

[Revise item a to read as follows:]

a. 5-digit:

(1) Packages containing pieces not more than 3/4-inch thick only: required with 17 pieces, optional with 10 to 16 pieces (use of a consistent minimum is required for a mailing job); red label D or optional endorsement line (OEL).

(2) Packages containing pieces with a thickness greater than 3/4-inch: required with 10 pieces; red label D or optional endorsement line (OEL).

* * * * *

We will publish an appropriate amendment to 39 CFR 111.3 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02-21189 Filed 8-19-02; 8:45 am]

BILLING CODE 7710-12-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL-7262-3]

Final Effective Date Modification for the Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking; delay of effective date.

SUMMARY: On June 24, 2002, EPA published a final rule entitled "Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area" (67 FR 42688). The effective date for the final rule was August 23, 2002. At the same time, EPA also published its proposal to delay the effective date of the determination and reclassification until October 4, 2002. The 30-day comment period on our June 24, 2002, proposal to extend the effective date has ended and EPA received twenty-seven comment letters of which twenty-six comment letters expressed support for the delayed effective date. Today EPA is finalizing the modification of the effective date of our June 24, 2002, rule from August 23, 2002, until October 4, 2002. Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency

publishes its reasoning in the final rule. EPA is making this action effective immediately because the effective date of the underlying nonattainment determination and reclassification is imminent, and delaying the effective date of this action would negate the purpose of this rule. In addition, EPA finds good cause for making this action effective immediately because it relieves a restriction that would otherwise go into effect.

DATES: As of August 20, 2002, the effective date of the final rule amending 40 CFR part 81 published at 67 FR 42688, June 24, 2002, is delayed for six weeks, from August 23, 2002, to a new effective date of October 4, 2002. The amendment to 40 CFR part 81 in this final rule is effective October 4, 2002.

ADDRESSES: Copies of documents relevant to this action area available for public inspection during normal business hours at the Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733; and the Louisiana Department of Environmental Quality (LDEQ), 7920 Bluebonnet Boulevard, Baton Rouge, Louisiana 70884. Please contact the appropriate office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Maria L. Martinez, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-2230.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we, us, or our" is used, we mean EPA. Throughout this document, whenever "Baton Rouge Area," "Baton Rouge Nonattainment Area," or "Baton Rouge Ozone Nonattainment Area" is used, we mean the area which includes the parishes of Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge in the State of Louisiana.

Background

In a Judgment entered on March 7, 2002, the United States District Court for the Middle District of Louisiana, ordered EPA to determine, by June 5, 2002, whether the Baton Rouge area had attained the applicable ozone standard under the Clean Air Act (hereinafter referred to as the CAA or Act). *Louisiana Environmental Action Network (LEAN) v. Whitman*, 00-879-A. The Court also ordered EPA to publish in the **Federal Register** a notice of a final action reflecting both the determination and any reclassification of the area required as a result of the determination. The Court also held that it was not acting to restrict the effective date that EPA selects for its action. See

the Court's February 27, 2002, Ruling.¹ EPA published its determination on June 24, 2002, in response to the Court's order.

On June 24, 2002, EPA concurrently published its proposal to delay the effective date of the determination and reclassification from August 23, 2002, until October 4, 2002 (67 FR 42697). EPA has determined that the delay of the effective date of the determination of nonattainment and reclassification is necessary to allow regulated entities in the Baton Rouge area time to prepare for the new requirements that are applicable to severe nonattainment areas. In the June 24, 2002, proposal, EPA noted that on the effective date of the reclassification to severe, the major stationary source threshold for the Baton Rouge area will be reduced from 50 tons of emissions on an annual basis to 25 tons. Thus a number of facilities with volatile organic compounds (VOCs) or nitrogen oxide (NO_x) emission levels between 25 and 50 tons per year may become subject to major source requirements for the first time.² Extending the effective date of our June 24, 2002, determination to October 4, 2002, will provide adequate time for the facilities affected by the reclassification to comply with the new technical requirements. EPA has determined that sources possibly subject to these new requirements should have additional time to prepare for the impact of these requirements. EPA's decision to extend the effective date for this reason is supported by a number of commenters.

In addition, as EPA stated in its June 24, 2002, proposal, we will continue to work on completing a separate rulemaking on the issue of whether the Baton Rouge area should be granted an extension of its attainment date pursuant to EPA's "Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas" **Federal Register** document (64 FR 14441, March 25, 1999) (hereinafter referred to as EPA's extension policy), and remain classified as a serious nonattainment area. By taking this final action to extend the effective date for the nonattainment determination, EPA is in a position to take final action on the proposal to extend the attainment date for the Baton Rouge area before the nonattainment determination becomes effective. Section 181(b)(2)(A) of the Act

¹ For additional information on other court rulings on the issue of an effective date for such action, see, *Sierra Club v. Browner*, 130 F. Supp. 2d 78 (D.D.C. 2001), aff'd., 285 F.3d 63 (D.C. Cir. 2002).

