meeting the associated standards as well as the opportunity to harmonize their production lines and make vehicles more efficiently. National LEV vehicles were estimated to cost an additional $76 above the price of vehicles otherwise required today, but the actual per vehicle cost is now expected to be even lower, due to factors such as economies of scale and historical trends related to emission control costs. This predicted incremental cost is less than 0.5% of the price of an average new car. In addition, the National LEV Program will help ozone nonattainment areas across the country improve their air quality, as well as reduce pressure to make further, more costly emission reductions from stationary industrial sources.

Because it is a voluntary program, National LEV was set up to take effect, and will remain in effect, only if the

participating auto manufacturers and Northeastern States commit to the program and abide by their commitments. The states and manufacturers initially committed to the program through opt-in notifications to EPA, which were sufficient for EPA to find that National LEV had come into effect. The National LEV regulations provide that the second stage of the state commitments are to be made through SIP revisions that incorporate those state commitments to National LEV into state regulations. EPA will then take rulemaking action to approve each state's regulation into its respective federally-enforceable SIP. The National LEV regulations laid out the elements to be incorporated in the SIP revisions, the timing for such revisions, and the language (or substantively similar language) that needs to be included in a SIP revision to allow EPA to approve that revision as adequately committing the state to the National LEV Program. In today's action, EPA is approving the National LEV SIP revisions for Delaware, Maryland, Pennsylvania and Virginia as adequately committing those states to the program. In the near future, EPA expects to take similar actions for the remaining Northeast states that have elected to join the National LEV Program.

II. EPA's Evaluation of the States' Submittals

At present, Delaware, Maryland, and Virginia have not exercised their option, pursuant to section 177 of the Clean Air Act, to adopt state standards to regulate new motor vehicles identical to California's LEV program. Pennsylvania has adopted California's LEV program concurrently with its National LEV Program regulation. Adopted by the Commonwealth under section 177 of the Clean Air Act and entitled the ''Pennsylvania's Clean Vehicle program'', this program serves as a ''backstop'' measure to the National LEV Program. Pennsylvania's Clean Vehicle program would take effect in the event that the National LEV program terminates due to opt-out by auto manufacturers or participating states, or at the conclusion of the NLEV program.

Delaware, Maryland, Pennsylvania, and Virginia have each adopted National LEV regulations that provide that for the duration of each respective State's participation in the National LEV program, manufacturers may comply with National LEV or equally stringent mandatory Federal standards in lieu of compliance with any state-adopted California LEV program pursuant to section 177 of the Clean Air Act. Delaware, Maryland, Pennsylvania, and Virginia have each adopted regulations that accept National LEV as a compliance alternative for requirements applicable to passenger cars, light-duty trucks, and medium-duty trucks designed to operate on gasoline. Each state's regulation provides for participation in National LEV extends until model year 2006. However, if by December 15, 2000, EPA does not adopt mandatory national standards at least as stringent as the National LEV standards that apply to new motor vehicles beginning in model year 2004, 2005 or 2006, the states' participation in the National LEV Program would extend only until model year 2004. Through their regulations, which were submitted to EPA as SIP revisions, Delaware, Maryland, Pennsylvania, and Virginia have adequately committed to the National LEV Program, as provided in the final National LEV rule.

EPA's final National LEV rule stated that if states submit SIP revisions containing regulatory language substantively identical to the language in EPA's regulation without additional conditions, and if such submissions otherwise meet the Clean Air Act requirements for approvable SIP submissions, EPA would not need to conduct notice-and-comment rulemaking to approve those SIP revisions. In its National LEV rulemaking, EPA provided full opportunity for public comment on the language to be contained in each state's subsequent SIP revision. Thus, as discussed in more detail in the EPA National LEV final rule, the requirements for EPA approval are easily verified objective criteria (see 63 FR 936, January 7, 1998). While we could appropriately approve the submissions from Delaware, Maryland, Pennsylvania, and Virginia without providing for additional notice and requesting comments, we have nonetheless decided to take this action in the form of a direct final rulemaking, which allows an opportunity for further public comment. In this instance, EPA is not under a timing constraint that would support a shorter rulemaking process, and thus we have decided there was no need to deviate from the Agency's usual procedures for SIP approvals.

III. Final Action

EPA has evaluated the SIP revisions submitted by Delaware, Maryland, Pennsylvania, and Virginia, the Agency has determined that these SIP revisions are consistent with the EPA National LEV regulations and satisfy the general SIP approval requirements of section 110 of the Clean Air Act. Therefore, EPA is approving the Delaware low emission vehicle rule submitted on September 1, 1999 into the Delaware SIP. EPA is approving the Maryland low emission vehicle rule submitted on March 3, 1999 (as amended on March 24, 1999) into the Maryland SIP. EPA is approving the Pennsylvania's National LEV rule that was submitted to EPA on January 8, 1999 into the Pennsylvania SIP. Finally, EPA is approving Virginia's low emission vehicle rule submitted to EPA on May 27, 1999 into the Virginia SIP.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment 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 if adverse comments are filed. This rule will be effective February 28, 2000 without further notice, unless the Agency receives adverse comment by January 27, 2000.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments received in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

Nothing in this action should be construed as permitting or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have

federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation. This final 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C . Executive Order 13045

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under Executive Order 12866, and; (2) the environmental health or safety risk addressed by the rule has 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 final rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health and safety risks.

