distribution of power and responsibilities between the Federal government and Indian Tribes. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from Tribal officials.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it approves a State rule implementing a Federal standard.

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

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 6, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. E9–19856 Filed 8–18–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2009–0024; FRL–8943–8]

Withdrawal of Proposed Rule Revising the California State Implementation Plan; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed rule.

SUMMARY: On July 14, 2009 (74 FR 33950), EPA published a rule proposing limited approval and limited disapproval of a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan. The revision concerned SJVUAPCD Rule 3170, Federally Mandated Ozone Nonattainment Fee. We are withdrawing this previously published rule, and in this **Federal Register**, we are publishing a proposed rule that replaces the July 14, 2009, proposed rule.

DATES: The proposed rule published on July 14, 2009 (74 FR 33950) is withdrawn as of August 19, 2009.

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, (415) 947–4124, *wang.mae@epa.gov*.

SUPPLEMENTARY INFORMATION: On July 14, 2009 (74 FR 33950), EPA proposed limited approval and limited disapproval of SJVUAPCD Rule 3170, Federally Mandated Ozone Nonattainment Fee. Rule 3170 is a local fee rule that applies to major sources of volatile organic compound and nitrogen oxide emissions within the San Joaquin Valley ozone nonattainment area. Due to a clerical error, the proposed rule that was published on July 14, 2009, was inconsistent with the signed document. Consequently, we are withdrawing the rule proposed on July 14, 2009, and in this **Federal Register**, we are publishing the proposed rule as originally signed. The rule being proposed in this **Federal Register** replaces the following rule published on July 14, 2009:

Title: Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District (Proposed rule, 74 FR 33950, July 14, 2009, EPA–R09–OAR–2009–0024).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 30, 2009.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. E9–19857 Filed 8–18–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

42 CFR Part 73

RIN 0920–AA32

Possession, Use, and Transfer of Select Agents and Toxins—Chapare virus

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to add Chapare virus to the list of HHS select agents and toxins. We are proposing this action because Chapare virus has been phylogenetically identified as a Clade B arenavirus and is closely related to other currently regulated South American arenaviruses that cause haemorrhagic fever, particularly Sabia virus.

DATES: Written comments must be received on or before October 19, 2009.

ADDRESSES: Comments on the proposed change to the list of HHS select agents and toxins should be marked ''Comments on Chapare virus'' and mailed to: Centers for Disease Control and Prevention, Select Agent Program, 1600 Clifton Road, NE., Mailstop A–46, Atlanta, Georgia 30333. Comments may be e-mailed to: *SAPcomments@cdc.gov*.

FOR FURTHER INFORMATION CONTACT: Robbin Weyant, Director, Division of Select Agents and Toxins, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop A–46, Atlanta, GA 30333. Telephone: (404) 718–2000.

SUPPLEMENTARY INFORMATION: The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Act) authorizes the Secretary to regulate the possession, use, and transfer of select agents and toxins that have the potential to pose a severe threat to public health and safety. These regulations are set forth at 42 CFR part 73.

Criteria used to determine whether a select agent or toxin should be included under the provisions of these regulations are based on:

• The effect on human health as a result of exposure to the agent or toxin,

• The degree of contagiousness of the agent or toxin,

• The methods by which the agent or toxin is transferred to humans,

• The availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin, and

• Any other criteria, including the needs of children and other vulnerable populations that the HHS Secretary considers appropriate.

Based on these criteria, we are proposing to amend the list of HHS select agents and toxins by adding Chapare virus to the list.

After consulting with subject matter experts from CDC, the National Institutes of Health (NIH), the Food and Drug Administration (FDA), the United States Department of Agriculture (USDA)/Animal and Plant Health Inspection Service (APHIS), USDA/ Agricultural Research Service (ARS), USDA/CVB (Center for Veterinary Biologics), and the Department of Defense (DOD)/United States Army Medical Research Institute for Infectious Diseases (USAMRIID) and review of relevant published studies, (including Delgado S, Erickson BR, Agudo R, Blair PJ, Vallejo E, *et al*. Chapare Virus, a newly Discovered Arenavirus Isolated from a Fatal Hemorrhagic Fever Case in Bolivia. PLoS Pathog 4(4): e1000047, April 2008. Available at *http://www.plospathogens.org*), we believe the Chapare virus should be added to the list of HHS select agents and toxins.

The select agents and toxins that were first listed in part 73 included ''South American Haemorrhagic Fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito).'' South American arenaviruses are rodent-borne viruses, some of which can be associated with large haemorrhagic fever outbreaks, and untreated case fatalities can be in excess of 30 percent. CDC prepared the list of select agents and toxins for a notice of intent to issue regulations after receiving extensive input from a group of scientists from 21 Federal government entities. Some public comments on the notice objected to the inclusion of certain other viruses. For example, one commenter indicated that monkeypox virus is not easily transmissible to humans and has not been demonstrated to result in high levels of mortality. CDC included monkeypox on the final rule list, however, in part because it has similarities with smallpox virus in that monkeypox has a similar clinical presentation. No commenters objected to the listing of South American haemorrhagic fever viruses.

In December 2003 and January 2004, a small number of South American haemorrhagic fever cases were reported in rural Bolivia. Specimens were available from one fatal case, which had a clinical course that included fever, headache, arthralgia, myalgia, and vomiting with subsequent deterioration and multiple haemorrhagic signs. Isolated virus from two patient serum samples were tested for genetic similarity with other Clade B arenaviruses known to cause haemorrhagic fever. The complete genome analysis showed that the virus identified was a distinct new virus, subsequently named Chapare. Chapare virus was found to be most closely related to Sabia virus (causative agent for Brazilian haemorrhagic fever).

We will consider comments that are received within 60 days of publication of this notice in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments that will be made to the rule as a result of the comments.

If the proposed change is made, we would also consider whether the effective date for the regulation of the possession, use, and transfer of this agent should be phased in over a period of time greater than a 30-day effective date. We recognize that entities that currently possess an agent that would become regulated as a result of this proposed amendment to the regulations may need time to come into full compliance with the requirements of the regulations. In order to accommodate these entities, we are proposing that the Responsible Official at all unregistered entities must submit registration paperwork to include the new agent(s) and any new laboratory areas, as required in 42 CFR part 73 by 30 days after the effective date and all previously unregistered entities must be in full compliance with the regulations by 180 days after the effective date to minimize the disruption of research.

Regulatory Analyses

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be significant for the purposes of Executive Order 12866 and has been reviewed by the Office of Management and Budget.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities.

Entities most likely to be affected by this rule are laboratories and other institutions conducting research and related activities that involve the use of an agent that would become regulated as a result of this proposed amendment. Even though we believe the impact of these changes is expected to be minimal, we will consider comments on the impact of this proposed rule to determine if there will be a significant impact on small businesses.

Unfunded Mandates

The Unfunded Mandates Reform Act at 2 U.S.C. 1532 requires that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted for inflation) in any given year. This proposed rule is not expected to result in any one-year expenditure that would exceed this amount.

Executive Order 12988

This Notice of Proposed Rulemaking has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Would preempt all State and local laws and regulations that are inconsistent with this rule; (2) would have no retroactive effect; and (3) would not require administrative proceedings before parties may file suit in court challenging this rule.

Executive Order 13132

This Notice of Proposed Rulemaking has been reviewed under Executive Order 13132, Federalism. The notice does not propose any regulation that would preempt State, local, and Indian tribe requirements, or that would have any 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.

List of Subjects in 42 CFR Part 73

Biologics, Incorporation by reference, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: August 5, 2009.

Kathleen Sebelius,

Secretary.

For the reasons stated in the preamble, we are proposing to amend 42 CFR part 73 as follows:

PART 73—SELECT AGENTS AND TOXINS

1. The authority citation for part 73 continues to read as follows:

Authority: 42 U.S.C. 262a; sections 201–204, 221 and 231 of Title II of Public Law 107–188, 116 Stat. 637 (42 U.S.C. 262a).

2. Amend § 73.3 by revising the entry for ''South American Haemorrhagic Fever viruses'' in paragraph (b) and the reference to it in paragraph (f)(3)(i) to read as follows:

§ 73.3 HHS select agents and toxins.

* * * * *

(b) * * *

South American Haemorrhagic Fever viruses (Chapare, Junin, Machupo, Sabia, Flexal, Guanarito)

* * * * *

(f) * * *

(3) * * *

(i) * * * South American Haemorrhagic Fever viruses (Chapare, Junin, Machupo, Sabia, Flexal, Guanarito) * * *.

* * * * *

§ 73.5 [Amended]

3. Amend paragraph (a)(3)(i) of § 73.5 by removing the phrase ''South American Haemorrhagic Fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito)'' and adding in its place ''South American Haemorrhagic Fever viruses (Chapare, Junin, Machupo, Sabia, Flexal, Guanarito)''.

§ 73.9 [Amended]

4. Amend paragraph (c)(1) of § 73.9 by removing the phrase ''South American Haemorrhagic Fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito)'' and adding in its place ''South American Haemorrhagic Fever viruses (Chapare, Junin, Machupo, Sabia, Flexal, Guanarito)''.

[FR Doc. E9–19737 Filed 8–18–09; 8:45 am]

BILLING CODE 4160–17–P

FEDERAL MARITIME COMMISSION

46 CFR Part 535

[Docket No. 09–02]

RIN 3072–AC35

Repeal of Marine Terminal Agreement Exemption

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: In a proposed rule published in the Federal Register on July 2, 2009, the Federal Maritime Commission proposed to repeal the exemption from the 45-day waiting period requirement applicable to certain Marine Terminal Agreements. The Commission also proposed to correct a typographical error in its regulations. This document extends the comment period.

DATES: Comments on the proposed rule published July 2, 2009 (74 FR 31666), are due by September 8, 2009.

ADDRESSES: Address all comments concerning this proposed rule to: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573–0001, *Secretary@fmc.gov*, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Peter J. King, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1018, Washington, DC 20573–0001, *generalcounsel@fmc.gov*, (202) 523–5740.

Karen V. Gregory,

Secretary.

[FR Doc. E9–19901 Filed 8–18–09; 8:45 am]

BILLING CODE P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–1727; MB Docket No. 09–130; RM–11538]

Radio Broadcasting Services; Maupin, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Audio Division at the request of Maupin Broadcasting Company proposes the allotment of Channel 244C2 at Maupin, Oregon, as its first local service. A staff engineering analysis indicates that Channel 244C2 can be allotted to Maupin consistent with the minimum distance separation requirements of the Rules with a site restriction 1.2 kilometers (0.7 miles) west located at reference coordinates 45–10–24 NL and 121–05–43 WL.

DATES: Comments must be filed on or before September 24, 2009, and reply comments on or before October 9, 2009.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mathew H. McCormick, Esq., c/o Maupin Broadcasting Company, Fletcher, Heald & Hildreth, PLC, 1300 North 17th Street, 11th Floor. Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 09–130, adopted July 30, 2009, and released August 3, 2009. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via e-mail *http://www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.