² See section 182(d) in conjunction with section 182(f) of the Act for the severe area major source thresholds for these pollutants.

requires that EPA determine attainment within six months of the attainment date. If the attainment date were extended, there would be a new deadline for the determination. Thus, if the attainment date were extended, EPA's obligation to determine attainment would not yet have occurred. If EPA were to extend the attainment date for the Baton Rouge area, EPA would withdraw the published nonattainment determination and the consequent reclassification, which would not yet have gone into effect.

In light of the fact that Louisiana has submitted its final SIP submissions, EPA believes that it will be able to complete rulemaking on the attainment date extension request by October 4, 2002. On August 2, 2002, EPA published its proposal to: (1) Approve the Baton Rouge area's ozone attainment demonstration and transport SIP which proposes an attainment date of November 15, 2005, (2) determine that the Baton Rouge area meets the reasonably available control measures (RACM) requirements of the Act, (3) approve the motor vehicle emission budgets associated with the attainment demonstration, (4) approve the enforceable commitments regarding MOBILE6 and to perform a mid-course review and submit a SIP revision to EPA by May 1, 2004, (5) approve an enforceable transportation control measure (TCM), (6) approve corrections to the 1990 Base Year Emissions Inventory, the 9% Rate-of-Progress Plan, and the 15% Rate-of-Progress Plan and, (7) withdraw its June 24, 2002 (67 FR 42688), rulemaking determining nonattainment and reclassifying the Baton Rouge nonattainment area as a severe nonattainment area for ozone. (67 FR 50391). EPA is taking separate actions on other related revisions of the Baton Rouge SIP, including the Inspection and Maintenance Program (67 FR 44410, July 2, 2002), NO_x regulations (67 FR 30638, May 7, 2002, and 67 FR 48095, July 23, 2002), New Source Review (see 67 FR 48090, July 23, 2002), emissions reductions credit banking (see 67 FR 48083, July 23, 2002), Contingency Measures (see 67 FR 35468, May 20, 2002), and SIP revisions dealing with VOC emissions from industrial wastewater (67 FR 41840, June 20, 2002).

If, prior to the reclassification delayed effective date of October 4, 2002, EPA finalizes an extension of the attainment date for the Baton Rouge area pursuant to EPA's extension policy, then EPA would rescind its determination of nonattainment and notice of reclassification of the area and the area

would retain its classification as a serious nonattainment area for ozone.

Such a course would allow the Agency to fulfill its duty to take into account upwind transport and allow an opportunity for the Baton Rouge area to qualify for an extension under the attainment date extension policy which EPA has applied in other areas affected by transport. EPA recently issued final rulemakings granting requests for attainment date extensions based on its policy in six ozone nonattainment areas: Washington, DC,³ (66 FR 568, January 3, 2001); Greater Connecticut, (66 FR 634, January 3, 2001); Springfield, Massachusetts, (66 FR 666, January 3, 2001); and Beaumont/Port Arthur, Texas (66 FR 26913, May 15, 2001); St. Louis, Missouri (66 FR 33996, June 26, 2001).

What Comments Were Received on the Proposed Effective Date Modification for the Determination of Nonattainment and How Has EPA Responded?

EPA received letters from twenty-six commenters in support of the proposal to delay the effective date. We also received one letter opposing the delayed effective date.

Comment 1: Twenty-six commenters supported delaying the effective date of our June 24, 2002, determination to October 4, 2002.

Response 1: EPA has determined that the delay of the effective date of the determination of nonattainment and reclassification is necessary to allow regulated entities in the Baton Rouge area a period of time to prepare for the new requirements that are applicable to severe nonattainment areas.

Comment 2: A commenter contends that delaying the effective date is not necessary for the purpose of allowing facilities to prepare for new requirements applicable to severe nonattainment areas. The commenter argues that the reclassification of the area should have occurred on May 15, 2000, and that therefore regulated facilities in the Baton Rouge area have had abundant time to prepare for the new requirements.