D. Executive Order 13084

Under Executive Order 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 Office of Management and Budget, 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 Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 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 SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP 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. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so

would be inconsistent with applicable law or otherwise impractical. The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this approval action for four states' National Low Emission Programs must be filed in the United States Court of Appeals for the appropriate circuit by February 28, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 18, 1999.

Alvin R. Morris,

Acting Regional Administrator, Region III.

40 CFR part 52 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 I—Delaware

2. In § 52.420, the entry for Regulation 40, Delaware's National Low Emission Program, in the table in paragraph (c) is added in numerical order to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State citation	Title subject	State effective date	EPA approval date	Comments
*	*	*	*	* *
Regulation No. 40—National Low Emission Vehicle Program				
Section 1	Applicability	October 11, 1999	December 28, 1999	Issued on September 1, 1999, by Secretary's Order No. 99–A–0046.
Section 2	Definitions	October 11, 1999	December 28, 1999	Issued on September 1, 1999, by Secretary's Order No. 99–A–0046.
Section 3	Program Participation	October 11, 1999	December 28, 1999	Issued on September 1, 1999, by Secretary's Order No. 99–A–0046.

Subpart V—Maryland

3. Section 52.1070 is amended by adding paragraph (c)(146) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(146) Revisions to the Maryland Regulations, through the addition of COMAR 26.11.20.04, adopting the National Low Emission Vehicle Program. This revision was submitted on March 3, 1999 by the Maryland Department of the Environment, and was amended on March 24, 1999:

(i) Incorporation by reference.

(A) Letter of March 3, 1999 from the Maryland Department of the Environment transmitting a revision to the Maryland State Implementation Plan for a National Low Emission Vehicle program.

(B) Letter of March 24, 1999 from the Maryland Department of the Environment revising Maryland's State Implementation Plan for a National Low Emission Vehicle program.

(C) Maryland regulation COMAR 26.11.20.04, entitled ''National Low Emission Vehicle Program'', effective March 22, 1999.

(ii) Additional Material.—Remainder of March 3, 1999 and March 24, 1999 submittals pertaining to COMAR 26.11.20.04.

Subpart NN—Pennsylvania

4. Section 52.2020 is amended by adding paragraph (c)(141) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(141) Revisions to the Pennsylvania Regulations for a Clean Vehicles Program regulation submitted on January 8, 1999 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of January 8, 1999 from the Department of Environmental Protection transmitting the National Low Emission Vehicles Program, and a Pennsylvania Clean Vehicles Program as a ''backstop'' to the National Low Emissions Vehicle Program.

(B) Amendments to Chapter 121 of Title 21 of the Pennsylvania Code, effective on December 5, 1998, to include definitions for the following terms: CARB, CARB Executive Order, California Code of Regulations, Dealer, Debit, Emergency Vehicle, Fleet Average, GVWR, LDT, LDV, Model Year, Motor Vehicle, Motor Vehicle Manufacturer, NLEV, NLEV Program, NMOG, New Motor Vehicle / New Light-Duty Vehicle, Offset Vehicle, Passenger Car, Ultimate Purchaser, Zero-Emission Vehicle

(C) Amendments to Chapter 126 of Title 21 of the Pennsylvania Code, effective December 5, 1998, to add new sections: 126.401, 126.402, 126.411, 126.412, 126.413, 126.421, 126.422, 126.423, 126.424, 126.425, 126.431, 126.432, and 126.441.

(ii) Additional Material.—Remainder of January 8, 1999 submittal pertaining to the National Low Emissions Vehicle Program and the Pennsylvania Clean Vehicles Program.

Subpart VV—Virginia

5. Section 52.2420 is amended by adding paragraph (c)(135) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(135) Revisions to the Virginia Regulations for the adoption of the National Low Emission Vehicle Program

submitted on May 27, 1999 by the Department of Environmental Quality:

(i) Incorporation by reference.

(A) Letter of May 27, 1999 from the Department of Environmental Quality transmitting Virginia's plan for adoption of a National Low Emission Vehicle Program.

(B) Regulation for a National Low Emission Program, codified at 9 VAC 5–200 of the Virginia Code, effective on April 14, 1999, to add: 9 VAC 5–200–10, Paragraphs A, B, and C; and 9 VAC 5–200–20; and 9 VAC 5–200–30.

(ii) Additional Material.—Remainder of May 27, 1999 submittal pertaining to the National Low Emissions Vehicle Program.

