

<http://www.gao.gov/new.items/rc00156.pdf>. Accessed and printed on September 25, 2006.)

5. International Life Sciences Institute, "Health Claims on Functional Foods—Proposals on Scientific Substantiation and Regulatory Systems," 2000.

6. Center for Science in the Public Interest, Citizen petition 2002P-0122, Petition for Rulemaking on Functional Foods and Request to Establish an Advisory Committee, 2002.

Dated: October 19, 2006.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. 06-8895 Filed 10-20-06; 3:48 pm]

BILLING CODE 4160-01-S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-112994-06]

RIN 1545-BF47

Guidance Under Section 7874 Regarding Expatriated Entities and Their Foreign Parents; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations under section 7874 of the Internal Revenue Code relating to the determination of whether a foreign entity shall be treated as a surrogate foreign corporation under section 7874(a)(2)(B).

DATES: The public hearing, originally scheduled for October 31, 2006, at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Kelly Banks of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), at (202) 622-0392 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing that appeared in the *Federal Register* on Wednesday, August 16, 2006 (71 FR 47158), announced that a public hearing was scheduled for October 31, 2006, at 10 a.m. in the auditorium, Internal Revenue Service, New Carrollton Building, 5000 Ellin Road, Lanham, MD 20706. The subject of the public hearing is under section 7874 of the Internal Revenue Code.

The public comment period for these regulations expired on October 10, 2006. The notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Wednesday, October 18, 2006, no one has requested to speak. Therefore, the public hearing scheduled for October 31, 2006 is cancelled.

LaNita VanDyke,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E6-17811 Filed 10-24-06; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 161

[DoD-2006-OS-0039; 0790-AI04]

DLA Procedures for Eligible Purchasers of Munitions List/Commerce Control List Items

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule identifies the Defense Logistics Agency (DLA) proposed new procedures for determining the eligibility of applicants seeking to obtain excess and surplus United States Munitions List (USML) and Commerce Control List (CCL) items from DLA. These new procedures will provide greater safeguards to protect national security interests before releasing such property into commerce. Applicants who do not meet the standards established herein will not be eligible to receive USML or CCL property.

DATES: Consideration will be given to all comments received by December 26, 2006.

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

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

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this

Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Vincent, Defense Logistics Agency Criminal Investigations Activity, 8725 John J. Kingman Road, Suite 2358, Fort Belvoir, VA 22060, (703) 767-2507 or e-mail mark.d.vincent@dla.mil.

SUPPLEMENTARY INFORMATION: The use of the Qualified Trading Partner (QTP) is intended to limit transfers of USML/CCL to those who have been assessed and determined to have the capacity and propensity to properly handle, control, and lawfully dispose of or export USML/CCL. The process is intended to reduce risk without adversely impacting lawful commerce of these items. Use of the QTP application will reduce the likelihood that recipients present a risk to misuse the material and help ensure the applicants have the capability to properly handle such items. Implementation of QTP application criteria will improve the assessment process. Where the QTP Application needs to be done only once each 5 years, continued use of the EUC allows visibility of each transaction and the specific factors associated with just that transaction.

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 161 is not a significant regulatory action. The rule does not:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4)

It has been certified that this rule does not contain a Federal mandate that may

result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The Defense Logistics Agency (DLA) is instituting new procedures for determining the eligibility of recipients when transferred United States Munitions List (USML) and Commerce Control List (CCL) items. The purpose of these new procedures is to provide greater safeguards regarding the release of these items when released into commerce by DLA.

The procedures are intended to reduce the likelihood that USML or CCL property are transferred to individuals or organizations that may use such items to harm the U.S. or its citizens.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

Sections 161.1 and 161.5 of this proposed rule contains information collection requirements. DoD has submitted the following proposal to OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

Title: Defense Logistics Agency Qualified Trading Partner (QTP) Procedures for Eligible Purchasers of United States Munitions List/Commerce Control List Items (Application Process).

Type of Request: New requirement.
Estimated Annual Number of Respondents: 2,040.

Responses per Respondent: 1.
Estimated Total Annual Responses: 2,040.

Average Burden per Response: 1 hr.
Annual Burden Hours: 2,040.

Needs and Uses: The information collection is needed to ensure that disposal of excess and surplus personal property is administered in a manner consistent with U.S. laws, regulations,

and policies governing exports and related transfers of technology, goods, services, and munitions, as well as with other laws, regulations, and policies relating to the disposal of such property.

Applicants will provide application information in letter format addressing the following factors:

(1) Applicant must demonstrate it operates an established business enterprise or provides certification of valid personal use.

(2) Applicant must establish it is a registered business and/or has adequate export management controls in place to preclude improper transfers of USML and CCL items.

(3) Applicant must demonstrate a history of compliance with export control laws.

(4) Applicant does not have a history of acts involving fraud, misrepresentation and deception or other serious offenses reflecting negatively on the applicants credibility and trustworthiness.

(5) Applicant does not have a history of acts involving violence, terrorist activity, corruption with respect to commercial dealings or matters pending before any adjudicative court or tribunal, violation of U.S. trade or immigration laws, or other acts contrary to U.S. National Security interests.

(6) Applicant does not have a history of insolvency and/or lack of financial capacity adequate to ensure it has the financial means to properly manage, control, and oversee the use of export controlled property transferred to it by DLA or its contractors.

(7) Applicant must demonstrate a history of cooperation and compliance with contract terms and conditions.

(8) Applicant must certify it has the legal capability and capacity to contract with the U.S. Government to trade USML items.