Response 2: Contrary to the commenter's contention, it was not clear until the Court's March, 2002, Order that EPA would be required to make an attainment determination prior to concluding its review of whether the Baton Rouge area qualified for an

attainment date extension. Therefore, entities affected by a reclassification did not have much notice of the new controls to which they would be subject. In EPA's May 9, 2001 (66 FR 23646) and July 25, 2001 (66 FR 38608) proposals on the Baton Rouge area, EPA proposed to finalize the nonattainment determination and reclassification notice for the Baton Rouge area only after the area had had an opportunity to qualify for an attainment date extension under the extension policy. As a result, the commenter is incorrect in its assertion that regulated entities were on notice that the area would be reclassified. The commenter has not identified any basis for questioning EPA's determination that regulated entities require additional time to prepare for the impact of the June 24, 2002, final rulemaking. See also the comments submitted in support of extending the effective date for this reason.

Comment 3: Several commenters strongly support EPA's proposal to extend the effective date of its June 24, 2002, determination on the basis that this action will allow EPA sufficient time to work on completing a separate rulemaking on the issue of whether the Baton Rouge area should be granted an extension of its attainment date pursuant to EPA's extension policy, and remain classified as a serious nonattainment area. One commenter takes issue with EPA's use of the period of the delayed effective date to allow EPA to complete consideration of Louisiana's request for an attainment date extension. The commenter asserts that the attainment date extension violates the Clean Air Act, and that a federal Court of Appeals found that EPA had violated the CAA when it extended the attainment deadline for the Washington, DC area. The commenter argues that since EPA cannot grant an attainment date extension, it cannot delay the effective date of the June 24, 2002, rule.

Response 3: On July 2, 2002, the U.S. Court of Appeals for the District of Columbia vacated EPA's approval of an attainment date extension for the Washington, D.C. ozone nonattainment area. *Sierra Club v. EPA*, 2002 WL 1407009 (D.C. Cir. July 2, 2002). EPA is currently evaluating this decision and considering what impact it may have on EPA's future actions concerning the Baton Rouge area. Regardless of whether EPA continues to process the attainment date extension during the period prior to the effective date of the June 24, 2002, rule, EPA has concluded that the need for regulated entities to have additional time to prepare for reclassification

³ On July 2, 2002, the U.S. Court of Appeals for the District of Columbia vacated EPA's approval of an attainment date extension for the Washington, DC ozone nonattainment area. *Sierra Club v. EPA*, 2002 WL 1407009 (D.C. Cir. July 2, 2002). EPA is currently evaluating this decision and considering what impact it may have on EPA's future actions concerning the Baton Rouge area.

provides a sufficient, separate, and independent basis for extending the effective date, and therefore EPA does not rely on the activities relating to the attainment date extension in concluding that the effective date should be extended until October 4, 2002.

Comment 4: A number of commenters note that a “bump-up” of the Baton Rouge area from “serious” to “severe” ozone nonattainment would ignore the efforts of the Baton Rouge Ozone Task Force and the progress toward attainment already achieved by the Baton Rouge area, would result in the implementation of emissions control measures that will produce negligible air quality benefits for the cost, and would cause great harm to economic development of the area. These commenters contend that the revised State Implementation Plan (SIP) submitted to EPA by Louisiana on December 31, 2001, provides the most reasonable, effective and expeditious path to the attainment of the 1-hour ozone NAAQS.

Response 4: The substance of Louisiana’s revised SIP is the subject of a separate rulemaking (67 FR 50391, August 2, 2002) and is not under consideration in this action. EPA will address comments regarding Louisiana’s revised SIP, as appropriate, in that separate rulemaking. EPA has acknowledged that during the period of the delayed effective date, it will continue to work on completing a separate rulemaking on the issue of whether the Baton Rouge area should be granted an extension of its attainment date pursuant to EPA’s extension policy, and remain classified as a serious nonattainment area. However, as noted above, EPA is currently evaluating the recent U.S. Court of Appeals’ decision and is considering what impact it may have on EPA’s future actions concerning the Baton Rouge area. Regardless of whether EPA continues to process the attainment date extension during the period prior to the effective date of the June 24, 2002, rule, EPA has concluded that the need for regulated entities to have additional time to prepare for reclassification provides a sufficient, separate, and independent basis for extending the effective date, and therefore EPA does not rely on the activities relating to the attainment date extension in concluding that the effective date should be extended until October 4, 2002.

Comment 5: A number of commenters base their support of EPA’s proposal on the grounds that the delayed effective date will alleviate some of the supply impacts of the “severe” area requirement to use and sell

reformulated gasoline (RFG) in the Baton Rouge area.

