IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a 111(d)/129 plan submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing 111(d)/129 plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• 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);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the 111(d)/129 Plan is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 27, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register,** rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 21, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

For the reasons set forth in the preamble, part 62 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart K—Florida

■ 2. Section 62.2370 is revised to read as follows:

§ 62.2370 Identification of sources.

(a) The plan applies to existing hospital/medical/infectious waste incinerators for which construction was commenced on or before December 1, 2008, or for which modification was commenced on or before April 6, 2010.

(b) On December 21, 2010, Florida submitted a revised state plan and related Florida Administrative Code amendments as required by 40 CFR part 60, subpart Ce, amended on October 6, 2009.

[FR Doc. 2011–33151 Filed 12–23–11; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04–296; FCC 11–136]

Review of the Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission amends its rules governing the Emergency Alert System (EAS) rules to extend the deadline for EAS Participants to be able to receive Common Alerting Protocol (CAP)-formatted EAS alerts to no later than June 30, 2012. This is intended to provide EAS Participants with time to comply with any new CAP-based revisions to the Commission's rules.

DATES: Effective December 27, 2011.

FOR FURTHER INFORMATION CONTACT: Lisa Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau, at (202) 418–7452, or by email at *Lisa.Fowlkes@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Fourth Report and Order* in EB Docket No. 04–296, FCC 11–136, adopted on September 15, 2011, and released on September 16, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room, CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.*

1. This *Fourth Report and Order* is one of two orders in which the Commission will take additional steps to integrate CAP into its part 11 rules governing the EAS. In this *Fourth Report and Order,* the Commission amends § 11.56 of its EAS rules to require EAS Participants to be able to receive CAP-formatted EAS alerts as required by part 11 no later than June 30, 2012. The Commission anticipates that it will adopt the CAP-based revisions to its part 11 EAS rules in a subsequent order stemming from its *Third Further Notice of Proposed Rulemaking* (*Third FNPRM*), 76 FR 35810–01, June 20, 2011, in this docket sufficiently in advance of June 30, 2012, to allow EAS Participants ample time to comply with the new part 11 rules. In this subsequent order, the Commission will also address the many remaining non-CAP related issues raised in its *Third FNPRM.* This amendment of § 11.56 of the Commission's rules moots the Petition for an Expedited Further Extension of the 180-Day ''Cap'' Compliance Deadline, EB Docket 04–296 (filed July 29, 2011) (Joint Petition) filed jointly by 46 state broadcasters associations, NAB, NCTA, the Society of Broadcast Engineers, ACA, the Association for Maximum Service Television, National Public Radio, the Association of Public Television Stations, and the Public Broadcasting Service for extension of the 180-day CAP compliance deadline.

2. In the *Third FNPRM,* the Commission noted that some equipment vendors may be marketing equipment—intermediary devices—that connects in some fashion with previously certified EAS equipment to allow that equipment to receive CAP-formatted alerts in the legacy EAS format. The Commission sought comment on a number of issues regarding these devices, including whether they must be certified under current EAS rules and whether they satisfy the Commission's 2007 CAP-related requirements. Although the Commission intends to address these issues in a subsequent order, it notes that, based on the record, it appears that some EAS Participants may have purchased such equipment. In this *Fourth Report and Order,* the Commission reminds EAS Participants that equipment that meets the definition of an encoder or a decoder under Commission rules must be certified under § 11.34 of the Commission's current rules. In addition, equipment used to receive CAP-formatted EAS alerts must, at a minimum, comply with the CAP requirements the Commission adopted in the *Second Report and Order* in this docket. While the Commission does not decide today whether intermediary devices comply with these requirements, it is unclear whether any equipment that does not meet these current baseline requirements will be able to satisfy any CAP-related rules we may adopt in the future. Consequently, the Commission urges EAS Participants that have purchased or are considering purchase of any type of EAS equipment to verify with manufacturers and/or vendors that the equipment complies with current FCC rules.

I. Procedural Matters

A. Paperwork Reduction Act Analysis

3. This document contains no modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

B. Congressional Review Act

4. The Commission will send a copy of this *Fourth Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (''CRA''), *see* 5 U.S.C. 801(a)(1)(A).

II. Final Regulatory Flexibility Analysis

5. The Regulatory Flexibility Act (RFA) requires that agencies prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' In this *Fourth Report and Order,* we have revised the rules to extend the date by which EAS Participants must be able to receive CAP-formatted EAS alert to June 30, 2012. We hereby certify that this rule revision will not have a significant economic impact on a substantial number of small entities, because the action merely maintains the status quo regarding CAP compliance. The Commission will send a copy of this *Fourth Report and Order,* including this certification, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the *Fourth Report and Order* (or a summary thereof) and certification will be published in the **Federal Register**.

III. Ordering Clauses

6. Accordingly, *it is ordered* that, pursuant to sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 715 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and (o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), 606, and 615, this Fourth Report and Order *is adopted;*

7. *It is further ordered* that part 11 of the Commission's rules, 47 CFR part 11, is amended. The Order shall become effective December 27, 2011;

8. *It is further ordered* that the Joint Petition for Further Extension of the CAP Compliance Deadline is dismissed as moot;

9. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Fourth Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 11

Radio, Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 11 as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

■ 1. The authority citation for part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

■ 2. Revise § 11.56 to read as follows:

§ 11.56 EAS Participants receive CAP-formatted alerts.

All EAS Participants must be able to receive CAP-formatted EAS alerts as required by this part no later than June 30, 2012.

[FR Doc. 2011–33154 Filed 12–23–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. FRA–2001–11213, Notice No. 15]

RIN 2130–AA81

Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2012

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of determination.

According to data from FRA's Management Information System, the rail industry's random drug testing