Upon receipt of the QTP application, the DLA Trade Security Control Assessment Office will ensure the application is complete and will conduct a Trade Security Control Assessment. A Trade Security Control Assessment is a pre-award assessment made by a U.S. Government agency verifying that the destination, end-user, and end-use of controlled DoD property conform to export license or end-use certificate requirements. The application review will involve a "risk analysis" process somewhat akin to the manner in which technical proposals in negotiated procurements are evaluated.

Affected Public: Individuals, Households, Business or for Profit entities, and not for Profit Institutions.

Frequency: One Time.

Respondent's Obligation: To obtain or retain benefits.

OMB Desk Officer: Ms. Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, DoD Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503, with a copy to the DLA POC Mr. Mark Vincent, Defense Logistics Agency Criminal Investigations Activity, 8725 John J. Kingman Road, Suite 2358, Fort Belvoir, VA 22060, (703) 767-2507 or e-mail mark.d.vincent@dla.mil. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Mr. Mark Vincent, Defense Logistics Agency Criminal Investigations Activity, 8725 John J. Kingman Road, Suite 2358, Fort Belvoir, VA 22060, (703) 767-2507 or e-mail mark.d.vincent@dla.mil.

Executive Order 13132, "Federalism"

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 161

Munitions.

Accordingly, 32 CFR chapter I, subchapter G is proposed to be amended by adding part 161 to read as follows:

PART 161—DLA QUALIFIED TRADING PARTNER (QTP) PROCEDURES FOR ELIGIBLE PURCHASERS OF UNITED STATES MUNITIONS LIST/COMMERCE CONTROL LIST ITEMS

Sec.

- 161.1 Purpose.
- 161.2 Scope.
- 161.3 Background.
- 161.4 Policy.
- 161.5 Technical requirements.
- 161.6 Administrative procedures.
- 161.7 Appeals.
- 161.8 Definitions.
- 161.9 Responsibilities.

Authority: 40 U.S.C. 101(3).

§ 161.1. Purpose.

(a) This part sets forth policies and procedures to ensure disposal of excess and surplus personal property is administered in a manner consistent with U.S. laws, regulations, and policies governing exports and related transfers of technology, goods, services, and munitions, as well as with other laws, regulations, and policies relating to the disposal of such property.

(b) This part sets forth procedures for determining the eligibility of recipients of United States Munitions List (USML) and Commerce Control List (CCL) items. These procedures are intended to provide greater safeguards and controls regarding the release of these items into commerce.

(c) The criteria for eligibility are intended to limit transfers of USML/CCL to those who have been assessed and determined to have the capacity to properly handle, control, and lawfully dispose of or export USML/CCL without adversely impacting lawful commerce in those items. This will reduce the likelihood that recipients present a risk to misuse the material and ensure they have the capability to properly handle such items. In addition, these procedures will create an application and review process to pre-qualify prospective recipients of USML/CCL.

§ 161.2. Scope.

(a) This part sets out policies and procedures for approving applications made by individuals, corporations, or other entities seeking to purchase excess/surplus personal property designated as USML items or CCL items from DLA.

(b) The use, disposition, export and re-export of this property is subject to all applicable U.S. Laws and Regulations, including but not limited to the Arms Export Control Act (22 U.S.C. 2751 *et seq.*); Export Administration Act of 1979 (50 U.S.C. App. 2401 *et seq.*) as continued under Executive Order 12924; International

Traffic in Arms Regulations (ITAR) (22 CFR 120 *et seq.*); Export Administration Regulations (EAR) (15 CFR 730 *et seq.*); Foreign Assets Control Regulations (31 CFR 500 *et seq.*) and the Espionage Act (18 U.S.C. 793 *et seq.*).

§ 161.3. Background.

(a) The DLA and its Commercial Venture (CV) sales contracting partner sell surplus property formerly owned by various components of the DoD. DLA sells items through contracts awarded by the Defense Reutilization and Marketing Service (DRMS) directly to purchasers. Most of DRMS' usable property inventory, once it has undergone review by other DoD activities, other Federal agencies, and eligible donation customers, is sold by DRMS or their CV sales partner.

(b) The property sold includes USML and CCL items (dual use items—military, commercial and other strategic uses—including equipment, materials, electronics, software and technology). Trade in such items is highly regulated under various laws and regulations including the ITAR for USML items and under the EAR for CCL items. DoD's surplus inventory includes hundreds of thousands of items that may be of legitimate use to many thousands of end users. DLA's contractors and representatives do not have the resources to become personally familiar with the businesses of all the persons and entities to which USML and CCL items are sold.

§ 161.4 Policy.

(a) *End Use Certificate.* In the interest of protecting national security and ensuring the DLA is able to maintain an effective and compliant export control policy, the DLA and the DRMS require all purchasers of USML and CCL property to complete an End Use Certificate (EUC). This form requires potential purchasers to explain and certify the intended end uses of the specific property acquired in every sales transaction involving USML or CCL property.

(b) *Trade Security Controls (TSC) Assessment.* Potential purchasers must submit certain information to DLA for establishing initial eligibility to acquire USML or CCL items from DRMS and its contractors. These potential purchasers then undergo a DLA TSC assessment to establish their ability to meet the Agency's Qualified Trading Partner standards for purchasers of these items, as specified in § 161.5. A TSC assessment is a pre-award assessment of the integrity and reliability of the prospective recipient made by DLA. The TSC assessment also verifies the

proposed destination and intended use of the property conforms to export license requirements. TSC assessments are conducted by the Defense Logistics Agency Criminal Investigations Activity, Trade Security Controls Assessment Office located at: 74 N. Washington Ave., Room 2-4-30, Battle Creek, MI 49017. Once the DLA gives a favorable assessment, these purchasers will be eligible to receive USML and CCL items subject to the understanding that future EUCs for specific transactions will also be reviewed to ensure compliance with export control laws. Additionally, regardless of a bidder's status, background, and assessment results, the DLA, DRMS and its sales contractor(s) reserve the right to refuse to complete any sale or transfer when the purchaser or transferee cannot affirmatively establish certain criteria. These include the intended transaction and ultimate end use of the property to be transferred is consistent with the export control laws of the United States and any third country in which the DLA/DRMS and their contractor(s) sell or transfer DoD surplus property (*i.e.*, those countries referred to as "host nations" under many DoD policies and agreements).

(c) In addition to establishing initial eligibility in accordance with the standards specified in these procedures, purchasers must continue to meet the criteria specified in § 161.5. The Agency may revoke a previously granted Qualified Trading Partner (QTP) status upon receipt of any information that would affect the issuance of a QTP status under these standards. In such cases, purchasers will be advised of the basis for such a determination and advised of their rights in accordance with § 161.6 and § 161.7.

(d) TSC assessments will determine whether an Applicant has been "USML Approved;" "CCL only;" or "CCL conditionally approved." The same criteria are reviewed with respect to all Applicants seeking to buy regulated commodities. There are varying standards depending on the status under consideration.

(e) This part contains the criteria and procedures to be used in assessing prospective purchasers of USML/CCL property. The technical requirements are contained in § 161.5. The administrative procedures are contained in § 161.6. Applicants seeking approval as trading partners eligible to receive USML or CCL property under the eight criteria (and applicable standards) stated in § 161.5 are referred to herein as "Applicants." Once a party has received a favorable assessment to acquire USML and/or CCL property, it

may be considered a "Qualified Trading Partner." This designation is valid for 5 years unless terminated or revoked. There is no application or qualification fee. These procedures apply to purchasers of property sold by DRMS directly or through the DRMS contract with its CV sales partner, to persons buying from the CV sales partner.

(f) Requests for information on the DLA QTP application process should be addressed to the Defense Logistics Agency, ATTN: DLA Criminal Investigations Activity (DCIA), 8725 John J. Kingman Road, Suite 2358, Fort Belvoir, Virginia 22060-6221.

§ 161.5. Technical requirements.

(a) *Criteria.* (1) These criteria are intended to address eight specific areas of eligibility to purchase USML or CCL property. A QTP applicant receiving property from the CV contracting partner will submit a properly completed application to the CV contracting partner Government Liquidation, LLC, 15051 North Kierland Blvd., Third Floor, Scottsdale, AZ 85254-2185, Attn: Jim Cash, Operations Department, Phone (480) 609-3280. A QTP applicant receiving property directly from DLA will submit a properly completed application to the applicable Sales Contracting Officer at 74 N. Washington Ave., Battle Creek, MI 49017, Room 2-4-5, Attn: Justin Low, DRMS-NOP, Phone (269) 961-5294. The DLA TSC Assessment Office will validate the application complete and then conduct the assessment. The application review will involve a "risk analysis" process. The review will be an overall evaluation of the Applicant information with respect to all the criteria. Absent a clear inability to meet the eligibility requirements, such as not meeting the Item 8 "legal capacity" standard, or significant negative information regarding the criminal/civil history criteria (e.g., recent significant export law violation), the TSC Assessment Office will conduct an overall qualitative review of all eight eligibility areas.

(2) In this procedure, even if there are no absolute disqualifiers to granting a favorable assessment, but there are several significant risk areas or areas where lack of information provided creates a risk in determining whether an Applicant will be able to successfully and safely manage export controlled materials, the TSC Assessment Office may, in its discretion, determine that QTP status should be denied.

(b) *Areas of eligibility to purchase USML or CCL property.*

(1) *Factor 1:* Applicant must demonstrate it operates an established

business enterprise or provide certification of valid personal use. The Applicant can demonstrate experience or that it is an established business enterprise that engages in the sale of trade of USML or CCL items. If an Applicant seeks to buy USML and/or CCL items for its own use, it must identify the types of items it will be seeking to obtain and establish a legitimate and lawful purpose for its use of same. Since USML represents the greatest risk, an applicant who applies for and are favorably assessed to acquire USML items *i.e.*, DoD Demilitarization Code "B" items) will also be considered favorably assessed to acquire CCL property. Persons who do not wish to acquire USML items, but whose trade involves only CCL or unregulated items, may apply for approval to acquire only CCL (or DoD Demil Code "Q") property and not USML items.

(2) *Factor 2:* Applicant must establish it is a registered business and/or has adequate export management controls in place to preclude improper transfers of USML and CCL items.

(i) The Applicant must establish that it is registered with the Department of State (DoS) Directorate of Defense Trade Controls and has an established export management policy or, if DoS registration is not required for its particular business, the Applicant can establish that it has adequate controls in place to ensure compliance with export control laws. Examples of the kinds of controls and compliance programs the Agency will be looking for in this process are:

(A) An organizational structure that describes the Applicant defense trade functions and its management and control structures for implementing and tracking compliance with U.S. export controls.

(B) Applicant commitment and policies to comply with and understand the ITAR and EAR, as well as the internal controls to make this happen.

(C) Applicant ability and methodology used to identify, receive and track ITAR items and technical data.

(D) Applicant procedures for obtaining DoS approval for re-export or retransfers.

(E) Applicant procedures for screening carriers, resale customers and countries regarding restricted/prohibited exports and transfers.

(F) Applicant recordkeeping procedures.

(G) Applicant internal monitoring program regarding its compliance program.

(H) Evidence of a training program on these issues.

(ii) If an Applicant's business includes trade with other than U.S. Government entities, Applicant must establish it has appropriate controls in place to ensure its transactions do not result in illegal exports or transfers. This can be accomplished by demonstrating adequate information collection, screening of transactions to ensure transfers are lawful; background checks on its purchasers; purchaser certifications, *etc.* If the Applicant is not registered with the DoS, it can still gain approval by establishing that it trades only with U.S. Government entities, or its trade occurs in the U.S. and involves only transfers to U.S. persons.

(iii) *Applicant must establish it has adequate management controls to preclude improper transfers (CCL only transferees).* Applicant must describe its trade involving CCL items and provide documentation establishing that it has effective controls in place to ensure export control compliance. This must be demonstrated by restricting its trade to domestic transactions not required to be licensed, or through an established export management program to ensure compliance with export licensing and other export control requirements.

(3) *Factor 3.* Applicant must demonstrate a history of compliance with export control laws.

(i) The Applicant (and if organized in any business format, that of any principals or officers thereof) does not have a history of violating any statutes identified in the ITAR (*see* 22 CFR 120.27) or any export control law or regulation including, but not limited to:

(A) Section 38 of the Arms Export Control Act (22 U.S.C. 2778);

(B) Section 11 of the Export Administration Act of 1979 (50 U.S.C. app. 2410);

(C) Sections 793, 794, 798 of title 18 U.S.C. (relating to espionage involving defense or classified information);

(D) Section 16 of the Trading with the Enemy Act (50 U.S.C. App.16);

(E) Section 206 of the International Emergency Economic Powers Act (relating to foreign asset controls; 50 U.S.C. 1705);

(F) Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd-2);

(G) Chapter 105 of title 18, United States Code (relating to sabotage)

(H) Section 4(b) of the Internal Security Act of 1950 (relating to communication of classified information; 50 U.S.C. 783(b));

(I) Sections 57, 92, 101, 1094, 222, 224, 225, or 226 of the Atomic Energy Act of 1954, 942 U.S.C. 2077, 2122,

2131, 2134, 2272, 2274, 2275, and 2276;

(J) Section 601 of the National Security Act of 1947 (relating to intelligence identities protection; 50 U.S.C. 421);

(K) Section 603(b) or(c) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5113(b) and (c));

(L) Section 371 of title 18, United States Code (when it involves conspiracy to violate any of the statutes mentioned under factor 3;

(M) Any other export control, armaments transfer, or related laws of United States of any nation in which the U.S. Government generates or transfers surplus property;

(N) Convictions and settlements reflecting conspiracy, attempts, or other incomplete acts shall be considered as serious as if the underlying offense were completed. A criminal conviction, civil judgment or other settlement for an alleged violation of any of the statutes, laws and regulations identified in factor 3, will be considered conclusive proof of a violation.

(ii) When considering an Applicants qualifications under this criterion, the size and scope of the Applicant business in handling USML/CCL items shall be considered and evaluated. A single or minimal offense, or one of a non-criminal nature, may not bar qualification if found within the history of a large organization conducting significant successful trade in such articles. The same offense may, however, be disqualifying if found within the history of a firm that has completed only a few transactions involving such property, especially if the offense suggests a lack adequate controls or experience to preclude negligent occurrence of violations.

(4) *Factor 4.* Applicant does not have a history of acts involving fraud, misrepresentation and deception or other serious offenses reflecting negatively on the applicant credibility and trustworthiness. The Applicant (and if organized in any business format, that of any principals or officers) does not have a history of committing actions involving fraud, misrepresentation, falsification or destruction of records, collusive bidding or other similar offenses. A criminal conviction, civil judgment or other settlement for an alleged violation of any factors will be considered conclusive proof of a violation. The Agency plans to consider any such acts committed within the last 7 years. Due to the significant risks involved in trading USML and CCL items, offenses occurring more than 7 years ago may be considered on a case-by-case basis.

(5) *Factor 5.* Applicant does not have a history of acts involving violence,

terrorist activity, corruption with respect to commercial dealings or matters pending before any adjudicative court or tribunal, violation of U.S. trade or immigration laws, or other acts contrary to U.S. national security interests.

(i) The Applicant (and if organized in any business format, that of any principals or officers) does not have a history of committing offenses of the type described in the above standard. These offenses include, but are not limited to: Violations of 18 U.S.C. Chapter 113 relating to terrorist activity; murder; assault with intent to commit murder; kidnapping; hostage taking; criminal sexual offenses; extortion; crimes against property including robbery, larceny and related offenses; sedition, treason, arson, bribery, espionage, smuggling; firearms and/or weapons violations; violations of the Racketeering, Influence and Corrupt Organizations Act (RICO) or related corruption laws, whether State or Federal in nature; offenses related to the unlawful possession, use, sale, distribution, purchase, receipt, transfer, shipping, transporting, importing exporting, dealing, or storing of an explosive device; distribution of, or possession of a controlled substance with intent to distribute, or importation thereof. A criminal conviction, civil judgment or other settlement for an alleged violation of any of the offenses identified in this paragraph will be considered conclusive proof of a violation.

(ii) Individuals who have been adjudicated mentally incompetent, involuntarily committed to a mental institution, or have other background factors evidencing the potential for harm to self or others may likewise be excluded under this standard.

