

procedures do not apply to an agency rulemaking to the extent that it involves a foreign affairs function of the United States. CBP has determined that these interim amendments involve a foreign affairs function of the United States because they modify regulatory provisions that implement preferential tariff treatment provisions under the BFTA. Therefore, the rulemaking requirements under the APA do not apply and this interim rule will be effective upon publication. However, CBP is soliciting comments in this interim rule and will consider all comments received before issuing a final rule.

#### Executive Order 12866

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and, therefore, is specifically exempted by section 3(d)(2) of Executive Order 12866.

#### Regulatory Flexibility Act

Because no notice of proposed rulemaking is required under the APA for the reasons described above, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

#### Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP Regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

#### List of Subjects in 19 CFR Part 10

Customs duties and inspection, Exports, Imports, Preference programs, Trade agreements.

#### Amendments to the CBP Regulations

■ Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

#### PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for part 10 and the specific authority for subpart N continue to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the

United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

\* \* \* \* \*

Section 10.801 through 10.829 also issued under 19 U.S.C. 1202 (General Note 30, HTSUS) and Pub. L. 109–169, 119 Stat. 3581 (19 U.S.C. 3805 note).

■ 2. Section 10.817 is amended by revising paragraph (a)(2) to read as follows:

#### § 10.817 Imported directly.

(a) \* \* \*

(2) If the shipment passed through the territory of a non-Party, the good, upon arrival in the territory of a Party, will be considered to be “imported directly” only if the good did not undergo production, manufacturing, or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party. Operations that may be performed outside the territories of the Parties include inspection, removal of dust that accumulates during shipment, ventilation, spreading out or drying, chilling, replacing salt, sulfur dioxide, or aqueous solutions, replacing damaged packing materials and containers, and removal of units of the good that are spoiled or damaged and present a danger to the remaining units of the good, or to transport the good to the territory of a Party.

\* \* \* \* \*

■ 3. Section 10.822 is amended by revising paragraph (a)(2) to read as follows:

#### § 10.822 Transshipment of non-originating fabric or apparel goods.

(a) \* \* \*

(2) If the shipment passed through the territory of a non-Party, the good, upon arrival in the territory of a Party, will be considered to be “imported directly” only if the good did not undergo production, manufacturing, or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party. Operations that may be performed outside the territories of the Parties include inspection, removal of dust that accumulates during shipment, ventilation, spreading out or drying, chilling, replacing salt, sulfur dioxide, or aqueous solutions, replacing damaged packing materials and containers, and removal of units of the good that are spoiled or damaged and present a danger to the remaining units

of the good, or to transport the good to the territory of a Party.

\* \* \* \* \*

Approved: May 19, 2009.

**Jayson P. Ahern,**

*Acting Commissioner, U.S. Customs and Border Protection.*

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. E9–11986 Filed 5–21–09; 8:45 am]

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## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### 29 CFR Part 2550

#### RIN 1210–AB13

### Investment Advice—Participants and Beneficiaries

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Final rule; delay of effective date and applicability date.

**SUMMARY:** This document delays the effective and applicability dates of final rules under the Employee Retirement Income Security Act, and parallel provisions of the Internal Revenue Code of 1986, relating to the provision of investment advice to participants and beneficiaries in individual account plans, such as 401(k) plans, and beneficiaries of individual retirement accounts (and certain similar plans). These rules were published in the **Federal Register** on January 21, 2009, and were to have become effective and applicable on March 23, 2009, but were delayed until May 22, 2009, by a final rule published on March 20, 2009 (74 FR 11847). This document further delays the effective and applicability dates of these final rules from May 22, 2009, until November 18, 2009, to allow additional time for the Department to evaluate questions of law and policy concerning the rules.

**DATES:** The effective and applicability date of the rule amending 29 CFR part 2550, published January 21, 2009, at 74 FR 3822, delayed March 20, 2009, at 74 FR 11847 is further delayed until November 18, 2009.

**FOR FURTHER INFORMATION CONTACT:** Fred Wong, Office of Regulations and Interpretations, Employee Benefits Security Administration (EBSA), (202) 693–8500. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** On January 21, 2009, the Department of Labor published final rules on the

provision of investment advice to participants and beneficiaries of participant-directed individual account plans and to beneficiaries of individual retirement accounts (74 FR 3822). The rules contain regulations implementing a statutory prohibited transaction exemption under ERISA Section 408(b)(14) and Section 408(g) and an administrative class exemption granting additional relief. As published, these rules were to be effective on March 23, 2009. Paragraph (g) of Section 2550.408g-1 provided that the rule would apply to covered transactions occurring on or after March 23, 2009.

