II. Error Correction

The CAA sets forth requirements for Federal facilities which are located in I/M program areas. These requirements in section 118(c) and (d) apply to both Federal fleet and Federal employee vehicles. Congress intended in that section that Federal facilities located in I/M program areas demonstrate compliance with certain local and State I/M requirements. When EPA published the I/M rule in 1992, see 57 FR 52950, the Agency interpreted CAA section 118(c) and (d) as a partial waiver of the Federal government and thus states (d) do not waive sovereign immunity for federal facilities in the I/M rule. Since that time, the Department of Justice (DOJ) has found that sections 118(c) and (d) do not waive sovereign immunity for the Federal government and thus states are without authority to enforce the section 118(c) and (d) requirements for Federal facilities. Further, DOJ found that the express waiver of sovereign immunity in section 118(a) extends only to nondiscriminatory requirements (i.e., each agency and employee of the Federal government “shall be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of air pollution in the same


2 See letter from Lois J. Schiffer, Assistant Attorney General, Department of Justice Environment and Natural Resources Division, to Scott Fulton, Acting General Counsel, EPA [July 29, 1998] (Schiffer Letter).

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manner, and to the same extent as any nongovernmental entity."

As explained below, section 118(a)’s immunity waiver does not extend to State I/M requirements that, like the North Carolina provision at issue here, are imposed upon Federal entities in a different manner or to a different extent than nongovernmental entities.

North Carolina’s regulation 15A NCAC 02D.1002(a)[3] identifies vehicles that are operated on a Federal installation and that meet the requirements of 40 CFR 51.356(a)(4) as subject to the State motor vehicle emission standard. This North Carolina regulation thus subjects certain vehicles operated on Federal installations to State I/M requirements that do not apply in the same manner and to the same extent as nongovernmental entities, and it is inconsistent with the waiver of immunity in section 118(a).

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.). Furthermore, this action does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 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 rule 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 rule merely removes North Carolina regulation 15A NCAC 02D.1002(a)[3] from the federally approved portion of the North Carolina SIP to be consistent with CAA 118. It imposes no additional requirements beyond those imposed by state law.

III. Final Action

Pursuant to CAA section 110(k)(6), EPA rescinds its previous approval of NCAC 02D.1002(a)[3], a provision that sets forth additional requirements under the vehicle I/M program for motor vehicles operated on Federal installations that do not apply to nongovernmental entities and thus is inconsistent with CAA section 118(a). This action will not result in increases in emissions that would interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA.

IV. 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 corrects North Carolina’s EPA-approved SIP by removing the State’s regulation 15A NCAC 02D.1002(a)[3], which listed Federal facilities as applicable to the state motor vehicle emission standard and 40 CFR 51.356(a)(4), by removing it from the federally-approved portion of the North Carolina SIP to be consistent with CAA 118. It imposes no additional requirements beyond those imposed by state law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by Reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

V. Anne Heard,
Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

§ 52.1770 Identification of plan.
"(c) * * *

Subpart II—North Carolina

§ 52.1770(c) is amended by revising the entry for “Sect. 1002” to read as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

§ 52.1770 Identification of plan.

2. Section 52.1770(c) is amended by revising the entry for “Sect. 1002” to read as follows:

§ 52.1770 Identification of plan.
This regulation establishes time-limited tolerances for residues of acetamiprid in or on sugarcane, cane and sugarcane, molasses. This action is associated with the issuance of a crisis exemption under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on sugarcane. This regulation establishes maximum permissible levels for residues of acetamiprid in or on sugarcane, cane and sugarcane, molasses. The time-limited tolerances expire on December 31, 2019.

DATES: This regulation is effective April 10, 2017. Objections and requests for hearings must be received on or before June 9, 2017, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the SUPPLEMENTARY INFORMATION).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0005, is available at http://www.regulations.gov or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at http://www.epa.gov/dockets.

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: RDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:
I. General Information
A. Does this action apply to me?
You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

• Crop production (NAICS code 111).
• Animal production (NAICS code 112).
• Food manufacturing (NAICS code 311).
• Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

C. How can I file an objection or hearing request?
Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0005 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 9, 2017. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–