(6) *Factor 6.* Applicant does not have a history of insolvency and/or lack of financial capacity adequate to ensure it has the financial means to properly manage, control, and oversee the use of export controlled property transferred to it by DLA or its contractors. Although there are no absolute standards applicable to a review of solvency and financial capacity, the Agency may review resources applicable to a consideration of an Applicants solvency or financial capability to manage the USML/CCL property transferred to it by Government sources. Regardless of any potential ability to post a bond or pay for any contemplated purchases of controlled items, DLA has an interest in ensuring the Applicants have adequate financial means to ensure the physical security of USML and CCL items transferred to them. In addition, DLA

has an interest in ensuring Applicants have the resources to effectively manage, transfer, and oversee the uses of USML and CCL items released to their control. Such consideration would examine an Applicants financial capability relative to the size and scope of its business involving trade in USML or CCL items, or its personal solvency and credit worthiness in the case of individuals obtaining USML/CCL items for personal use.

(7) *Factor 7.* Applicant must demonstrate a history of cooperation and compliance with contract terms and conditions. The U.S. Government may always consider an Applicants compliance under previous government or similar contracts as a matter of establishing the Applicants responsibility to receive and perform the contract under consideration. The U.S. Government may also consider previous contract compliance when evaluating an Applicants technical capability to perform the contract under consideration. Due to the sensitive nature of USML/CCL items and the on-going regulatory requirements governing the management and transfer of such items, the Applicant must demonstrate a satisfactory history of compliance with contract terms and conditions.

(i) The Applicant must establish a history of favorable compliance and cooperation regarding changes in demilitarization codes or inadvertent releases affecting USML or CCL items obtained from DRMS or the CV sales partner. Both DRMS and CV contracts contain terms requiring return of demilitarization-required items or providing subsequent transferee information when advised of a demilitarization code change or the inadvertent sale of demilitarization required property as non-controlled property by DRMS or the CV sales partner. Failure to cooperate with the U.S. Government or its contractors, when seeking to track or retrieve USML/CCL property deemed likely to present risks to national security, may be considered unfavorably under this criteria as may attempts to extract significant profits from Government officials charged with seeking retrieval of such property. Applicants acquiring USML/CCL items under these contracts must appreciate the Government's interest in protecting national security and comply with those terms now embodied in U.S. Government and CV contracts requiring transferees to assist in tracking or return such items upon Government request, in return for reimbursement covering their purchase price and expenses incurred only,

without compensation for any expected or anticipatory profits.

(ii) The Applicant history must reflect cooperation and contract compliance with respect to U.S. Government requests for records or information regarding subsequent transfers or any matter relating to compliance with the ITAR, EAR, and any other export control laws. Likewise, if the Applicant has previously acquired USML/CCL property, its history must reflect compliance with export control related terms, such as those related to properly identifying items as USML/CCL and perpetuating information about export control requirements to subsequent transferees.

(8) *Factor 8.* Applicant must certify it has the legal capability and capacity to contract with the U.S. Government to trade USML items.

(i) The Applicant must establish its status as an individual of at least 18 years old and that Applicant, if an individual or business operating as a sole proprietorship and all officers or officials of any business organized in any other juristic form, are "U.S. persons" as defined in the ITAR.

(ii) For Applicants seeking permission to become a trading partner for CCL items only, the same requirement applies, except the Agency may consider applications involving non-U.S. persons which may be approved on a "Conditional Only" basis. Although a non-U.S. person may be granted a favorable assessment to receive CCL items on a "conditional only" basis, such a status does not indicate an entitlement to receive additional CCL items sold by DRMS or CV partner. Although such status may indicate the Government will not review the trading partner's situation upon each subsequent sales/transfer request, non-U.S. persons should be aware that even a favorable assessment will not mean they are entitled to buy all items of CCL property, since the legality of such transfers are fact-specific. The Government will review the purchaser's application carefully to determine the appropriateness of any sale on a case-by-case basis.

(iii) In addition, to be eligible under this factor the Applicant must not appear on the General Services Administration (GSA) Excluded Parties List, on any Directorate of Defense Trade Controls or Department of Commerce, Bureau of Industry and Security lists of entities banned from trade in USML or CCL items, nor can the individual or firm be in a prohibited area under the Office of Foreign Assets Control Regulations (OFAC) regulations.

§ 161.6. Administrative procedures.

(a) *Application process.* (1) *Request for approval.* The Applicant will submit a letter to the Sales Contracting Officer (SCO) requesting approval as a trading partner for USML or CCL items only (as appropriate to Applicants intent). This letter will provide sufficient detail to allow the Agency to review its background and conduct relevant research regarding the criteria specified in § 161.5, as well as an EUC regarding the specific or immediate sales transaction in question to the SCO. If access to a particular type of information, such as bankruptcy or financial records, requires an authorization or approval, the Applicant agrees to furnish such consent upon request by the Agency. Applicants are encouraged to submit complete information, including existing DoS registrations, other business licenses, and evidence of experience in the defense article trade. Applicants are responsible for notifying the SCO when there are changes to their registrations, business operation or ownership, or business location.

(2) *Application review process.* The TSC Assessment Office will ensure the application is complete before conducting the TSC Assessment. Applicants bear the burden of providing sufficient information to establish that they meet the review criteria. Failure to do so may result in the return of an application (without action) until access to the requested information is provided and the information reviewed. An application will not be deemed submitted or pending relevant information pertaining to all the criteria addressed in § 161.5 have been received by the TSC Assessment Office.

(3) *Application assessment process.* The review will be an overall consideration of the Applicants information with respect to all the criteria, absent a clear inability to meet the eligibility requirements, such as not meeting the factor 8 "legal capacity" standard (see § 161.5(b)(8)), or significant negative information regarding the criminal/civil history criteria (e.g., recent significant export law violation). In this procedure, even if there are no absolute disqualifiers to granting a favorable assessment, but there are several significant risk areas or areas where lack of information provided creates a risk in determining whether an Applicant will be able to successfully and safely manage export controlled materials, the TSC Assessment office may, in its discretion, determine that the QTP status should be denied.

(b) *Notification to applicant.* (1) Upon completion of the TSC assessment, the DLA will notify the Applicant on whether it has been granted QTP status. If QTP status is denied, the Agency will issue a denial notice to the Applicant along with a copy to the SCO. The Applicant must wait at least 90 days from the date of the notice before reapplying.

(2) Issuance of denial notice includes:

(i) A statement that DLA has determined the individual/business was not favorably assessed and is denied QTP status;

(ii) The basis for the denial determination; and

(iii) Information about the correction of records and appeal process.

(3) Rejection of an application is not a permanent rejection. For example, an Applicant that is disapproved because it lacked sufficient experience with USML items may be able to reapply and show it has taken affirmative action in the business or otherwise resolved deficient aspects of its initial application.

(c) *Revoking previously granted QTP status.* (1) If the DLA receives information that would merit removal of QTP status, the Agency will immediately suspend QTP status and send the QTP a Notice of Contemplated Removal, citing specific reasons for the proposed removal. The QTP will have 15 business days from the date of the letter to respond. Failure of the QTP to respond to the Notice of Contemplated Removal within the 15 day period will result in immediate revocation of QTP status. If the purchaser responds to the Notice within the 15 day period, the DLA will evaluate the response, including proposed corrective action, if any, and will determine whether revocation of QTP status, retention of QTP status, or further action, applies.

(2) If an individual's QTP status is removed, there is specified time limit for such removal. The removal period will be based on the time necessary to document those changes necessary to correct the problem(s) resulting in removal. If an individual's QTP status is removed, once corrective actions have been taken to remedy the reasons for removal, the individual may reapply for QTP status. A new letter requesting QTP status must be filed, together with information indicating the deficiencies resulting in the removal have been corrected. If the DLA has removed QTP status, notice of such removal and the reasons for it may be given to other interested Government activities.

§ 161.7 Appeals.

(a) *Scope.* (1) This part applies to applicants who either have had their

previously granted QTP status revoked or who have been issued an initial Denial notice, concluding that they do not meet the standards for QTP status, and who wish to appeal the decision.

(2) [Reserved]

(b) *Denials and revocations.* (1)

Applicants whose requests for an approved QTP status are denied or whose previously approved QTP status has been revoked will be advised in writing of the Denial or Revocation. The written Denial or Revocation will state the reasons for the Denial or Revocation and the facts relied on in determining that the Applicant does not meet the requirements for QTP status.

(2) [Reserved]

(c) *Appeals.* (1) An Applicant whose request for an approved QTP status is denied or previously approved QTP status has been revoked may file an appeal of the Denial or Revocation. A written appeal must be filed directed to: Defense Logistics Agency, ATTN: DLA Criminal Investigations Activity (DCIA), 8725 John Kingman Road, Suite 2358, Fort Belvoir, Virginia 22060-6221. To be timely, an Appeal must be received within 30 days after receipt of the Denial or Revocation. The Denial or Revocation will be considered to be received when delivered or within 10 days after mailing the Notice to the last known street address if undeliverable or delivery is refused.

(2) DLA will appoint an Administrative Review Official (ARO) to consider the Appeal when received. The ARO will be at a minimum, either an individual at the GS-15 (civilian) or O-6 (military) level who was not involved in the Denial or the Revocation.

(3) In its written appeal, the Appellant must demonstrate that it meets the standards of the authorization for which it is applying in § 161.5, providing information and argument in support thereof. In addition to any information and argument in opposition to the Denial or Revocation, the Appeal must identify any specific facts or statements contained in the Denial or Revocation which it disputes and identify specific facts that contradict the identified disputed facts.

(4) The Appellant will be afforded the opportunity to present information and argument to the ARO and to request a hearing to present information or argument either in person or by teleconference. The Appeal proceedings under this section will be conducted in a fair and informal manner. The ARO may use flexible procedures to allow an Appellant to present matters in opposition and in so doing is not required to follow formal rules of evidence or procedure in creating an

Official Record upon which the ARO will base the decision to grant QTP status to an Appellant.

(5) The ARO will provide the Appellant with any documents relied on in making the Revocation or Denial, subject to any restrictions on the release of the information provided by other agencies or other necessary restrictions on the release of the documents, when requested. The Appellant must present any documentary evidence it wants considered to the ARO prior to the close of the Official Record.

(6) If an Appellant's presentation raises a genuine dispute over facts material to the determinations made in a Denial or Revocation, the ARO must conduct additional fact finding to resolve those facts. Generally, a conviction of a criminal offense which was a material fact in the determination of the Denial or Revocation is not subject to dispute and will not require the conduct of additional fact finding.

(7) If fact finding is conducted, the Appellant and the Agency may present witnesses and other evidence and confront any witness presented by the other party and written findings of fact must be prepared for the record. A transcribed record of fact finding procedures must be made, unless both the Appellant and the Agency agree to waive it in advance. If either party wants a copy of the transcribed record, they may purchase it. The ARO may refer disputed material facts to another official for findings of fact. The ARO may reject any resultant findings, in whole or in part, only after specifically determining them to be arbitrary, capricious, or clearly erroneous.

(8) The ARO will make a determination on the Appellant's eligibility for QTP status based on all the information contained in the Official Record. The Official Record includes:

(i) The Notice of Denial or Notice of Revocation and all material relied on their issuance, along with all information submitted to the Reviewing Official in support of the Denial or Revocation.

(ii) Any information or argument presented by the appellant under these procedures in opposition to the Revocation or Denial.

(iii) Any transcribed record of fact finding.

(9) In any appeal under this section, the Agency must establish the cause for a Denial or Revocation by a preponderance of the evidence.