Response 5: EPA believes that the need for regulated entities to have additional time to prepare for reclassification provides a sufficient, separate, and independent basis for extending the effective date. EPA expresses no view as to other grounds of support for its action. However, we note the commenters are correct that the Clean Air Act requires mandatory participation in the federal RFG program for an ozone non-attainment area which is reclassified as severe, effective one year after the reclassification. See section 211(k)(10)(D) of the CAA. This requirement under the Clean Air Act is implemented as a matter of law; EPA does not have discretion to change, waive, or fail to implement this requirement.

Final Action

For the reasons stated above, and in the June 24, 2002, proposal, EPA is taking final action to extend to October 4, 2002, the effective date of the final rule entitled “Determination of Nonattainment as of November 15, 1999, and Reclassification of the Baton Rouge Ozone Nonattainment Area; State of Louisiana” (67 FR 42688). Section 553(d) of the Administrative Procedure Act generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. However, if an Agency identifies a good cause, section 553(d)(3) allows a rule to take effect earlier, provided that the Agency publishes its reasoning in the final rule. EPA is making this action effective immediately because the effective date of the underlying nonattainment determination and reclassification is imminent, and delaying the effective date of this action would negate the purpose of this rule. In addition, EPA finds good cause for making this action effective immediately because it relieves a restriction that would otherwise go into effect.

Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), EPA is required to determine whether regulatory actions are significant and therefore should be subject to Office of Management and Budget (OMB) review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a “significant regulatory action” as one that is likely to result in a rule that may

meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may “have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.”

The Agency has determined that this effective date modification would result in none of the effects identified in section 3(f) of the Executive Order. This final rulemaking merely delays the effective date of EPA’s determination of nonattainment and would not impose any new requirements on any sectors of the economy, or on state, local, or tribal governments or communities.

B. Executive Order 13045

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 Executive Order 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 proposed action is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

C. Executive Order 13175

On November 6, 2000, the President issued Executive Order 13175 (65 FR 67249) entitled, “Consultation and Coordination with Indian Tribal Governments.” Executive Order 13175 took effect on January 6, 2001, and revokes Executive Order 13084 (Tribal Consultation) as of that date. This rulemaking does not affect the communities of Indian tribal governments. Accordingly, the requirements of Executive Order 13175 do not apply.

D. 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 rulemaking to delay the effective date of EPA's nonattainment determination does not create any new requirements. Instead, this rulemaking only delays the effective date of a factual determination, and would not regulate any entities. Therefore, pursuant to 5 U.S.C. 605(b), I certify that today's proposal would not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

E. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), 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 the 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 believes, as discussed above, that the delay of the effective date of a determination of nonattainment does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

F. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) 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 delay of the effective date of a nonattainment determination 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), because this action does not impose any new requirements on any sectors of the economy, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this final action.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements.

Dated: August 12, 2002.

Gregg A. Cooke,

Regional Administrator, Region 6.

Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.319 the table for "Louisiana—Ozone (1-hour Standard)" is amended by revising the entry for the Baton Rouge area to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA-OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	¹ Date	Type	¹ Date	Type
Baton Rouge Area:				
Ascension Parish	11/15/90	Nonattainment	10/04/02	Severe.
East Baton Rouge Parish	11/15/90	Nonattainment	10/04/02	Severe.
Iberville Parish	11/15/90	Nonattainment	10/04/02	Severe.
Livingston Parish	11/15/90	Nonattainment	10/04/02	Severe.
West Baton Rouge Parish	11/15/90	Nonattainment	10/04/02	Severe.
* * *	* * *	* * *	* * *	

¹ This date is October 18, 2000, unless otherwise noted.

* * * * *

[FR Doc. 02-21195 Filed 8-19-02; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 271**

[FRL-7262-6]

**Florida: Final Authorization of State
Hazardous Waste Management
Program Revision****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Immediate final rule.

SUMMARY: Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Florida's changes to their hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on October 21, 2002, unless EPA receives adverse written comment by September 19, 2002. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960; (404) 562-8440. You can view and copy Florida's application from 8 a.m. to 5 p.m. at the following addresses: The Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 and from 8:30 a.m. to 3:45 p.m., EPA Region

4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960, Phone number (404) 562-8190, Kathy Piselli, Librarian.

FOR FURTHER INFORMATION CONTACT:

Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960; (404) 562-8440.

SUPPLEMENTARY INFORMATION:**A. Why are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Florida's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Florida Final authorization to operate its hazardous waste program with the changes described in the authorization application. Florida has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Florida, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Florida subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Florida has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- do inspections, and require monitoring, tests, analyses or reports
- enforce RCRA requirements and suspend or revoke permits
- take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Florida is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens If EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal**