

Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCa, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCa. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes, or otherwise have any unique impacts or local governments. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

Although this action does not require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. As such, to the extent that information is publicly available or was submitted in comments to EPA, the Agency considered whether groups or segments of the population, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

**XI. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this rule in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 12, 2009.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, the table is amended by adding alphabetically the following polymer to read:

**§ 180.960 Polymers; exemptions from the requirement of a tolerance.**

Polymer	CAS No.
* * *	* *
Formaldehyde, polymer with 2-methyloxirane and 4-nonylphenol, minimum number average molecular weight (in amu), 4,000.	37523–33–4
* * *	* *

[FR Doc. E9–5832 Filed 3–17–09; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

**46 CFR Part 315**

[Docket No. MARAD 2009 0022]

RIN 2133–AB73

**U.S. Citizenship for Contracts on RRF Vessels**

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Final rule; clarification.

**SUMMARY:** On August 21, 2008, the Maritime Administration published the final rule in this docket to clarify Maritime Administration regulations which require that Agents (including Ship Managers) for the National Defense Reserve Fleet (NDRF) appointed by the Maritime Administration be United States citizens. The final rule was published with an effective date of the date of publication. Prior to publication, we inadvertently failed to submit the rule to Congress and the General Accounting Office (GAO), as required by the Congressional Review provisions in the Small Business Regulatory Enforcement Fairness Act (SBREFA). Therefore, the rule did not go into effect on the date of publication.

**DATES:** The applicability date for the final rule published at 73 FR 49357 (August 21, 2008) was March 13, 2009.

**FOR FURTHER INFORMATION CONTACT:** Jay Gordon, Office of the Chief Counsel, at (202) 366–5173, via e-mail at *Jay.Gordon@dot.gov*, or by writing to: Jay Gordon, Office of the Chief Counsel, Maritime Administration, MAR–221, 1200 New Jersey Avenue, SE., Washington DC 20590.

**SUPPLEMENTARY INFORMATION:**

**Background**

For complete background and regulatory analysis, see the original document published August 21, 2008 (73 FR 49357). This final rule indicated that it would be effective upon publication. Pursuant to Section 553 of the Administrative Procedure Act (APA), codified at 5 U.S.C. 553, with certain exceptions, substantive rules cannot take effect less than 30 days after publication, unless the agency finds good cause for doing so and provides a written explanation of any good cause found when the rule is published. The Maritime Administration (MARAD) provided no justification for the immediate effective date in the published rule document and, in fact, MARAD did not intend to avail itself of the good cause exception of 5 U.S.C.

553. In addition, in accordance with the Congressional Review provisions in SBEWFA, at 5 U.S.C. 801(a)(4), a final rule cannot “take effect” until the rule is submitted to Congress in accordance with 5 U.S.C. 801(a)(1). The rule was submitted to Congress on March 12, 2009.

According to the procedures established by the Administrative Committee of the **Federal Register** under the **Federal Register** Act (44 U.S.C. Chapter 15), the amendments to the Code of Federal Regulations (CFR) set out in this final rule were incorporated into the CFR on August 21, 2008, the effective date of the rule. However, because of the issues with the APA and the Congressional Review provisions, this rule could not become operative until March 13, 2009.

Accordingly, MARAD acknowledges that the rule was not operative and enforceable until March 13, 2009. MARAD further notes that because the rule establishes procedures that have not yet been utilized, neither the public, nor any regulated entities, were harmed in the interim period between publication of the rule and March 13, 2009.

Dated: March 9, 2009.

By Order of the Maritime Administrator.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*  
[FR Doc. E9-5787 Filed 3-17-09; 8:45 am]

BILLING CODE 4910-81-P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### 46 CFR Part 390

[Docket No. MARAD 2008 0075]

RIN 2133-AB71

#### Capital Construction Fund

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Final rule; clarification.

**SUMMARY:** On September 30, 2008, the Maritime Administration published the final rule in this docket to implement provisions of the Energy Independence and Security Act of 2007 and amend the definition of a “qualified vessel” under the Capital Construction Fund. The final rule was published with an effective date of the date of publication. Prior to publication, we inadvertently failed to submit the rule to Congress and the General Accounting Office (GAO), as required by the Congressional Review provisions in the Small Business Regulatory Enforcement Fairness Act

(SBREFA). Therefore, the rule was not applicable on the date of publication.

**DATES:** The applicability date for the final rule published at 73 FR 56738 (September 30, 2008) was March 13, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Murray Bloom, Chief, Division of Maritime Programs, Maritime Administration at 202-366-5320, via e-mail at *Murray.Bloom@dot.gov*, or by writing to Murray Bloom, Office of the Chief Counsel, Maritime Administration, MAR-222, 1200 New Jersey Avenue, SE., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

##### Background

For complete background and regulatory analysis, see the original document published September 30, 2008 (73 FR 56741). This final rule indicated that it would be effective upon publication. Pursuant to Section 553 of the Administrative Procedure Act (APA), codified at 5 U.S.C. 553, with certain exceptions, substantive rules cannot take effect less than 30 days after publication, unless the agency finds good cause for doing so and provides a written explanation of any good cause found when the rule is published. The Maritime Administration (MARAD) provided no justification for the immediate effective date in the published rule document and, in fact, MARAD did not intend to avail itself of the good cause exception of 5 U.S.C. 553. In addition, in accordance with the Congressional Review provisions in SBREFA at 5 U.S.C. 801(a)(4), a final rule cannot “take effect” until the rule is submitted to Congress in accordance with 5 U.S.C. 801(a)(1). The rule was submitted to Congress on March 12, 2009.

According to the procedures established by the Administrative Committee of the Federal Register under the Federal Register Act (44 U.S.C. Chapter 15), the amendments to the Code of Federal Regulations (CFR) set out in this final rule were incorporated into the CFR on September 30, 2008, the effective date of the rule. However, because of the issues with the APA and the Congressional Review provisions, this rule could not become operative or enforceable until March 13, 2009.

Accordingly, MARAD acknowledges that the rule was not operative and enforceable until March 13, 2009. MARAD further notes that because the rule establishes procedures that have not yet been utilized, neither the public, nor any regulated entities, were harmed in the interim period between

publication of the rule and March 13, 2009.

By Order of the Maritime Administrator.

Dated: March 9, 2009.

**Christine Gurland,**

*Acting Secretary, Maritime Administration.*  
[FR Doc. E9-5792 Filed 3-17-09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 0810141351-9087-02]

RIN 0648-XN75

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 ft (18.3 m) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 ft (< 18.3 m) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2009 Pacific cod total allowable catch (TAC) allocated to catcher vessels < 60 ft LOA using hook-and-line or pot gear in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 16, 2009, through 2400 hrs, A.l.t., December 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2009 Pacific cod TAC allocated to catcher vessels < 60 ft LOA using hook-and-line or pot gear in the BSAI is 3,033 metric tons as established by the 2009 and 2010 final harvest specification for