(10) In any appeal under this section, the Agency has the burden to prove that a cause for a Denial or Revocation exists.

(11) The ARO must make a written decision on an Appeal under this part within 45 days of closing the Official Record. The Official Record closes when the Reviewing Official receives final submissions and information and findings of fact, if any. The Reviewing Official may extend this period for good cause.

§ 161.8 Definitions.

(a) *Affiliate.* Persons are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other or a third person controls or has the power to control both. The ways used to determine control include, but are not limited to:

(1) Interlocking management or ownership.

(2) Identity of interests among family members.

(3) Shared facilities and equipment.

(4) Common use of employees.

(b) *Civil judgment.* The disposition of a civil action by any court of competent jurisdiction, whether by verdict, decision, settlement, stipulation, other disposition which creates a civil liability for the complained of wrongful acts, or a final determination of liability under the Program Fraud Civil Remedies Act of 1988 (31 U.S.C. 3801-3812). Conviction is defined as follows:

(1) A judgment or any other determination of guilt of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, including a plea of nolo contendere; or

(2) Any other resolution that is the functional equivalent of a judgment, including probation before judgment and deferred prosecution. A disposition without the participation of the court is the functional equivalent of a judgment only if it includes an admission of guilt.

(c) *Commerce Control List (CCL)* (formerly known as *Strategic List Item*). Commodities and associated technical data (including software) subject to export controls under the EAR. The EAR contains the CCL and is administered by the BIS, Department of Commerce.

(d) *Demilitarization code.* A single-character code indicating "USML" or "CCL" and the degree of demilitarization necessary (if any) or TSCs (if any) before release from DoD control.

(e) *DoD excess and surplus personal property.* DoD excess personal property is property other than real property not needed by any DoD activity, whether located inside or outside the United States. DoD surplus personal property is property not needed by any Federal activity. DoD foreign excess personal property (FEPP) is property located

outside the United States, American Samoa, Guam, Puerto Rico, Palau, or the U.S. Virgin Islands. The term "excess property" includes FEPP, Foreign Military Sales, Military Assistance Program, or Grant Aid Program excess personal property transferred by the DoD to a foreign government that becomes excess to that government.

(f) *End-use certificate (EUC)*. A DLA Form 1822 prepared by prospective recipients of USML or CCL property which provides identifying information, sales terms, acknowledgment of export licensing requirements, and a statement indicating the intended destination and disposition of the property.

(g) *Export*. The transfer of a controlled USML or CCL Item out of the United States in any manner. Transfer of an USML or CCL Item in the United States to a non-U.S. person may also be deemed an export in certain circumstances.

(h) *Indictment (for a criminal offense)*. A presentment, information or other filing by a competent authority charging a criminal offense shall be given the same effect as an indictment.

(i) *Preponderance of the evidence*. Proof by information that, compared with information opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(j) *Principal*. An officer, director, owner, partner, investor or other person within an organization with management or supervisory responsibilities related to the transaction in question.

(k) *Trade Security Controls (TSC)*. The controls on export, import and demilitarization of personal property established by 22 U.S.C. 2778, 22 CFR parts 120–130, "International Traffic in Arms Regulations" (ITAR), 50 U.S.C. Chapter 35, 15 CFR parts 730–799, "Export Administration Regulations" (EAR), 31 CFR parts 500–598, "Office of Foreign Assets Control Regulations" (OFAC) and any similar controls established by the Department of Homeland Security.

(l) *TSC assessment*. A pre-award assessment of the integrity and reliability of the prospective recipient made by DLA. The TSC assessment also verifies that the proposed destination and intended use of the property conforms to export license requirements.

(m) *TSC measures*. Measures designed to preclude the improper or unauthorized transfer of USML or CCL items, to any entity (*i.e.*, person, organization or country) whose interests are unfriendly or hostile to the United States. These measures shall also be applied to other selected entities as

designated by the Under Secretary of Defense (USD(P)).

(n) *Transfer*. The sale, lease, loan, grant, exchange, trade, barter, release, or donation of property from DoD to another person or entity other than an agency of the United States Government.

(o) *United States Munitions List (USML) personal property*. Defense articles, associated technical data (including software), and defense services recorded or stored in any physical form, controlled by the ITAR. The ITAR, which contains the U.S. Munitions List, is administered by the Directorate of Defense Trade Controls, DOS.

§ 161.9 Responsibilities.

The following authorities apply to this part:

(a) Federal Property and Administrative Services Act, as amended, 40 U.S.C. 101(3)¹

(1) Sec. 101. [40 U.S.C. 751] General Services Administration. The Administrator shall have authority to prescribe regulations to carry out this Act.

(2) Sec. 203. [40 U.S.C. 484] Disposal of Surplus Property.

(i) Except as otherwise provided in this section, the Administrator shall have supervision and direction over the disposition of surplus property. Such property shall be disposed of to such extent, at such time, in such areas, by such agencies, at such terms and conditions, and in such manner, as may be prescribed in or pursuant to this Act.

(ii) The care and handling of surplus property, pending its disposition, and the disposal of surplus property, may be performed by the GSA or, when so determined by the Administrator, by the executive agency in possession thereof or by any other executive agency consenting thereto.

(iii) Any executive agency designated or authorized by the Administrator to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Administrator deems proper, and it may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this title.

¹ Information on the Federal Property and Administrative Services Act can be found on the Internet at URL http://uscode.house.gov/download/title_40.shtml or <http://epw.senate.gov/fpsa49.pdf>.

(b) DoD Directive 4140.1, "Supply Chain Materiel Management Policy," April 22, 2004.²

(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall:

(i) Develop DoD materiel management policies and ensure implementation in a uniform manner throughout the Department of Defense.

