ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–1027; FRL–9251–1]

Approval and Disapproval and Promulgation of Air Quality Implementation Plans; Colorado; Revision to Definitions; Construction Permit Program; Regulation 3

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is partially approving and partially disapproving State Implementation Plan (SIP) revisions submitted by the State of Colorado on June 20, 2003 and April 12, 2004. This final rule will approve those portions of the revisions to Colorado's Regulation 3 that place restrictions on increment consumption, add innovative control technology as an alternative to BACT requirements and make other changes as described in more detail below. EPA will act separately on the portions of the June 20, 2003 and April 12, 2004 submittals that revise Regulation 3, Part A, Section II, Air Pollutant Emission Notice (APEN) Requirements. Today's action on the Colorado Regulation 3 revisions will make federally enforceable the revised portions of Colorado's Regulation 3 that EPA is approving. This action is being taken under section 110 of the Clean Air Act.

DATES: *Effective Date:* This final rule is effective March 7, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2007–1027. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Komp, Air Program, U.S. Environmental Protection Agency, Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number (303) 312–6022, fax number (303) 312–6064, *komp.mark@epa.gov*.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Colorado* mean the State of Colorado, unless the context indicates otherwise.

(v) The initials *APEN* mean or refer to Air Pollutant Emission Notice.

(vi) The initials *NSR* mean or refer to New Source Review, the initials *RACT* mean or refer to Reasonably Available Control Technology, the initials *BACT* mean or refer to Best Available Control Technology and the initials *NAAQS* mean or refer to National Ambient Air Quality Standards.

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I. Background Information

On June 20, 2003 and on April 12, 2004, the State of Colorado submitted formal revisions to its SIP that changed or deleted numerous definitions in Part A of the State's Regulation Number 3. Primarily, these were minor changes designed to fix ambiguous language, to make the definitions more readable or to delete obsolete or duplicative definitions. In addition to the clarifications, formatting and readability changes were made to the definition section and a number of definitions were added or modified to reflect developments in federal law. In the April 12, 2004 submittal, the only revision to Parts A and B of Regulation 3 was a minor change to Part A, Section I.A [1] regarding the availability of material incorporated by reference.

One modified definition was for non-road engines. In response to the 1990 CAA Amendments, federal case law, and EPA's interpretation of the term, Colorado modified the definition of a non-road engine. The definition was also moved from the APEN section of Regulation 3 (Part A, Section II) to the definition section (Part A, Section I). In addition, Colorado took steps to keep track of these sources by requiring a non-road engine rated at 1,200 horsepower or greater to file a Colorado APEN. The filing of an APEN for non-road engines is stipulated by Colorado's SIP revisions to be a State-only requirement.

New definitions also included the definition of Pollution Control Projects at existing electric utility steam generating units and the use of Clean Coal Technology at these units. Colorado also revised its definitions of actual emissions and major modification to include special provisions governing physical or operational changes at electric utility steam generating units. These new definitions and revisions responded to changes in the federal regulations arising out of the decision in the Wisconsin Electric Power Company ("WEPCO") case (*Wisconsin Electric Power Co.* v. *Reilly,* 893 F.2d 901 (7th Cir. 1990)). As a result of the WEPCO decision, EPA's NSR regulations were changed in 1992 and Colorado responded to the changes by adding these definitions to its Regulation 3.

Revisions were also submitted involving Part B of Colorado's Regulation 3. Part B describes the process air emission sources must go through to obtain a required construction permit prior to commencing operation. The State's submittals modified the exemptions from construction permitting, modified requirements for permit applicants, added restrictions on increment consumption, and added provisions regarding innovative control technology.

Colorado added language to its area classification section of Part B, Section V stating that within certain Class II areas in the State (for example, certain National Monuments that are not Class I areas), sulfur dioxide concentration increases over baseline concentrations are limited to the amount permitted in Class I areas as established under Section 163(b) of the federal CAA. Such increases are not allowed if the Federal Land Manager determines and the State concurs that there would be an adverse impact on air quality from the sulfur dioxide concentration increase.

In Section III.D.1.c(iii), Colorado modified the exemption from construction permitting for stationary internal combustion engines. The State also limited to 75 percent the amount that a new major stationary source or major modification may consume of an

[1] All references in this notice to particular section numbers are to the designated sections within Regulation 3.

applicable pollutant increment (Part B, Section VII.A.5). Sources may ask for a waiver from the limit.

II. Response to Comments

EPA received one letter from the State of Colorado dated December 8, 2010 that provided one comment on our November 8, 2010 **Federal Register** proposed action regarding the partial approval and partial disapproval of Colorado's SIP revisions to their Regulation 3. The comment addresses our proposed disapproval of the portion of the revision regarding sections IV.B.2 and IV.H.8 in Part B of Regulation 3. The revision changed the existing requirement for construction permit applicants to submit in their application an operating and maintenance plan and recordkeeping format (collectively, "O&M plan"). In its place, the revision would require the owner or operator to submit the O&M plan before final permit approval. In this section EPA responds to the comment made by the State.

Comment—Colorado expressed its concern that the disapproval would delay permit issuance, create inefficiencies, and result in increased need for resources. Colorado stated that the final version of the O&M plan is dependent on conditions of the issued permit and on performance testing after the source has been authorized to construct. As a result of the disapproval of this portion of the revision, Colorado believes that there will be insufficient information to submit and review the initial submission of the O&M plan, and therefore there will be inefficient use of resources when the State reviews both the initial and final versions of it. Colorado also expressed concern that disapproval of the provision would result in modifications of O&M plans having to be submitted as SIP revisions, a process that Colorado believes would cause additional delays. As a result, the State asked EPA to delay action on the portion of the revision regarding sections IV.B.2.

EPA Response—EPA notes that the State did not take issue with the basis for our proposed disapproval. In our proposal, we stated that the operating and maintenance plan and recordkeeping format appeared to be information on the operation of the source that was necessary to determine whether construction or modification of the source would violate the applicable portions of the control strategy or interfere with attainment or maintenance of a national standard. *See* 40 CFR 51.160(a), (c). Therefore, we reasoned, such information must be submitted by the owner or operator of the source and as a result must be subject to public comment. *See* 40 CFR 51.161(a). As the State acknowledges, the proposed revision removes the existing requirement that the information be submitted in the application and only requires that it be submitted before final permit approval. As EPA noted in the proposal (and the State does not dispute), this change does not ensure that the public has 30 days to comment on both the information and the permitting agency's analysis of the effect on air quality, as required by 40 CFR 51.161. Furthermore, the State did not take issue with our determination that such information was necessary under 40 CFR 51.160; and therefore, must be subject to public comment under 40 CFR 51.161. Thus, the State comment described above does not provide a basis for EPA to change its proposed disapproval. In response to the State's request that EPA delay action on the proposed revision, EPA notes that under a consent decree entered in the U.S. District Court for the District of Colorado, EPA must take final action on the submitted provision by December 31, 2010. (*WildEarth Guardians* v. *Jackson,* Civ. No. 09–2148 (D. Colo. 2009)).

EPA appreciates the State's concern for efficient processing of construction permits. However, requiring owners and operators to submit the O&M plan and recordkeeping format in their application for a construction permit is not unduly burdensome. If the application contains sufficient other information (such as the nature of the facility, processes, and emissions units) to enable the State to determine whether construction or modification of the source meets the requirements of 40 CFR 51.160(a), then the applicant is also in a position to submit an O&M plan and recordkeeping format. Furthermore, the State is then in a position to determine from the information in the application the controls and other applicable requirements that must be reflected in the final permit, and as a result modify the O&M plan accordingly. To the extent that performance testing subsequently requires modification of the O&M plan, the State does not need to submit a SIP revision for such modification. O&M plan revisions would constitute a modification of the construction permit to which the requirements of section 110(i) of the Act would not apply.

III. Section 110(l) of the CAA

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of the NAAQS or any other applicable requirement of the Act. Those portions of the revision to Colorado's Regulation 3 that we are approving satisfy section 110(l), because those portions do not relax existing SIP requirements. Instead, the portions of the June 20, 2003 and April 12, 2004 submittals EPA is approving increase stringency of existing requirements, clarify existing requirements, or remove obsolete requirements. Therefore, section 110(l) is satisfied.

IV. Final Action

We have evaluated Colorado's June 20, 2003 and April 12, 2004 submittals regarding revisions to the State's Regulation 3, Parts A and B. We are approving most of the revisions from the two submittals but are disapproving certain revisions within the June 20, 2003 submittal. Also, we are taking no action on the State-only requirements in sections I.B.40.c. and d. for nonroad engines, as we regard these as submitted only for informational purposes. We will take separate action on the portion of the June 20, 2003 and April 12, 2004 submittals regarding Regulation 3, Part A, Section II, Air Pollutant Emission Notice (APEN) Requirements.

What EPA Is Disapproving

The State added terms and definitions (Section I.B.69) in response to EPA's 1992 WEPCO rule. Under the definition of "modification" (I.B.36), the State also added provisions related to these definitions, including for pollution control projects (I.B.36.b (iii)(G) and I.B.69.d). On June 24, 2005, the Court of Appeals for the DC Circuit vacated the Pollution Control Project portion of the WEPCO rule as well as the corresponding portion of EPA's 2002 NSR rule (*State of New York et al.* v. *EPA,* 413 F.3d 3 (DC Cir. 2005)). Therefore, EPA is disapproving Part A, Section I.B.36.b(iii)(G) and Section I.B.69.d in Regulation 3.

EPA is disapproving the new provisions in Part A, Section IV.C. regarding emissions trading under permit caps. These new provisions apply to both construction permits and to CAA Title V operating permits. For operating permits, the provisions should not be incorporated into the federally enforceable version of the Colorado SIP. Instead, they should be submitted separately under 40 CFR 70.4(i) as a revision of Colorado's approved operating permit program. To the extent that these new provisions apply to Prevention of Significant Deterioration (PSD) or nonattainment NSR for major

sources or major modifications, they are not allowed by the regulations in 40 CFR 51.166 or 51.165. EPA provides a mechanism for establishing permit caps through plant wide applicability limitations (PALs). The provisions in IV.C for emissions trading under permit caps do not meet the requirements for PALs in 40 CFR 51.165(f) and 40 CFR 51.166(w). Therefore, EPA is disapproving the provisions for emissions trading under permit caps set forth in Section IV.C.

In Part A, Section V.F.5, Colorado expanded the acronym Lowest Achievable Emission Rate (LAER) as one instance of a regulation-wide style change that expanded many acronyms. The revision apparently inadvertently deleted the requirement that trading transactions may not be used inconsistently with or to circumvent requirements of LAER. EPA is disapproving this change because emissions trading must be consistent with other requirements of the CAA, including LAER.

Turning to Part B of Regulation 3, in Section III.D.1.c(iii), the State modified the requirements for stationary internal combustion engines to be exempt from construction permitting. Previously, all such engines were exempt if they had actual emissions of less than five tons per year or were rated less than fifty horsepower. Under the revision, in attainment areas such engines are exempt if they have uncontrolled actual emissions of less than ten tons per year or are rated less than one hundred horsepower; thus, more engines may be exempt from construction permitting under the revision. Under section 110(l) of the CAA, EPA cannot approve a SIP revision that would interfere with any applicable requirement concerning attainment or reasonable further progress, as defined in Section 171 of the CAA, or any other applicable requirement of the CAA. The State did not provide a demonstration or other analysis that the expansion of the exemption satisfies the requirements of section 110(l). Exempting a potentially greater number of stationary engines from construction permitting may result in increased emissions of criteria pollutants such as NOx. EPA therefore disapproves the revision to Section III.D.I.c(iii).

Finally, for the reasons discussed in the Response to Comments, EPA is disapproving the revision to Part B, Section IV.B.2 and Section IV.H.8 regarding operating and maintenance plans and recordkeeping formats.

What EPA Is Approving

The State added language to its definition of actual emissions (Section I.B.1.d) for electric utility steam generating units. The State defined actual emissions by allowing the actual emissions from the unit following a physical or operational change of the unit to equal the actual annual emissions of the unit provided the owner or operator can provide information from a five year period showing no emission increase resulting from the unit's physical or operational change. This revised definition is consistent with EPA's 1992 WEPCO rule discussed earlier in this proposed rule. Although a term used ("representative actual annual emissions") is that of the WEPCO rule, the substance of the revised definition is also consistent with current federal regulations in 40 CFR 51.165 and 51.166, and EPA, therefore, is approving the revised definition.

The State also modified its definition for commenced construction in Section I.B.13 by excluding certain construction activities from the requirement for a permit. Planning activities, site clearing and grading, ordering equipment and materials, storing of equipment, constructing personnel trailers, engineering and design changes, and geotechnical investigation do not require that a permit be issued prior to these activities. EPA is approving this change in the definition of commenced construction as it is consistent with EPA guidance interpreting the equivalent term, "begin actual construction."[2] As noted in that guidance, though, such activity, if undertaken prior to issuance of a permit, is at the risk of the owner or operator and would not guarantee that the permit would be forthcoming.

The revisions to Regulation 3 excluded the consideration of clean coal technology demonstration projects as a major modification when the projects do not result in an increase in the potential to emit of any regulated pollutant. EPA is approving this revision since the revision is consistent with the Federal NSR regulations described at 40 CFR 51.165 and 51.166.

Earlier in this final rule EPA stated that we were disapproving Pollution Control Projects as defined in Section I.B.36.b(iii)(G) and Section I.B.69.d of Colorado's Regulation 3. However, the remainder of the revised definitions within Part A, Section I.B.36 and Section I. B. 69 are consistent with EPA's 1992 WEPCO rule and with current federal NSR regulations. EPA is therefore approving the definitions for clean coal technology, electric utility steam generating unit, reactivation of very clean coal-fired electric utility steam generating unit, repowering, representative actual annual emissions, temporary clean coal technology demonstration project and wet screening operations.

Colorado revised its fee schedule in Part A, Section VI.D by eliminating the dollar amount of the annual fee and referring the fee applicant to provisions provided in Colorado's Revised Statutes Section 25–7–114.7. Colorado also revised the filing of claims regarding confidential information and how the State elevates such claims (Part A, Section VII.). EPA is approving these revisions.

Turning to Part B of Regulation 3, EPA is approving the construction permit review requirements regarding RACT for minor sources in attainment/maintenance areas that were added in Part B, Section IV.D.3.e. These requirements mirror the existing requirements in Section IV.D.2.d for minor sources in nonattainment areas.

As noted in Section II of this proposed rule, in Part B, Section V of Colorado's Regulation 3, the State made the restrictions on maximum allowable increases of sulfur dioxide concentrations over baseline concentrations in Class I areas also applicable to certain Class II areas, such as certain National Monuments that are not Class I areas. This change strengthens the SIP by making the more stringent Class I restrictions also applicable in the listed Class II areas; EPA is therefore approving the revision.

Increment consumption restrictions were added to Part B, Section VII.A.5 of Colorado's Regulation 3. EPA is approving this revision as the revision is more stringent than federal requirements regarding increment consumption.

Finally, the State added Part B, Section IX regarding the use of innovative control technology. EPA is approving this revision since the revision is consistent with the federal NSR regulations described at 40 CFR 51.166(b)(19).

Minor changes designed to fix ambiguous language, to make the definitions more readable or to delete obsolete or duplicative definitions were made throughout the entirety of Parts A and B. These changes are approved by EPA.

[2] Memorandum from Edward E. Reich entitled Construction Activities prior to Issuance of a PSD Permit with Respect to "Begin Actual Construction" (March 28, 1986).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Clean Air Act; 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 SIP 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 5, 2011. 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. 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, Incorporation by Reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 29, 2010.

Carol Rushin,

Deputy Regional Administrator, Region 8.

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 G—Colorado

■ 2. Section 52.320 is amended by adding paragraph (c)(116) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(116) On June 20, 2003, the State of Colorado submitted revisions to Colorado's Regulation 3 Regulation, 5 CCR 1001–5, that place restrictions on increment consumption, add innovative control technology as an alternative to BACT requirements, and changed or deleted numerous definitions in Part A. The State in Part B revised construction permit review requirements regarding RACT for minor sources in attainment/maintenance areas. The State made the restrictions on maximum allowable increases of sulfur dioxide concentrations over baseline concentrations in Class I areas also applicable to certain Class II areas, such as certain National Monuments that are not Class I areas. Increment consumption restrictions were added to limit major stationary sources from consuming more than 75 percent of an applicable increment. The State added the use of innovative control technology by a source in lieu of BACT requirements in order to encourage the use of such technology. The revisions to both Parts and B also included minor changes designed to fix ambiguous language, to make the definitions more readable or to delete obsolete or duplicative definitions. On April 12, 2004, the State of Colorado submitted a minor revision to Part A, Section I.A regarding the availability of material incorporated by reference.

(i) Incorporation by reference.

(A) Regulation 3, 5 CCR 1001–5, AIR CONTAMINANT EMISSIONS NOTICES, Part A, Concerning General Provisions Applicable to Construction Permits and Operating Permits, effective December 2002 and April 2003 with the following exceptions:

(1) Section I.B.36.b.(iii)(G) provisions related to Pollution Control Projects

(2) Section I.B.40.c.(ii) Submittal of an application for a nonroad engine permit, State-only requirement

(3) Section IV. C., Emissions Trading under Permit Caps

(4) Section V.F.5, Criteria for Approval of all Transactions, deleting the requirement that trading transactions may not be used inconsistently with or to circumvent requirements of LAER

(B) Regulation 3, 5 CCR 1001–5, AIR CONTAMINANT EMISSIONS NOTICES, Part B, Concerning Construction Permits including Regulations for the Prevention of Significant Deterioration (PSD), Area Classifications, Part B, Section V.B., effective December 2002 with the following exceptions:

(*1*) Section III.D.1.c(iii), Exemption from Construction Permit Requirements, Uncontrolled Emissions

(*2*) Section IV.B.2, Application for a Construction Permit, and Section IV.H.8, Application for a Final Permit, regarding operating and maintenance plans and recordkeeping formats.

[FR Doc. 2011–2508 Filed 2–3–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0098; FRL–8861–9]

Sodium and Potassium Salts of N-alkyl (C_8–C_{18})-beta-iminodipropionic acid; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of sodium and potassium salts of N-alkyl (C_8–C_{18})-beta-iminodipropionic acid where the C_8–C_{18} is linear and may be saturated and/or unsaturated, (CAS Reg. Nos. 110676–19–2, 3655–00–3, 61791–56–8, 14960–06–6, 26256–79–1, 90170–43–7, 91696–17–2, and 97862–48–1), herein referred to in this document as SSNAs, when used as inert ingredients for pre- and post-harvest uses and for application to animals at a maximum of 30% by weight in pesticide formulations. The Joint Inerts Task Force (JITF), Cluster Support Team Number 14, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting the establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of SSNAs.

DATES: This regulation is effective February 4, 2011. Objections and requests for hearings must be received on or before April 5, 2011, 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: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0098. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Karen Samek, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (703) 347–8825; *e-mail address: samek.karen@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. Potentially affected entities may include, but are not limited to:

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.gpoaccess.gov/ecfr.* To access the harmonized test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select "Test Methods and Guidelines."

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 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–2009–0098 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 April 5, 2011. 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 that does not contain any 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 a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2009–0098, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Exemption

In the **Federal Register** of March 19, 2010 (75 FR 132771) (FRL–8813–2), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP 9E7631) by The Joint Inerts Task Force, Cluster Support Team 14 (CST 14), c/o CropLife America, 1156 15th Street, NW., Suite 400, Washington, DC 20005. The petition requested that 40 CFR 180.910 and 40