

require the IRS to expedite, reconsider, or review at a higher level an action taken with respect to a determination or collection of a tax liability.

(4) *Examples.* The following examples assume the existence of significant hardship:

Example 1. J contacts a local taxpayer advocate because a wage levy is causing financial difficulties. The NTA determines that the levy should be released as it is causing economic hardship (within the meaning of section 6343(a) and Treas. Reg. § 301.6343-1(b)(4)). The NTA may issue a TAO ordering the IRS to release the levy in whole or in part by a specified date.

Example 2. The IRS rejects K's offer in compromise. K files a Form 911, "Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order)." The NTA discovers facts that support acceptance of the offer in compromise. The NTA may issue a TAO ordering the IRS to reconsider its rejection of the offer or to review the rejection of the offer at a higher level. The TAO may include NTA analysis of and recommendation for resolving the case.

Example 3. L files a protest requesting Appeals consideration of IRS's proposed denial of L's request for innocent spouse relief. Appeals advises L that it is going to issue a Final Determination denying the request for innocent spouse relief. L files a Form 911, "Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order)." The NTA reviews the administrative record and concludes that the facts support granting innocent spouse relief. The NTA may issue a TAO ordering Appeals to refrain from issuing a Final Determination and reconsider or review at a higher level its decision to deny innocent spouse relief. The TAO may include TAS analysis of and recommendation for resolving the case.

(d) *Issuance.* A TAO may be issued to any office, operating division, or function of the IRS. A TAO shall apply to persons performing services under a qualified tax collection contract (as defined in section 6306(b)) to the same extent and in the same manner as the order applies to IRS employees. A TAO will not be issued to IRS Criminal Investigation division (CI), or any successor IRS division responsible for the criminal investigation function, if the action ordered in the TAO could reasonably be expected to impede a criminal investigation. CI will determine whether the action ordered in the TAO could reasonably be expected to impede an investigation. Generally, a TAO may not be issued to the Office of Chief Counsel.

* * * * *

(f) *Effective applicability date.* These regulations are applicable for TAOs issued on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal**

Register, except that paragraph (e) is applicable beginning March 20, 1992.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E9-17747 Filed 7-24-09; 8:45 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2009-0023; FRL-8935-2]

Approval and Promulgation of Implementation Plans; Kentucky; Variance of Avis Rent-A-Car and Budget Rent-A-Car Facilities Located at the Cincinnati/Northern Kentucky International Airport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the source-specific State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky on February 4, 2009, for the purpose of removing Stage II vapor control requirements at Avis Rent-A-Car, and Budget Rent-A-Car facilities located at the Cincinnati/Northern Kentucky International Airport. This proposed revision to the SIP is approvable based on the December 12, 2006, EPA policy memorandum from Stephen D. Page entitled *Removal of Stage II Vapor Recovery in Situations Where Widespread Use of Onboard Refueling Vapor Recovery is Demonstrated*. This action is being taken pursuant to Section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before August 26, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0023 by one of the following method:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. *E-mail:* benjamin.lynora@epa.gov.
3. *Fax:* (404) 562-9019.
4. *Mail:* "EPA-R04-OAR-2009-0023", Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier:* Lynora Benjamin, Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management

Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. "EPA-R04-OAR-2009-0023". EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access", which means EPA will not know your identity or contact information unless you provide it in the body of your comments. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, is not placed on the Internet and will be publicly available only in the hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticide and

Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mohammad Madjdinasab, Regulatory Development Section; Air Planning Branch; Air, Pesticides and Toxics Management Division; U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9026. Mr. Madjdinasab can also be reached via electronic mail at madjdinasab.mohammad@epa.gov.