By memorandum dated January 20, 2009, Rahm Emanuel, Assistant to the President and Chief of Staff, directed Agency Heads to consider extending for 60 days the effective date of regulations that have been published in the **Federal Register** but not yet taken effect. The memorandum further advised that, where such regulations are extended, agencies should allow 30 days for interested persons to comment on issues of law and policy raised by the rules. In accordance with that memorandum, and taking into account the considerations listed in the Memorandum of January 21, 2009, from Peter R. Orszag, Director of the Office of Management and Budget, the Department published in the **Federal Register** on February 4, 2009, a document seeking comment on a proposed 60 day extension to the effective dates for these rules until May 22, 2009, and a proposed conforming amendment to the applicability date of Section 2550.408g-1 (74 FR 6007). The document also requested comment on issues of law and policy raised by the final rules. The Department indicated that upon completion of its review, it might decide to allow the rules to take effect, issue a further extension, withdraw the rules, or propose amendments. The comment period on the proposed extension ended on February 18, 2009. The comment period on issues of law and policy concerning the final rules ended on March 6, 2009. In response, the Department received 27 comment letters.<sup>1</sup> A number of these comments expressed the view that the final rules raise significant issues of law and policy. Among these, some expressed disagreement with the final rules' interpretation of the statutory exemption, and further questioned the adequacy of the class exemption's conditions in mitigating against the

potential for investment adviser self-dealing.

On March 20, 2009, the Department published in the **Federal Register** a document adopting the proposed 60 day delay of the effective and applicability date of the final rule published on January 21, 2009, for agency review of questions of law and policy raised by commenters (74 FR 11847). The Department believes that the complexity and significance of the issues involved justify delaying the effective and applicability dates of the final rule for an additional 180 days in order to afford the Department time for further review. Accordingly, the Department is adopting herein a 180 day delay of the effective and applicability date of the final rule published on January 21, 2009. With the adoption of this delay, the effective and applicability dates of the final rule will be November 18, 2009.

#### List of Subjects in 29 CFR Part 2550

Employee benefit plans, Exemptions, Fiduciaries, Investments, Pensions, Prohibited transactions, Reporting and recordkeeping requirements, and Securities.

■ For the reasons set forth above, the publication on January 21, 2009 (74 FR 3822), of the final rule amending 29 CFR Part 2550, is further amended as follows:

#### PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

■ 1. The authority citation for part 2550 is revised to read as follows:

**Authority:** 29 U.S.C. 1135; and Secretary of Labor's Order No. 6-2009, 74 FR 21524 (May 7, 2009). Secs. 2550.401b-1, 2550.408b-1, 2550.408b-19, 2550.408g-1, and 2550.408g-2 also issued under sec. 102, Reorganization Plan No. 4 of 1978, 5 U.S.C. App. Sec. 2550.401c-1 also issued under 29 U.S.C. 1101. Sections 2550.404c-1 and 2550.404c-5 also issued under 29 U.S.C. 1104. Sec. 2550.407c-3 also issued under 29 U.S.C. 1107. Sec. 2550.404a-2 also issued under 26 U.S.C. 401 note (sec. 657(c)(2), Pub. L. 107-16, 115 Stat. 38, 136 (2001)). Sec. 2550.408b-1 also issued under 29 U.S.C. 1108(b)(1). Sec. 2550.408b-19 also issued under sec. 611(g)(3), Public Law 109-280, 120 Stat. 780, 975 (2006).

#### § 2550.408g-1 [Amended]

■ 2. Section 2550.408g-1 is amended by removing the date "May 22, 2009" and adding in its place "November 18, 2009" in paragraph (g).

Signed at Washington, DC, this 19th day of May 2009.

**Alan D. Lebowitz,**

*Deputy Assistant Secretary for Program Operations, Employee Benefits Security Administration, Department of Labor.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2007-1134; FRL-8908-1]

### Approval and Promulgation of Air Quality Implementation Plans; Michigan; Consumer Products Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a request submitted by the Michigan Department of Environmental Quality (MDEQ) on October 26, 2007, to revise the Michigan State Implementation Plan (SIP). The State has submitted revisions to two rules in Part 6, "Emission Limitations and Prohibitions-Existing Sources of Volatile Organic Compound (VOC) Emissions." First, the State has revised R 336.1660 by adopting by reference, with some modifications, the Ozone Transport Commission's September 13, 2006, Model Rule (Model Rule). Second, the State has amended R 336.1661 by adopting by reference the Federal definition of "volatile organic compound."

**DATES:** This direct final rule will be effective July 21, 2009, unless EPA receives adverse comments by June 22, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-1134, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

3. *Fax*: (312) 692-2551.

4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77

<sup>1</sup> These comments are available on the Department's Web site at: <http://www.dol.gov/ebsa/regs/cmt-investmentadvicefinalrule.html>.