(ii) Develop and maintain DoD Materiel Management issuances to implement the policies contained in this Directive.

(iii) Monitor the overall effectiveness and efficiency of the DoD logistics system, and continually develop improvements.

(2) The Heads of the DoD Components shall implement the policies and procedures in this Directive and all supporting DoD issuances.

(c) DoD 4140.1–R, "DoD Supply Chain Material Management Regulation," May 23, 2003.³

(1) The Director, DLA, shall administer the Defense Material Disposition Program including reutilization, transfer, donation, sales, loans, gifts, hazardous property disposal, precious metals recovery program, demilitarization, and trade security controls.

(2) [Reserved]

(d) DoD 4160.21–M, "Defense Materiel Disposition Manual," August 19, 1997.⁴

(1) The Federal Property and Administrative Services Act assigned the responsibility for the supervision and direction over the disposition of excess and surplus property to the Administrator of General Services. The Act further assigned the responsibility for supervision and direction over the disposition of DoD FEPP to the Secretary of Defense.

(2) The Administrator of General Services delegated to the Secretary of Defense the responsibility for the sale and final disposition of surplus personal property which the Administrator determines is not needed for transfer as excess to other Federal agencies or for donation as surplus to authorized donees. The Secretary of Defense also has the responsibility, under the "Act," for internal screening and redistribution of DoD property among the services and

² Information on the DoDD 4140.1, can be found on the Internet at URL <http://www.dtic.mil/whs/directives/corres/html/41401.htm>.

³ Additional information on the DoD 4140.1–R is available on the Internet at URL <http://www.dtic.mil/whs/directives/corres/html/41401r.htm>.

⁴ To download additional information on the DoD 4160.21–M from the Internet go to URL <http://www.dtic.mil/whs/directives/corres/html/416021m.htm>.

defense agencies and for reporting such property as excess to the General Services Administration (GSA).

(3) The Secretary of Defense has assigned to the Director, Defense Logistics Agency (DLA), responsibility for the administration of the Defense Materiel Disposition Program, to include the PMRP and the Defense Demilitarization Program.

(e) DoD Instruction 2030.08, "Implementation of Trade Security Controls (TSC) for Transfers of DoD U.S. Munitions List (USML) and Commerce Control List (CCL) Personal Property to Parties Outside DoD Control," May 23, 2006.⁵ The Under Secretary of Defense for Acquisition, Technology, and Logistics shall:

(1) Provide for the establishment of supplemental procedures and TSC measures needed to implement this Instruction for dispositions of DoD USML and CCL personal property under DoD Directive 4140.01.

(2) Direct the Director of the Defense Logistics Agency (DLA) to:

(i) Provide assistance to the DoD Components, according to this Instruction, DoD 5105.38-M, "Security Assistance Management Manual," October 3, 2003, and DoD 4140.01-R, in cases where they dispose of or transfer personal property to parties outside DoD control. In such cases, DoD Components remain ultimately responsible to ensure their subordinate elements comply with this Instruction.

(ii) Develop and implement a TSC Enforcement and Investigative Program within DLA.

(iii) Ensure all dispositions of DoD USML and CCL personal property under DLA's control are executed according to this Instruction.

(iv) Provide oversight of the Demilitarization Program, according to DoD 4160.21-M-1, "Defense Demilitarization Manual," October 1991. Ensure that DoD Components are provided the necessary instructions to demilitarize all USML personal property properly before disposition to prevent unauthorized use and/or potential compromise of U.S. national security, except as otherwise permitted by law, regulation, and/or policy.

⁵ To download additional information on the DoDI 2030.08, reference URL <http://www.dtic.mil/whs/directives/corres/html/203008.htm>.

Dated: October 19, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E6-17848 Filed 10-24-06; 8:45 am]

BILLING CODE 5001-06-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2006-0531-200618(b); FRL-8233-7]

Approval and Promulgation of Implementation Plans; Tennessee: Memphis/Shelby County Area Second 10-Year Maintenance Plan for the Carbon Monoxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Tennessee State Implementation Plan (SIP) submitted in final form on May 17, 2006. The SIP revision provides the second 10-year carbon monoxide (CO) maintenance plan for the Memphis/Shelby County Carbon Monoxide Maintenance Area. The second 10-year maintenance plan includes a new motor vehicle emissions budget (MVEB) for CO for the year 2017. EPA is proposing to approve this SIP revision, including the new 2017 MVEB for carbon monoxide, because it satisfies the requirement of the Clean Air Act for the second 10-year maintenance plan for the Memphis/Shelby County Area.

In addition, in this rulemaking, EPA is providing information on the status of its transportation conformity adequacy determination for the new MVEB for the year 2017 that is contained in the second 10-year CO maintenance plan for the Memphis/Shelby County Area.

In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule

based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before November 24, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No EPA-R04-OAR-2006-0531, by one of the following methods:

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

2. *E-mail*: louis.egide@epa.gov, or benjamin.lynorae@epa.gov.

3. *Fax*: (404) 562-9019.

4. *Mail*: "EPA-R04-OAR-2006-0531", 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*: Egide Louis of the Regulatory Development Section or Lynorae Benjamin of the Air Quality Modeling and Transportation Section at the 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.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Egide N. Louis telephone number is (404) 562-9240. He can be reached also via electronic mail at louis.egide@epa.gov. Lynorae Benjamin's telephone number is (404) 562-9040 and her electronic mail is benjamin.lynorae@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: October 6, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E6-17800 Filed 10-24-06; 8:45 am]

BILLING CODE 6560-50-P