SUPPLEMENTARY INFORMATION:

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- I. Background
- II. Analysis of the State's Submittals
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I. Background

Under the CAA Amendments of 1990 (See 56 FR 56694, effective January 6, 1992), EPA designated and classified three Kentucky counties (Boone, Campbell, and Kenton in the Northern Kentucky Area) and four Ohio counties (Butler, Clermont, Hamilton, and Warren) as a "moderate" ozone nonattainment area as part of the Cincinnati/Northern Kentucky Area. The designation was based on the Area's 1-hour ozone design value of 0.157 parts per million (ppm) for the three year period of 1988–1990. Pursuant to the requirements of section 182(b)(3) of the CAA, the Commonwealth of Kentucky, Energy and Environment Cabinet, Division of Air Quality (KDAQ) developed Kentucky Administrative Regulations (KAR) 401 KAR 59:174 Stage II controls at gasoline dispensing facilities, and submitted the rule to EPA for approval as part of Kentucky's ozone SIP. The rule was adopted by the Commonwealth of Kentucky on January 12, 1998, and approved by EPA into the SIP on December 8, 1998 (63 FR 675896). Under this regulation, gasoline dispensing facilities with a monthly throughput of 25,000 gallons or more located in a Kentucky county in which the entire county is classified as severe, serious, or moderate nonattainment for ozone, are required to install Stage II vapor recovery systems.

On October 29, 1999, having implemented all measures required of

Kentucky to that date for moderate ozone nonattainment areas under the CAA, and with three years of data (1996–1998) showing compliance with the 1-hour ozone standard, KDAQ submitted to EPA an ozone maintenance plan and request for redesignation of the Cincinnati/Northern Kentucky area to attainment status. The maintenance plan, as required under section 175A of the CAA, showed that nitrogen oxides and volatile organic compound (VOC) emissions in the area would remain below the 1990 "attainment year" levels. In making these projections, KDAQ factored in the emissions benefit (primarily VOCs) of the area's Stage II program, and did not remove this program as part of its 1-hour ozone SIP. The redesignation request and maintenance plan were approved by EPA, effective June 19, 2000 (65 FR 37879). Since the Kentucky Stage II program was already in place and had been included in the State's October 29, 1999, redesignation request and 1-hour ozone maintenance plan for the Area, KDAQ elected not to remove the program from the SIP at that time.

On April 6, 1994, EPA promulgated regulations requiring the phase-in of on-board refueling vapor recovery (ORVR) systems on new motor vehicles. Under Section 202(a)(6) of the CAA, moderate ozone nonattainment areas are not required to implement Stage II vapor recovery programs after promulgation of ORVR standards.

II. Analysis of Kentucky's Submittal

A. Requested Source Specific Exemption of Stage II Requirements

EPA's primary consideration for determining the approvability of Kentucky's request to exempt Stage II vapor control requirements for Avis Rent-A-Car and Budget Rent-A-Car facilities located at the Cincinnati/Northern Kentucky International Airport is whether this requested action complies with section 110 (a)(1) of the CAA. Below is EPA's analysis of these considerations.

1. Federal Requirements for Stage II

States were required to adopt Stage II rules for all areas classified as "moderate" or worse under section 182(b)(3) of the CAA. However, section 202(a)(6) of the CAA states that "the requirements of section 182(b)(3) (relating to Stage II gasoline vapor recovery) for areas classified under section 181 as moderate for ozone shall not apply after promulgation of such standards." ORVR regulations were promulgated by EPA on April 6, 1994 (see 59 FR 16262, 40 CFR 86.001 and 40

CFR 86.098). As a result, the CAA no longer requires moderate areas to impose Stage II controls under section 182(b)(3), and such areas may seek SIP revisions to remove such requirements from their SIP, subject to section 110(l) of the Act. EPA's policy memorandum related to ORVR, dated March 9, 1993, and June 23, 1993, provided further guidance on an allowance for removing Stage II requirements from certain areas. The policy memorandum dated March 9, 1993 states "When onboard rules are promulgated, a State may withdraw its stage II rules for moderate areas from the SIP (or from consideration as a SIP revision) consistent with its obligation under sections 182(b)(3) and 202(a)(6), so long as withdrawal will not interfere with any other applicable requirement of the Act." Because Kentucky is taking credit for Stage II in its maintenance plan, this action is subject to section 110(l) of the CAA, which states:

Plan Revision—Each revision to an implementation plan submitted by a State under this chapter shall be adapted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter.