[FR Doc. 99–33027 Filed 12–27–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6514–5]

Section 112(l) Approval of the State of Florida's Rule Adjustment to the National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On April 9, 1999, the State of Florida, through the Florida Department of Environmental Protection (FDEP) submitted a request for adjustment of the ''National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities,'' (PERC) National Emission Standards for Hazardous Air Pollutants (NESHAP). This Request was submitted through the procedures outlined in 40 CFR 63.92 and 63.91 of section 112 of the Clean Air Act as Amended in 1990. The requested adjustment by FDEP would allow the Periodic Startup, Shutdown, and Malfunction reports as required in 40 CFR 63.10(d)(5) of the General Provisions, to be retained on site at PERC NESHAP affected facility instead of submitting them to the delegated agency. EPA has reviewed this 112(l) adjustment request, and determined that the State has satisfied the necessary criteria of a complete submittal as specified in §§ 63.92 and 63.91. EPA believes this 112(l) adjustment request by the State of Florida is approvable due to the State's consistent compliance and inspection rate of these specific area source PERC NESHAP affected facilities. EPA is hereby granting the State of Florida the authority to adjust its Periodic Startup, Shutdown, and Malfunction reports, to accommodate area source PERC NESHAP affected facilities through 40 CFR 63.92(b)(3)(viii) and 63.10(f)(2). Today's action is taken to modify the delegated PERC NESHAP to the State of Florida to accommodate sources classified by this PERC NESHAP as affected area sources as listed in 58 FR 49345 (September 22, 1993).

DATES: This direct final rule modification is effective February 28, 2000 without further notice, unless EPA receives adverse comment by January 27, 2000. 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: Leonardo Ceron, U.S. Environmental Protection Agency, Region 4, Air and Radiation Technology Branch, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104 ; ceron.leonardo@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: Leonardo Ceron, U.S. Environmental Protection Agency, Region 4, Air and Radiation Technology Branch, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303, Phone: (404) 562–9129; ceron.leonardo@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 15, 1996, The State of Florida notified the EPA of its adoption by reference of the PERC NESHAP located at 40 CFR 63.320, and the applicable sections of 40 CFR 63.1, (the General Provisions) both of which were adopted into the Florida Administrative Code (F.A.C.) 62–213.300(3)(1), and 62–204.800. Subsequently on February 11, 1998, the State of Florida, through the FDEP submitted a request for an adjustment of the PERC NESHAP through the procedures outlined in 40 CFR 63.92 and 63.91 of section 112 of the Clean Air Act as Amended in 1990. Based on discussions between the EPA Region 4 and FDEP, the State of Florida revised its initial request for adjustment and resubmitted a request on April 9, 1999. The revised 112(l) request was reviewed and deemed complete based on the criteria listed in 40 CFR 63.92 and 63.91. This adjustment will allow area source PERC NESHAP affected facilities the flexibility of retaining periodic startup, shutdown and malfunction reports required in 40 CFR 63.10(d)(5), on site, instead of submitting them on a periodic or biannual basis. However, this adjustment does not exempt or delay any Title V recordkeeping and compliance reporting requirements required of all Title V and general permit sources in the State of Florida. This regulatory flexibility for area source PERC NESHAP affected facilities is consistent with EPA's requirements for area sources subject to 40 CFR 63.340, 63.360, and 63.460. Accordingly, this determination is consistent with the applicability of the general provisions to 40 CFR 63.340, 63.360, and 63.460 which specifically exempt § 63.10(d)(5). EPA's decision to approve this adjustment is further supported by FDEP's compliance effectiveness at area source PERC NESHAP affected facilities within the State of Florida. The State of Florida has provided EPA with a letter submitted on August 20, 1999. The letter submitted by FDEP provided evidence of the State wide compliance rate for the area source PERC NESHAP affected facilities, of at least 82%, based on compliance inspections by FDEP. This compliance rate has consistently improved since 1996 from 61%, to 1997 with 77%, to 1998 with 82%. The compliance rate is based on the percentage of ''in-compliance'' inspection reports versa the ''non-compliance'' inspection reports by FDEP personnel on a 12 month basis. Compliance inspections are the most effective route to assert the requirements of NESHAPs as required in 40 CFR 63.320. The physical inspection of records and operations at each affected facility permitted by the State of Florida has allowed FDEP to achieve the above stated level of compliance. According to the State of Florida, inspections of PERC NESHAP affected facilities will continue to provide an increasing compliance rate and a verification of the periodic reporting which will be maintained on site in lieu of the flexibility provided by this adjustment today. The NESHAP adjustment provided herein will also assist small businesses in the reduction of cost associated with submitting biannual reports for the associated regulatory requirements, by allowing affected facilities to maintain records on site. Based on the review of the above documented request for flexibility to area source PERC NESHAP affected facilities, the State of Florida, through the FDEP, has satisfied all the requirements of 40 CFR 63.91 and 63.92. EPA therefore, is granting approval of this 112(l) request through the authority