

**SUMMARY:** The Department of State is adding Eritrea to its regulations on prohibited exports and sales to certain countries as a result of its designation as a country not cooperating fully with antiterrorism efforts.

**DATES:** This rule is effective October 3, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Nicholas Memos, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663-2804 or Fax (202) 261-8199; E-mail [DTCResponseTeam@state.gov](mailto:DTCResponseTeam@state.gov).

**SUPPLEMENTARY INFORMATION:** On May 14, the Deputy Secretary of State determined that six countries, Cuba, Eritrea, Iran, North Korea, Syria and Venezuela, are not cooperating fully with anti-terrorism efforts (73 FR 29172). As a result of this determination, Section 40A of the Arms Export Control Act, as amended (22 U.S.C. 2781), prohibits the sale or licensing for export of defense articles and defense services to those countries effective October 1. This rule adds Eritrea to the list of countries identified in 22 CFR 126.1(a).

**Regulatory Analysis and Notices**

*Administrative Procedure Act*

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. 553 and 554.

*Regulatory Flexibility Act*

Since this amendment is not subject to the procedures in 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

*Unfunded Mandates Act of 1995*

This amendment does not involve a mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Small Business Regulatory Enforcement Fairness Act of 1996*

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

*Executive Orders 12372 and 13132*

This amendment will not have substantial direct effects on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this amendment.

*Executive Order 12866*

This amendment is exempt from review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

*Paperwork Reduction Act*

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

**List of Subjects in 22 CFR Part 126**

Arms and munitions, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Part 126 is amended as follows:

**PART 126—GENERAL POLICIES AND PROVISIONS**

■ 1. The authority citation for Part 126 continues to read as follows:

**Authority:** Secs. 2, 38, 40, 42 and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791 and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p.79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205; 3 CFR, 1994 Comp., p.899; Sec. 1225, Pub. L. 108-375.

■ 2. Section 126.1 is amended by revising paragraph (a) as follows:

**§ 126.1 Prohibited exports and sales to certain countries.**

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Belarus, Cuba, Eritrea, Iran, North Korea, Syria, and Venezuela. This policy also applies to countries with respect to which the United States maintains an arms embargo (e.g., Burma, China, Liberia, and Sudan) or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. Information regarding certain other embargoes appears elsewhere in this section. Comprehensive arms

embargoes are normally the subject of a State Department notice published in the **Federal Register**. The exemptions provided in the regulations in this subchapter, except § 123.17 of this subchapter, do not apply with respect to articles originating in or for export to any proscribed countries, areas, or persons in this § 126.1.

\* \* \* \* \*

Dated: September 25, 2008.

**John C. Rood,**

*Acting Under Secretary for Arms Control and International Security, Department of State.*

[FR Doc. E8-23575 Filed 10-3-08; 8:45 am]

**BILLING CODE 4710-25-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 50**

[EPA-HQ-OAR-2005-0159; FRL-8725-5]

**RIN 2060-AP28**

**The Treatment of Data Influenced by Exceptional Events (Exceptional Event Rule): Revised Exceptional Event Data Flagging Submittal and Documentation Schedule To Support Initial Area Designations for the 2008 Ozone NAAQS**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to amend the Exceptional Events Rule to provide a revised exceptional event data flagging and documentation schedule for ozone data that may be used for designations under the 2008 ozone national ambient air quality standards (NAAQS). The Exceptional Events Rule states that when EPA sets a NAAQS for a new pollutant or revises the NAAQS for an existing pollutant, EPA may revise or set a new schedule for flagging data for those NAAQS. EPA recently revised the primary and secondary ozone NAAQS to protect public health and welfare; the revised standards became effective on May 27, 2008. Consistent with the process envisioned in the Exceptional Events Rule, this direct final action revises the dates for flagging data and submitting documentation regarding exceptional events under the revised ozone NAAQS. This revised schedule allows EPA to fully consider state requests for exceptional event concurrence prior to EPA making final designations.

**DATES:** The direct final rule is effective on December 22, 2008 without further notice, unless EPA receives adverse

comment by November 20, 2008. If EPA receives an adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2005-0159, by one of the following methods:

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

- *E-mail*: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Attention Docket ID No. EPA-HQ-OAR-2005-0159.

- *Fax*: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2005-0159.

- *Mail*: EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA-HQ-OAR-2005-0159, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

- *Hand Delivery*: EPA Docket Center (Air Docket), Attention Docket ID No. EPA-HQ-OAR-2005-0159, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room 3334; Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2005-0159. 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 information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. 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 and 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 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 EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

#### FOR FURTHER INFORMATION CONTACT:

Thomas E. Link, Air Quality Planning Division, Office of Air Quality Planning and Standards, Mail Code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: 919-541-5456; fax number: 919-541-0824; e-mail address: [link.tom@epa.gov](mailto:link.tom@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Outline

- I. Why Is EPA Using a Direct Final Rule?
- II. Does This Action Apply to Me?
- III. What Should I Consider As I Prepare My Comments?
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  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
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  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

- I. National Technology Transfer Advancement Act

- J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

- K. Congressional Review Act

- L. Judicial Review

#### I. Why Is EPA Using a Direct Final Rule?

This action provides for a revised schedule to flag data and submit documentation related to exceptional events that influence ozone data which may affect designations under the recently revised ozone NAAQS. This action creates no additional regulatory requirements. We are publishing this direct final rule because we view this as a noncontroversial action and anticipate no adverse comment.

In the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule for this action to revise the schedule for flagging and documenting ozone exceptional events data if relevant adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives an adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

#### II. Does This Action Apply to Me?

States are responsible for identifying air quality data that they believe warrant special consideration, including data affected by exceptional events. States identify such data by flagging (making a notation in a designated field in the electronic data record) specific values in the Air Quality System (AQS) database. States must flag the data and submit a justification that the data are affected by exceptional events if they wish EPA to consider excluding the data in determining whether or not an area is attaining the revised ozone NAAQS.

All states that include areas that could exceed the ozone NAAQS, and could therefore be designated as nonattainment for the ozone NAAQS, have the potential to be affected by this rulemaking. Therefore, this action applies to all states; to local air quality agencies to which a state has delegated relevant responsibilities for air quality management including air quality monitoring and data analysis; and, to

Tribal air quality agencies where appropriate. The Exceptional Events Rule describes in greater detail to whom the Rule applies in 72 FR at 13562–13563 (March 22, 2007).

### III. What Should I Consider as I Prepare My Comments?

#### A. Submitting CBI

Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

#### B. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

### IV. What Is the Availability of Related Information?

The official record for this rulemaking, as well as the public version, has been established under Docket ID No. EPA–HQ–OAR–2005–0159 (including comments and data

submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address provided in **ADDRESSES** at the beginning of this document.

### V. What Is the Background for This Action?

The Exceptional Events Rule (Treatment of Data Influenced by Exceptional Events (72 FR 13560, March 22, 2007)) sets a general schedule for states to flag monitored data affected by exceptional events in AQS and for them to submit documentation to demonstrate that the flagged data were impacted by an exceptional event. Under this general schedule, a state must initially notify EPA that data have been affected by an exceptional event by July 1 of the year after the data are collected; this is accomplished by flagging the data in AQS. The state must also include an initial description of the event when flagging the data. In addition, the state is required to submit a full demonstration to justify exclusion of such data within three years after the quarter in which the data were collected, or if a regulatory decision based on the data (such as a designation action) is anticipated, the demonstration must be submitted to EPA no later than one year before the regulatory decision is to be made.

However, the rule also authorizes EPA to revise data flagging and documentation schedules for the initial designation of areas under a new or revised NAAQS. This general schedule, while appropriate for the period after initial designations have been made under a NAAQS, may need adjustment when a new or revised NAAQS is promulgated because until the level and form of the NAAQS have been promulgated a state would not have complete knowledge of the criteria for excluding data. In these cases the general schedule may preclude states from submitting timely flags and associated documentation for otherwise approvable exceptional events. This could, if not modified, result in some areas receiving a nonattainment designation when the NAAQS violations were legitimately due to exceptional events.

For example, EPA finalized new standards for ozone of 0.075 pounds per billion (ppb) on March 12, 2008, with an effective date of May 27, 2008. In accordance with Clean Air Act Section

107(b), state Governors must provide their recommendations to EPA by March 12, 2009, on designating areas as attainment, nonattainment, or unclassifiable with the new standards. States will base their recommendations on the three most recent years of quality-assured ozone data, which could be data collected between calendar years 2006–2008, or 2005–2007. EPA must complete final area designations for these new standards by March 12, 2010. EPA will base its designations decisions on the three most recent years of quality-assured air quality data for each area, which would be ozone data collected during calendar years 2007–2009 where states have submitted quality-assured data for calendar year 2009. However, in some cases the most recent complete data may cover 2006–2008 or 2005–2007. In this example, the general exceptional event flagging schedule for 2005 and 2006 data has already passed and the flagging deadline for exceptional events that occurred in 2007 would be July 1, 2008—approximately 33 days after the effective date of the revised NAAQS. In addition, the general schedule would require states to submit demonstrations for 2009 data influenced by exceptional events no later than March 12, 2009, one year before the final designation decisions. This is clearly not possible for air quality data collected from March 13, 2009 to December 31, 2009.

EPA is, therefore, using the authority provided in the Exceptional Events Rule at 40 CFR 50.14(c)(2)(v), to modify the schedule for data flagging and submission of demonstration for exceptional events data considered for initial designations under the 2008 revised ozone NAAQS.

### VI. What Is This Direct Final Rule?

This direct final rule amends the Exceptional Events Rule by providing a revised exceptional event data flagging and documentation schedule regarding claimed exceptional events affecting ozone monitoring data that will be compared to the 2008 revised ozone NAAQS for the purpose of initial ozone designations. In some cases, EPA is extending the otherwise applicable deadline for states to flag data and submit documentation. In other cases, EPA is shortening (for this purpose only) the otherwise applicable schedule to assure that the exceptional events claims can be fully considered by EPA in the designations decisions.

For air quality data collected in the years 2005 through 2007, this revised schedule extends the general schedule for flagging data (and providing a brief initial description of the event) from

July 1 of the year following the year the data are collected, to December 31, 2008. For data collected in 2008, the revised schedule extends the general schedule for flagging data and providing a brief initial description of the event to March 12, 2009, to coincide with the deadline for state Governors to submit designation recommendations to EPA. The deadline for submitting to EPA a detailed demonstration to justify exclusion of data collected in 2005 through 2008 is also being set to March 12, 2009. The deadline for submitting to EPA flagged data with initial descriptions and a detailed demonstration to justify exclusion of data collected in 2009 is being set to January 8, 2010. For data collected in

2008 and 2009 this would give a state less time, but EPA believes still sufficient time, to decide what 2008 and 2009 data to flag, and would allow EPA to have access to the flags and supporting data in time for EPA to develop its own proposed and final plans for designations. (If EPA extends the designations date beyond March 2010 due to insufficient information, a new event flagging deadline and detailed documentation submission deadline will be published.) While the new deadlines for submission of a state's demonstration for data collected in 2009 is less than a year before the designation decisions would be made, EPA believes it is a reasonable approach between giving states a reasonable

period to prepare the justifications, and EPA a reasonable period to consider the information submitted by the state. With this direct final action EPA amends § 50.14(c)(2)(v) to add a tabular schedule of data submittal deadlines, by pollutant, for new or revised NAAQS standards. (PM<sub>2.5</sub> data submittal schedules revised in March 2007 and presented in this table are for informational purposes only. EPA is not taking further comment on the PM<sub>2.5</sub> data submittal schedule published in 72 FR 13560, March 22, 2007.) EPA anticipates providing amendments to the following table to add data submission schedules for new or revised NAAQS standards in the future.

TABLE 1—SCHEDULE FOR EXCEPTIONAL EVENT FLAGGING AND DOCUMENTATION SUBMISSION FOR DATA TO BE USED IN DESIGNATIONS DECISIONS FOR NEW OR REVISED NAAQS

NAAQS pollutant standard/(level)/promulgation date	Air quality data collected for calendar year	Event flagging and initial description deadline	Detailed documentation submission deadline
PM <sub>2.5</sub> /24-Hr Standard (35 µg/m <sup>3</sup> ) Promulgated October 17, 2006.	2004–2006	October 1, 2007 <sup>a</sup> .....	April 15, 2008 <sup>a</sup> .
Ozone/8-Hr Standard (0.075 ppb) Promulgated March 12, 2008.	2005–2007 2008 2009	December 31, 2008 <sup>b</sup> ..... March 12, 2009 <sup>b</sup> ..... January 8, 2010 <sup>b</sup> .....	March 12, 2009 <sup>b</sup> . March 12, 2009 <sup>b</sup> . January 8, 2010 <sup>b</sup> .

<sup>a</sup> These dates are unchanged from those published in the original rulemaking, and are shown in this table for informational purposes.

<sup>b</sup> Indicates change from general schedule in 40 CFR 50.14.

**Note:** EPA notes that the table of revised deadlines *only* applies to data EPA will use to establish the final initial designations for new or revised NAAQS. The general schedule applies for all other purposes, most notably, for data used by EPA for redesignations to attainment.

## VII. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a “significant regulatory action” because it is likely to raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.*, where burden is defined at 5 CFR 1320.3(b). This rule modifies previously established deadlines under the Exceptional Events Rule and does not impose any new obligations or enforceable duties on any State, local or tribal governments or the private sector.

Therefore, it does not impose an information collection burden.

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration’s (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule modifies previously established deadlines under the Exceptional Events Rule and does not impose any new obligations or enforceable duties on any State, local or tribal governments or the private sector. Thus, it does not impose any requirements on small entities.

### D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (URMA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. This action imposes no enforceable duty on any State, local or tribal governments or the private sector. This action modifies previously established deadlines under the Exceptional Events Rule and does not impose any new obligations or enforceable duties on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of URMA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule modifies previously established deadlines under the Exceptional Events Rule and does not impose any new obligations or enforceable duties on any small governments.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

This direct final does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule modifies previously established deadlines under the Exceptional Events Rule and does not impose any new obligations or enforceable duties on any state, local or tribal governments or the private sector. Thus, Executive Order 13132 does not apply to this rule.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule modifies previously established deadlines under the Exceptional Events Rule and does not impose any new obligations or enforceable duties on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This action is not subject to EO 13045 (62 F.R. 19885, April 23, 1997) because the Agency does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. This action is not subject to Executive Order

13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not a "significant energy action" as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse effects because this action modifies previously established deadlines under the Exceptional Events Rule.

#### *I. National Technology Transfer Advancement Act*

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this direct final will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it will not affect the level of protection provided to human health or the environment. This rule modifies previously established deadlines under the Exceptional Events Rule and does not impose any new obligations or enforceable duties on any state, local or tribal governments or the private sector. It will neither increase nor decrease environmental protection.

#### *K. Congressional Review Act*

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 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 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). This rule will be effective December 22, 2008.

#### *L. Judicial Review*

Under CAA section 307(b), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit on or before December 5, 2008. Under CAA section 307(d)(7)(B), only those objections to the final rule that were raised with specificity during the period for public comment may be raised during judicial review. Moreover, under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

#### **List of Subjects in 40 CFR Part 50**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: September 30, 2008.

**Stephen L. Johnson,**  
*Administrator.*

■ For the reasons set forth in the preamble, part 50 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

#### **PART 50—[AMENDED]**

■ 1. The authority citation for part 50 continues to read as follows:

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

■ 2. Section 50.14 is amended by revising paragraph (c)(2)(v) to read as follows:

#### **§ 50.14 Treatment of air quality monitoring data influenced by exceptional events.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(v) When EPA sets a NAAQS for a new pollutant or revises the NAAQS for an existing pollutant, it may revise or set a new schedule for flagging exceptional event data, providing initial data descriptions and providing detailed data documentation in AQS for the initial designations of areas for those NAAQS: Table 1 provides the schedule for submission of flags with initial

descriptions in AQS and detailed documentation and the schedule shall apply for those data which will or may

influence the initial designation of areas for those NAAQS. EPA anticipates revising Table 1 as necessary to

accommodate revised data submission schedules for new or revised NAAQS.

TABLE 1—SCHEDULE FOR EXCEPTIONAL EVENT FLAGGING AND DOCUMENTATION SUBMISSION FOR DATA TO BE USED IN DESIGNATIONS DECISIONS FOR NEW OR REVISED NAAQS

NAAQS pollutant/standard/(level)/promulgation date	Air quality data collected for calendar year	Event flagging and initial description deadline	Detailed documentation submission deadline
PM <sub>2.5</sub> /24-Hr Standard (35 µg/m <sup>3</sup> ) Promulgated October 17, 2006.	2004–2006	October 1, 2007 <sup>a</sup> .....	April 15, 2008 <sup>a</sup> .
Ozone/8-Hr Standard (0.075 ppb) Promulgated March 12, 2008.	2005–2007 2008 2009	December 31, 2008 <sup>b</sup> ..... March 12, 2009 <sup>b</sup> ..... January 8, 2010 <sup>b</sup> .....	March 12, 2009 <sup>b</sup> . March 12, 2009 <sup>b</sup> . January 8, 2010 <sup>b</sup> .

<sup>a</sup> These dates are unchanged from those published in the original rulemaking, and are shown in this table for informational purposes.

<sup>b</sup> Indicates change from general schedule in 40 CFR 50.14.

**Note:** EPA notes that the table of revised deadlines only applies to data EPA will use to establish the final initial designations for new or revised NAAQS. The general schedule applies for all other purposes, most notably, for data used by EPA for redesignations to attainment.

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[FR Doc. E8–23520 Filed 10–3–08; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### 42 CFR Part 34

[Docket No. CDC–2008–0002]

RIN 0920–AA20

#### Medical Examination of Aliens—Revisions to Medical Screening Process

**AGENCY:** Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

**ACTION:** Interim final rule with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), within the U.S. Department of Health and Human Services (HHS), is amending its regulations that govern medical examinations that aliens must undergo before they may be admitted to the United States. HHS/CDC is amending the definition of *communicable disease of public health significance*. HHS/CDC is also amending the provisions that describe the scope of the medical examination for aliens by incorporating a more flexible, risk-based approach, based on medical and epidemiologic factors. This approach will assist HHS/CDC in determining which diseases the medical screening, testing, and treatment of aliens should include in areas of the world that are experiencing unforeseen outbreaks of those diseases. In addition, HHS/CDC is updating the screening requirements for tuberculosis

to be consistent with current medical knowledge and practice.

These changes will reduce the health-security threat to the United States from emerging diseases without imposing an undue burden on either the aliens or the health-care system in U.S. resettlement communities.

**DATES:** The interim rule is effective on October 6, 2008. Interested parties must submit written comments on or before December 5, 2008. HHS/CDC will consider comments received after this period only to the extent practicable.

**ADDRESSES:** You may submit written comments, identified by Docket No. CDC–2008–0002, to the following address: Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, ATTN: Part 34 Comments, 1600 Clifton Road, NE., E03, Atlanta, GA 30333.

Comments will be available for public inspection from Monday through Friday, except for legal holidays, from 9 a.m. until 5 p.m., Eastern Time, at 1600 Clifton Road, NE., Atlanta, GA 30333.

Please call ahead to 1–866–694–4867, and ask for a representative in the Division of Global Migration and Quarantine to schedule your visit.

Comments are also available for viewing at the following Internet addresses: <http://www.cdc.gov/ncidod/dq> and <http://www.globalhealth.gov>. You may submit written comments electronically via the Internet at the following address: <http://www.regulations.gov>, or via e-mail to [Part34publiccomments@cdc.gov](mailto:Part34publiccomments@cdc.gov).

To download an electronic version of the rule, please go to the following Internet address: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION, CONTACT:** Stacy M. Howard, Division of Global

Migration and Quarantine, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, 1600 Clifton Road, NE., E03, Atlanta, GA 30333; telephone 404–498–1600.

**SUPPLEMENTARY INFORMATION:** The Preamble to this interim rule is organized as follows:

- I. Legal Authority
- II. Background
- III. Summary of Changes to 42 CFR Part 34
- IV. Revised Definition of *Communicable Disease of Public Health Significance*
- V. Revised Scope of Medical Examination
- VI. Updating Tuberculosis Screening Requirements
- VII. Urgent Need for Regulatory Change
- VIII. Analysis of Impacts
- IX. Paperwork Reduction Act of 1995
- X. References

#### I. Legal Authority

HHS/CDC is promulgating this rule under the authority of 42 U.S.C. 252 and 8 U.S.C. 1182 and 1222.

#### II. Background

Under section 212(a)(1) of the Immigration and Nationality Act (INA) (8 U.S.C. 1182(a)(1)), any alien determined to have a specified health-related condition is inadmissible to the United States. Those aliens outside the United States with a specified health-related condition (see below) are ineligible to receive a visa and ineligible to be admitted into the United States. The grounds of inadmissibility for specified health-related conditions also pertain to aliens in the United States who are applying for adjustment of immigration status to that of a lawful permanent resident.

Aliens are currently inadmissible into the United States if they have a communicable disease of public health significance, defined as follows: Active tuberculosis, infectious syphilis,