As such, Kentucky must make a demonstration of noninterference in order to remove Stage II from the SIP for Avis Rent-A-Car and Budget Rent-A-Car facilities located at the Cincinnati/Northern Kentucky International Airport.

2. Cincinnati—Hamilton Interstate Area Air Quality Status

On April 30, 2004, EPA designated the Cincinnati/Northern Kentucky Area, which consists of Boone, Campbell, and Kenton Counties in Kentucky (and Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio) as nonattainment for the 1997 8-hour ozone national ambient air quality standard (NAAQS) (69 FR 23857). The Cincinnati/Northern Kentucky Area remains designated as nonattainment, and has 2005–2007 and 2006–2008 8-hour ozone design values of 0.086 pp and 0.085 ppm, respectively. On March 12, 2008, EPA strengthened the 8-hour ozone NAAQS by revising it to 0.075. Designations for this new 8-hour NAAQS are scheduled for March 2010.

On January 5, 2005, EPA published designations for the 1997 annual and 24-hour PM_{2.5} standard (70 FR 944). The Cincinnati/Northern Kentucky Area was designated as an attainment area for the 1997 24-hour PM_{2.5} standard. However,

this same area was designated as nonattainment for the 1997 annual PM_{2.5} standard and has remained as a nonattainment area for that standard. Compliance with the 1997 PM_{2.5} annual standard is 15 microgram per cubic meter (ug/m³). The annual PM_{2.5} design value for Cincinnati/Northern Kentucky area for the period of 2005–2007 was 17.3 ug/m³.

On October 17, 2006 and effective December 18, 2006, EPA published a rulemaking regarding the NAAQS for the PM_{2.5} standard. Specifically, EPA retained the annual PM_{2.5} standard of 15 ug/m³ and revised 24-hour PM_{2.5} standard, changing it from 65 ug/m³ to 35 ug/m³. The revision of the 24-hour PM_{2.5} standard in 2006, triggered the designation process for the standard. Based on 2006–2008 monitoring data, the design value for the Cincinnati/Northern Kentucky Area is 34.9 ug/m³, which is in compliance with the standard. The Commonwealth of Kentucky submitted a letter dated February 10, 2009, which requested that the Cincinnati/Northern Kentucky Area be classified attainment based on 2006–2008 data. EPA has yet to publish the final rulemaking with the final designations for the revised 24-hour PM_{2.5} standard.

3. Non-Interference Demonstration for Exemption of Stage II Requirements

This proposed source-specific revision to the Kentucky SIP is approvable based on the CAA and the December 12, 2006, EPA memorandum from Stephen D. Page entitled, *Removal of Stage II Vapor Recovery in Situations Where Widespread Use of On-board Refueling Vapor Recovery is Demonstrated* which provides guidance to States concerning the removal of Stage II gasoline vapor recovery systems where States demonstrate to EPA that widespread use of ORVR has occurred in specific portions of the motor vehicle fleet. States were required to adopt Stage II rules for such areas under section 182(b)(3) of the CAA. However, Section 202(a)(6) of the CAA states that “The requirements of section 182(b)(3) of this title (relating to stage II gasoline vapor recovery) for areas classified under section 181 of this title as moderate for ozone shall not apply after promulgation of such standards and the Administrator may, by rule, revise or waive the application of the requirements of such section 182(b)(3) of this title for areas classified under section 181 of this title as serious, severe, or extreme for ozone * * *.” Section 202 On-board Refueling Vapor Recovery regulations were promulgated by EPA on April 6, 1994, and the

requirements of these regulations are currently being phased in. In this circumstance, EPA does believe that a determination of “widespread” use is necessary to provide for the source specific SIP revision for Stage II requirements for Avis Rent-A-Car and Budget Rent-A-Car facilities. EPA’s December 12, 2006, memorandum states that if 95 percent of the vehicles in a fleet have ORVR, then widespread use will likely have been demonstrated for that fleet. The memorandum addresses the following specific fleets:

- Initial fueling of new vehicles at automobile assembly plants;
- Refueling of rental cars at rental car facilities;
- Refueling of flexible fuel vehicles at E85 dispensing pumps.

Most large rental car companies rent current model vehicles that are equipped with ORVR and vehicle models are changed to current year models every year or two. The Commonwealth of Kentucky has confirmed that 100 percent and not less than 95 percent of vehicles at Avis Rent-A-Car and Budget Rent-A-Car facilities located at the Cincinnati/Northern Kentucky International Airport are equipped with ORVR.

CAA section 110(a)(2)(D)(i)(I) prohibits facilities within the State from emitting any air pollutants in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standards. The only pollutant emitted by refueling vehicles is VOC, which is a precursor of ozone, and its emissions are mitigated by use of vehicles equipped with ORVR. Kentucky has adequately demonstrated that ORVR has supplanted Stage II requirements at Avis Rent-A-Car and Budget Rent-A-Car facilities.

III. Proposed Action

EPA is proposing to approve the aforementioned source-specific SIP revision request from Kentucky. VOC emissions from vehicles at Avis Rent-A-Car and Budget Rent-A-Car facilities are controlled by ORVR, therefore, we conclude that removal of Stage II requirements at these facilities would not result in an increase of VOC emissions, and thus would not contribute to ozone formation. The Commonwealth is seeking to remove this requirement for these rent-a-car facilities and has fully satisfied the requirements of Section 110(l) of the CAA. Therefore, we are proposing to approve this source-specific SIP revision, as it is consistent with Section 110 of CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. Accordingly, this proposed 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 proposed 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 SIP is not approved to apply in an Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal laws.

List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Volatile organic compounds, Ozone, Sulfur oxides, Nitrogen dioxide.

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

Dated: July 7, 2009.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

[FR Doc. E9-17823 Filed 7-24-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R09-OAR-2009-0353; FRL-8935-3]

Revisions to the California State Implementation Plan, California Air Resources Board Consumer Products Regulations; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The EPA is announcing an extension of the public comment period for the proposed rule entitled "Revisions to the California State Implementation Plan, California Air Resources Board Consumer Products Regulations." The proposed rule was initially published in the **Federal Register** on June 26, 2009. Written comments on the proposed rule were to be submitted to EPA on or before July 27, 2009 (30-day comment period). The EPA is extending the public comment period until August 27, 2009.

DATES: The comment period for the proposed rule published June 26, 2009 (74 FR 30481), is extended. Comments must be received on or before August 27, 2009.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2009-0353, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* steckel.andrew@epa.gov.

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information

provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT:

Stanley Tong, EPA Region IX, (415) 947-4122, tong.stanley@epa.gov.

SUPPLEMENTARY INFORMATION: The proposed rule was signed by the Acting Regional Administrator on June 17, 2009 and published in the **Federal Register** on June 26, 2009 (74 FR 30481).

The proposed action provided a 30-day public comment period. EPA has received a request for an additional 30 days to comment on the proposed rule and is granting that request. Therefore, EPA is extending the comment period until August 27, 2009.

Dated: July 17, 2009.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. E9-17832 Filed 7-24-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[EPA-HQ-OAR-2008-0080; FRL-8935-1]

RIN 2060-AO98

National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing national emissions standards for control of hazardous air pollutants from prepared feeds manufacturing facilities. The proposed emissions standards for new and existing sources are based on EPA's proposed determination as to what constitutes the generally available control technology or management practices for the area source category.

DATES: Comments must be received on or before August 26, 2009, unless a public hearing is requested by August 6, 2009. If a hearing is requested on the proposed rules, written comments must be received by September 10, 2009. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by Office of Management and Budget (OMB) on or before August 26, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0080, may be submitted by one of the following methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *Agency Web Site:* <http://www.epa.gov/oar/docket.html>. Follow the instructions for submitting comments on the EPA Air and Radiation Docket Web Site.

• *E-mail:* Comments may be sent by electronic mail (e-mail) to a-and-r-docket@epa.gov, include Docket ID No. EPA-HQ-OAR-2008-0080 in subject line of the message.

• *Fax:* Fax your comments to: (202) 566-9744, Docket ID No. EPA-HQ-OAR-2008-0080.

• *Mail:* Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Docket ID No. EPA-HQ-OAR-2008-0080. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory