

entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5 Allentown, PA [Revised]

Lehigh Valley International Airport, PA
(lat. 40°39'11" N., long. 75°26'24" W.)

LEEHI LOM

(lat. 40°35'09" N., long. 75°32'58" W.)
Allentown Queen City Municipal Airport, PA
(lat. 40°34'13" N., long. 75°29'18" W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Lehigh Valley International Airport and within 7.5-mile radius of Allentown Queen City Airport and within 3.1 miles north and 5 miles south of the Lehigh Valley International Airport localizer southwest course extending from the LEEHI LOM to 10 miles southwest of the LOM, excluding that portion that coincides with the Easton, PA, and Quakertown, PA, Class E airspace areas.

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Issued in Jamaica, New York, on October 7, 1997.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.
[FR Doc. 97–29350 Filed 11–5–97; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 091–4050b ; FRL–5918–3]

Air Quality Implementation Plans; Approval and Promulgation: Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to correct an interim final rule, which was published on January 28, 1997, regarding EPA conditional approval of Pennsylvania's enhanced inspection and maintenance (I/M) program. This action pertains to the consequences in the event that the Pennsylvania enhanced I/M program failed to commence per the deadlines set forth in EPA's interim final rule. EPA is taking this action for the purposes of consistency with rulemaking actions EPA has since taken on other states' inspection and maintenance programs. In the Final Rules section of this **Federal Register**, EPA is making this correction to the Commonwealth's January 28, 1996 conditional SIP approval by issuing a direct final rule without prior proposal because the Agency views this correction as a noncontroversial SIP revision. Thus, EPA anticipates no adverse comments. A detailed explanation of this correction is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. 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 action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by December 8, 1997.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone/CO and Mobile Sources Section (Mailcode 3AT21), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania

19107. Relevant documents are also available at the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, at (215) 566–2176, or in writing at the EPA Region III address above.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 28, 1997.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 97–29389 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–5917–8]

Regulation of Fuels and Fuel Additives: Proposed Minor Revisions to Selected Recordkeeping and Enforcement Provisions Under the Regulation of Deposit Control Gasoline Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing to revise certain requirements in its program for the use of detergent additives in gasoline. Under the current regulations, information on the oxygenate content of the gasoline must always be included in the required product transfer documents. To avoid unnecessary disruption to the gasoline distribution system, EPA is proposing to remove this requirement. A party who wants to use a detergent additive that is restricted in use with respect to oxygenates would be responsible for determining the oxygenate content of the gasoline involved. This proposal would continue to ensure that detergents with oxygenate restrictions are used in compliance with such restrictions, and would avoid the unnecessary disruption to the gasoline distribution system which would occur under the current regulations. For certain transfers of base gasoline, EPA is also proposing to allow the use of product codes in lieu of regulatory warning language concerning applicable

limitations on the sale and use of such gasoline.

These proposals are expected to provide industry additional flexibility, while ensuring the proper use of use-restricted detergents and base gasoline. There are no new information collection requirements accompanying these proposed changes. These proposals will not affect the air quality benefits from EPA's detergent additive program.

In the final rules section of this **Federal Register**, EPA is also promulgating a direct final rule without prior proposal, which will remove the requirement addressed in this NPRM, that mandates that information on the oxygenate content of transferred gasoline must be included in the required product transfer documents. It is not expected that the deletion of this requirement through the direct final rule will be controversial or that it will elicit negative comments. No detergents are presently certified with restricted oxygenate-use that would require the knowledge of gasoline oxygenate content for proper use. Further, the issue of the best means of acquiring oxygenate information to ensure proper addition is being addressed with notice and an opportunity to comment within the context of this NPRM. However, if EPA does receive adverse comments or a request for a public hearing on the direct final rule, it will be withdrawn and all comments received on it will be addressed in the subsequent final rule to be based on this NPRM. EPA will not institute a second comment period on this NPRM if the direct final rule is withdrawn. Any parties interested in commenting on this issue should do so at this time.

DATES: Comments on this NPRM will be accepted until December 8, 1997. Additional information on the comments procedure can be found under "Public Participation" in the **SUPPLEMENTARY INFORMATION** Section of this document.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A-91-77, at the following address: Air Docket Section (LE-131), room M-1500, 401 M Street SW, Washington, DC 20460; phone (202) 260-7548; fax (202) 260-4000. The Agency also requests that a separate copy be sent to the contact person listed below. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m. Monday through Friday, except on government holidays. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying docket materials.

This NPRM is also available electronically on the day of publication from the Office of the Federal Register internet Web site listed below. A prepublication electronic copy of this notice is also available from the EPA Office of Mobile Sources Web site listed below. This service is free of charge, except for any cost that you already incur for internet connectivity.

Federal Register Web Site:

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(Look in "What's New" or under the specific rulemaking topic.)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

FOR FURTHER INFORMATION CONTACT:

Judith Lubow, U.S. EPA, Office of Enforcement and Compliance Assurance, Western Field Office, 12345 West Alameda Parkway, Suite 214, Lakewood, CO 80228; Telephone: (303) 969-6483, FAX (303) 969-6490.

SUPPLEMENTARY INFORMATION:

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I. Regulated Entities

Entities potentially regulated by this action are those involved with the production, distribution, and sale of gasoline and gasoline detergent additives. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Gasoline refiners and importers, Gasoline terminals, Detergent blenders, Gasoline truckers, Gasoline retailers and wholesale purchaser-consumers, and Detergent manufacturers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability requirements in § 80.161(a), the detergent certification requirements in § 80.161(b), the program controls and prohibitions in § 80.168, and other related program requirements in Subpart G, title 40, of the Code of Federal Regulations (CFR). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Introduction

Section 211(l) of the Clean Air Act ("CAA") requires that, by January 1, 1995, all gasoline must contain detergent additives to prevent the accumulation of deposits in motor vehicle engines and fuel supply systems. This CAA section also requires EPA to promulgate specifications for the detergent additives. Detergent additives prevent the accumulation of engine and fuel supply system deposits that have adverse effects on vehicle emissions as well as on fuel economy and driveability.

In response to section 211(l)'s requirements, EPA published a Notice of Proposed Rulemaking ("NPRM") on December 6, 1993 (59 FR 64213) proposing a detergent additives regulatory program. The detergent program was finalized in two parts. Regulations for the interim detergent program, requiring the use of detergent additives in gasoline but not mandating specific detergent efficiency testing, were published on October 14, 1994 (59 FR 54678). Regulations for the detergent certification program, mandating the use of certified detergents with specified detergent efficiency testing, were published on July 5, 1996 (61 FR 35310).

One important implementation issue that has arisen since the publication of the detergent certification rule concerns

the requirement that the product transfer documents (PTDs) for gasoline transfers must identify all oxygenates found in the gasoline. Members of the gasoline refining and distribution industry informed EPA that this requirement's implementation would, as an unintended consequence, significantly disrupt gasoline distribution.¹

For the reasons described below, EPA exercised its enforcement discretion and announced by letter to the American Petroleum Institute ("API") that it would temporarily not enforce the PTD oxygenate identification requirement pending resolution of the issue through a rulemaking or until September 3, 1997, whichever occurrence came first.² The Agency reserved the right to rescind the exercise of this enforcement discretion if it determined that restricted-use detergents were actually being certified or that the PTD oxygenate identification requirements otherwise became appropriate. The Agency further advised that if violations involving the improper use of oxygenate-restricted detergents occurred, parties wishing to successfully assert an affirmative defense to liability for such violations might need to provide information establishing the appropriate oxygenate content of the gasoline in question. Subsequently, EPA extended this exercise of enforcement discretion until implementation of the direct final rule removing the PTD oxygenate requirement (which is associated with this NPRM), or until December 31, 1997, whichever occurrence came first.³

A second issue about the detergent program's PTD requirements, concerning the use of product codes, also arose since publication of the certification rule. The detergent program's two PTD implementation issues, plus the Agency's proposed regulatory solutions to these issues, will be discussed below.

III. Identification of Specific Oxygenate Content on Gasoline Product Transfer Documents (PTDs)

A. Background

The gasoline detergent additive program requires all regulated parties transferring products controlled under

the program to provide to the transferee PTDs giving pertinent information about the products transferred. (40 CFR 80.158 and 80.171) The products subject to the detergent program PTD requirements are gasoline, detergent additives, and additized components, such as ethanol, which are blended into gasoline after the refinery process (additized post-refinery components, or "PRC"). For transfers of these regulated products, the PTDs must identify the parties to the transfer, the product being transferred, and appropriate warning information about regulatory requirements.

One requirement is that PTDs for transferred gasoline must identify all oxygenates and PRCs contained in the gasoline. Further, if the gasoline is comprised of commingled fuels, all oxygenates and PRCs in the fuels comprising the commingled product must be identified. (40 CFR 80.158(a)(5) and 80.171(a)(5)) The purpose of this identification requirement is to alert the parties receiving the gasoline about the oxygenates and PRCs in the received product. This information would be useful to the recipient because, under the detergent certification program, parties may choose to additize gasoline with a detergent whose certification is restricted for use only with a specific oxygenate or no oxygenate, or, in the case of fuel-specific certified detergents, for use in gasoline without PRCs. Thus, parties choosing to use such restricted-use detergents must know the oxygenate or PRC ("oxygenate") content of the gasoline they intend to additize with these detergents. The PTD oxygenate identification requirement was intended to provide such information for the transferred gasoline.

In creating this identification requirement, the Agency was not aware that many parties did not know the specific oxygenate content of the gasoline they were transferring. EPA has since learned that, under typical industry practice prior to this requirement, parties could and did commingle gasolines without knowledge of what (if any) specific ethers (a type of oxygenate) were present. Under the interim detergent rule's PTD requirements, no information about the oxygenate content of base gasoline was required. Parties were thus typically unaware of the specific ether content (in type(s) and concentration) of commingled gasoline they received or possessed themselves. To comply with this new oxygenate identification requirement and to become knowledgeable about the ether status of their gasoline, parties would have to ascertain the ether content of received gasoline (which would be the

imposition of a new practice), stop commingling gasolines with different ether contents, or start testing all batches to determine such content. In any of these scenarios, gasoline distribution as presently practiced would be significantly disrupted.

It was never EPA's intention to disrupt gasoline distribution practices through the imposition of this PTD oxygenate identification requirement. Consequently, the Agency temporarily suspended enforcement of this PTD requirement.

B. Proposal

EPA does not believe that the benefits from the PTD requirement of providing oxygenate information to those parties who might choose to use oxygenate-restricted certified detergents warrants the resulting disruption to the gasoline distribution system. Therefore, the Agency is now proposing a regulatory change in the detergent program which would eliminate the requirement that PTDs for gasoline must identify the oxygenates found in the transferred product. Instead, a new requirement would take its place, that those detergent-blending parties wishing to use oxygenate-restricted detergents must maintain documentation fully identifying the oxygenate content of the fuel into which the detergent was blended, as evidence that the fuel complied with the detergent's oxygenate use restriction.

Under this proposal, a detergent blender could use different types of documentation to comply with this new requirement. Examples of such documentation would be PTDs or other written statements from suppliers fully identifying the oxygenate content of the received fuel; test results of oxygenate content, either of its own or from suppliers; or contractual agreements with suppliers establishing the oxygenate content of the received fuel.

The proposed modification of the PTD requirement would not change the existing requirement that detergent blenders use oxygenate-restricted detergents only in fuel which complies with the restriction. The new requirement would merely substitute a range of alternative documentation for the formerly required PTD information provided by the supplier, that could be used to help a party establish proper usage of oxygenate-restricted detergent. Therefore, adoption of this proposal would not impose an additional information collection requirement, but rather would refocus the existing requirement only on those parties who have need of information on gasoline oxygenate content.

¹ Letter to Judith Lubow, Office of Enforcement and Compliance Assurance (OECA), EPA, from C.J. Krambuhl, Director, Manufacturing, Distribution, and Marketing, American Petroleum Institute (API), August 14, 1996, Docket item VII-D-01.

² Letter to C.J. Krambuhl, API, from Steven A. Herman, Assistant Administrator, OECA, EPA, August 28, 1996, Docket item VII-C-01.

³ Letter to C.J. Krambuhl, API, from Steven A. Herman, Assistant Administrator, OECA, EPA, September 4, 1997, Docket item VII-C-02.

EPA was advised by the Independent Fuel Terminal Operators Association (IFTOA) of a concern about this proposed amendment.⁴ According to IFTOA, if suppliers will no longer be required to identify on PTDs the oxygenate content of transferred gasoline, then detergent blenders wishing to use potentially less expensive oxygenate-restricted detergents might be forced to test each batch of gasoline. IFTOA believed that such testing would be necessary to establish compliance with the detergent's oxygenate restriction. According to this commenter, these tests might be prohibitively expensive for small detergent blenders. This party asserted it was inequitable to place the entire burden of establishing oxygenate content on the fuel's end-user.

The Agency believes that its proposal, as stated, is the most appropriate and equitable means of ensuring proper oxygenate content of product blended with oxygenate-restricted detergents, while limiting disruption to the gasoline distribution system. The Agency's proposal places the burden of procuring oxygenate information only on those parties, self-selected, who will choose to use these restricted detergents, not on the entire industry. In addition, although existing data indicates that oxygenates increase gasoline deposit forming tendency (severity) and that different oxygenates types might differ in the magnitude of their impact on fuel severity, EPA has no specific information on whether this will result in the use of oxygenate restricted detergents. Since there are many generic detergents available that are not oxygenate use-restricted, parties not wishing to meet the documentation burden by performing oxygenate testing could also choose to use non-oxygenate restricted detergents.

In addition, self-performed oxygenate testing is only one of several ways that a detergent blender could use to comply with the proposed oxygenate identification requirement. Other means specifically approved by the proposed regulation include obtaining full information about oxygenate content from the gasoline supplier, and having a contract with the supplier which establishes the oxygenate content of the supplied gasoline. Use of these alternative methods would generally preclude the need for oxygenate testing by the detergent blender itself.

For these reasons, the Agency does not believe that the proposed removal of the PTD oxygenate identification requirement puts an unfair burden on end-users of oxygenate-restricted detergents. On the contrary, the proposed oxygenate documentation requirement regarding the volumetric accounting reconciliation records (VAR) maintained by detergent blenders, which would only be triggered when an oxygenate-restricted detergent is being used by the blender, seems the most equitable means of identifying oxygenates while ensuring proper additization with oxygenate-restricted detergents. However, the Agency is interested in receiving comments from interested parties on any other reasonable procedure that would equitably ensure proper oxygenate identification and resultant additization compliance for oxygenate-restricted detergents, while limiting disruption to the gasoline distribution system.

IV. Product Codes as Substitutes for Warning Language on Certain Base Gasoline PTDs

A. Background

It is common practice in the petroleum industry to use product codes on commercially prepared transfer documents to provide information about the product being transferred. Industry uses these product codes to save space on the transfer documents, which typically provide a great deal of information. The interim detergent rule did not address the use of product codes or other non-regulatory language as substitutes for required regulatory language in fulfilling PTD requirements. In response to industry comments, the interim program was amended to include a provision similar to one in the certification program which addresses this issue. In most instances, the requirements under both the certification and interim programs permit the use of product codes or other non-regulatory language to be substituted for required product identification information, provided certain accuracy safeguards are met, such as that the codes are clear, standardized, and have been explained to downstream parties. (40 CFR 80.158(c) and 80.171(b))

The requirements under interim and certification programs do not, however, permit the use of product codes or other non-regulatory language to be used in place of required warning language about non-additized, base gasoline. The required warning language, found in 40 CFR 80.158(a)(6) and 80.171(a)(6), informs the transferee in specified

language that the base gasoline either is not for sale to the ultimate consumer, or is for research and development purposes only. At the time the certification rule was published, the Agency believed that these warnings were too important to be the subject of coded language substitutions.

After the issuance of the final certification rule, the Agency was notified by Colonial Pipeline that the regulatory prohibition against using product codes to substitute for the base gasoline language warning against the sale of the product to the ultimate consumer was burdensome and was not necessary for transfers between upstream parties.⁵ This commenter stated that its upstream customers were familiar with product code usage and would not be confused by the substitution of product codes for the base gasoline warning language. This commenter believed that providing the warning language in addition to providing the base gasoline product code was redundant and unnecessarily wasteful of needed PTD space.

B. Proposal

Upon consideration of this comment, the Agency now agrees that the prohibition against substituting a product code for the required base gasoline warning language is not necessary for upstream bulk transfers of ordinary base gasoline which is not subject to the research and development exemption. The Agency agrees that upstream parties, long accustomed to the use of product codes to identify product information, should find such codes satisfactory conveyors of the needed base gasoline information. This is especially true since gasoline is almost always unadditized before it reaches the truck rack terminal, so confusion about its status is unlikely.

However, the Agency is still concerned that the lack of such clear warning language on PTDs for downstream custody transfers of unadditized product to truck carriers, retail outlets, or wholesale purchaser-consumer facilities (WPCs), might cause confusion about product transfers and might result in mis-use of the unadditized product. Agency enforcement experience has also shown that such downstream parties are not always knowledgeable about the meaning of product codes on received PTDs. Further, the Agency continues to believe that base gasoline being used for

⁴Memorandum to the Air Docket from Judith Lubow, OECA, entitled, "8/28/1996 EPA Phone Conversation with Andrea Grant of the Independent Fuel Terminal Operators Association", Docket Item VII-E-01.

⁵Memorandum to the Air Docket from Judith Lubow, OECA, entitled, "10/24/1996 and 12/2/1996 Phone Conversations with J.E. Brown of Colonial Pipeline", Docket Item VII-E-02.

research and development purposes, being a special category of product exempt from the ordinary requirements of the detergent program, must continue to be identified as such in clear language.

Therefore, the Agency is today proposing that product codes and other non-regulatory language may be used to substitute on PTDs for the required base gasoline warning language, with two exceptions: (1) transferors must continue to provide the regulatory warning language against sale to the ultimate consumer on PTDs for product custody transfers to truck carriers, retail outlets, or WPCs; and (2) the warning language as to exclusive research use must continue to be provided on PTDs for all transfers of research base gasoline. The Agency believes that this proposal will lessen paperwork burdens on the upstream parties who would not be confused by the product codes, and will maintain the specific warning language requirement for downstream parties most in need of seeing the exact language, and for all transfers of base gasoline for research purposes.

V. Public Participation

EPA seeks full public participation in arriving at its final decisions, and strongly encourages comments on all aspects of this proposal from all interested parties, including small businesses. Whenever applicable, full supporting data and detailed analysis should be submitted to allow EPA to make maximum use of the comments. All comments should be directed to the EPA Air Docket, Docket No. A-91-77 (see ADDRESSES). Comments on this notice will be accepted until the date specified in DATES. EPA has not planned a public hearing to discuss the issues raised in this proposal.

Commenters wishing to submit proprietary information for consideration should clearly distinguish such information from other comments, and clearly label it "Confidential Business Information". Submissions containing such proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket. Information covered by such a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

VI. Environmental and Economic Impacts

The proposed revisions to the product transfer document (PTD) requirements would provide an equal degree of assurance to the current requirements that specially-certified detergent additives would only be used in gasoline stocks for which these detergents are certified for use. Therefore, the proposed requirements are not expected to impact the environmental benefits of the detergent program.

Under the first proposal, documentation on the specific oxygenate content of gasolines is only required to be maintained by those parties who have a direct interest in such information to support their voluntary use of specially-certified oxygenate-restricted detergents in that gasoline. It would no longer be required that all regulated parties transferring gasoline must indicate gasoline oxygenate content on the PTD for the product. Adoption of this proposal would avoid the potentially significant disruption of the current gasoline distribution system which might result from the current regulatory requirement of PTD oxygenate identification for all transfers of gasoline.

Establishing the oxygenate information as proposed is not expected to result in significant economic hardship to downstream parties who wish to voluntarily use oxygenate-restricted detergents. Placing the responsibility of establishing information on the specific oxygenate content of gasoline only on such detergent blending parties will eliminate unnecessary costs that would otherwise be incurred by others in the distribution system.

The second proposed change to the PTD requirements would provide industry additional flexibility by permitting the use of product codes rather than the currently-required regulatory warning language on PTDs for certain transfers of base gasoline. EPA expects that adoption of this proposal would decrease the cost of producing and maintaining PTDs. Based on the above discussion, EPA expects that adoption of the proposed requirements would result in an overall reduction in the economic burden of the regulation.

VII. Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether this regulatory action is "significant" and therefore

subject to OMB review and the requirements of the Executive Order. The order defines "significant regulatory action" as any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector 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 the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that the proposed modifications to the regulation of deposit control additives contained in today's notice do not meet any of the criteria listed above, and therefore do not constitute a "significant regulatory action".

B. Impact on Small Entities

EPA has determined that the proposed modifications to the regulation of deposit control additives contained in today's notice would not have a significant economic impact on a substantial number of small entities, and that it is therefore not necessary to prepare a regulatory flexibility analysis in conjunction with this proposal.

Under the proposed requirements in today's notice, rather than requiring all parties in the gasoline distribution system to report the specific oxygenate content of gasoline on product transfer documents as under the current requirements (which would typically require testing for oxygenates and would disrupt current gasoline commingling practices), only those parties who wish to voluntarily take advantage of the potential cost savings from the use of specially-certified oxygenate-restricted detergents would be required to produce such information. A detergent blender who does not wish to incur this requirement could use any generic-certified detergent (i.e., detergents that do not have use restrictions).

Other proposed changes to the product transfer document (PTD) requirements would provide industry more flexibility by allowing the use of product codes rather than regulatory

warning language for certain upstream transfers of base gasoline not used for research purposes. This added flexibility is expected to decrease the cost of producing and maintaining PTDs for most regulated parties who transfer base gasoline. Based on the above discussion, EPA expects that adoption of the proposed requirements in today's notice would result in a reduction of the economic burden of the regulation for many parties and would not significantly increase the economic burden of compliance for any regulated party, including small entities.

C. Paperwork Reduction Act

The proposed actions in today's notice do not impose any new information collection burden. The first proposal would eliminate the existing requirement that product transfer documents (PTDs) for gasoline must identify the oxygenates present. Under the proposal, a range of alternative documentation could be used by the detergent blender to help establish the specific oxygenate content of gasoline in order to allow the optional use of oxygenate-restricted detergents rather than generic detergents (which do not have oxygenate restrictions). No new information collection requirements would result from implementation of this proposal. To the contrary, the proposed change would eliminate a compliance burden from the majority of regulated parties, while continuing to allow blenders to choose to use oxygenate-restricted detergents.

The second proposal would allow greater flexibility to industry by allowing the use of product codes on certain non-research base gasoline PTDs rather than the currently required warning language. The information collection requirements associated with this provision would not change. The increased flexibility is expected to result in a reduced compliance burden.

The Office of Management and Budget (OMB) has previously approved the information collection requirements of the Regulation of Deposit Control Additives contained in 40 CFR Part 80 under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060-0275 (EPA ICR Numbers 1655-01, 1655-02, and 1655-03).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying

information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Copies of the ICR documents may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (mail code 2136); Washington, DC 20460 or by calling (202) 260-2740. Include the ICR and/or OMB number in any correspondence.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more for any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed revisions to the Regulation of Gasoline Deposit Control Additives contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments. The proposed revisions impose no enforceable duties on any of these governmental entities. Nothing in the proposal would significantly or uniquely affect small governments. EPA has determined that the provisions in today's proposal do not contain Federal mandates that will result in expenditures of \$100 million or more in any one year for the private sector. To the contrary, EPA expects the proposed changes would result in reduced compliance costs. EPA believes that the proposed regulatory changes represent the least costly, most cost-effective approach to addressing implementation concerns expressed by industry, while achieving the air quality goals of the gasoline detergent program.

VIII. Statutory Authority

The statutory authority for the proposed actions in this notice is granted to EPA by sections 114, 211(a), (b), (c), and (l), and 301 of the Clean Air Act as amended: 42 U.S.C. 7414, 7545 (a), (b), (c) and (l), and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline detergent additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: October 30, 1997.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. Section 80.158 is amended as follows:

- a. Paragraph (a)(5) is removed.
- b. Paragraphs (a)(6) through (a)(10) are redesignated as paragraphs (a)(5) through (a)(9).
- c. Paragraph (c)(1) is revised to read as follows:

§ 80.158 Product Transfer Documents (PTDs)

* * * * *

- (c) Use of product codes and other non-regulatory language.

(1) Product codes and other non-regulatory language may not be used as a substitute for the specified PTD warning language specified in paragraph (a)(6) of this section for custody transfers of base gasoline to truck carriers, retail outlets, and wholesale purchaser-consumer facilities or for transfers of exempt base gasoline to be used for research, development, or test purposes.

* * * * *

3. Section 80.170 is amended by adding a new paragraph (f)(7) to read as follows:

§ 80.170 Volumetric additive reconciliation (VAR), equipment calibration, and recordkeeping requirements.

* * * * *

(f) * * *

(7) If a detergent blender uses an oxygenate -or PRC-restricted certified detergent to additize fuel, documentation must be maintained by that blender fully identifying the oxygenate and/or PRC (as applicable) content of the fuel into which the oxygenate or PRC-restricted detergent was blended, so as to confirm or to substantially confirm that the fuel into which the restricted detergent was blended complied with the use restriction. Documentation which may be used to fulfill this requirement includes, but is not limited to: PTD(s) from the fuel supplier identifying all the oxygenates or PRC (as appropriate) in the fuel; test results identifying all the oxygenates or PRC (as appropriate) in the fuel; written contract language between the supplier and the blender establishing the complete oxygenate and/or PRC (as appropriate) content of the supplied fuel.

* * * * *

4. Section 80.171 is amended as follows:

- a. Paragraph (a)(5) is removed.
- b. Paragraphs (a)(6) through (12) are redesignated as paragraphs (a)(5) through (a)(11).
- c. Paragraph(b)(1) is revised to read as follows:

§ 80.171 Product Transfer Documents (PTDs)

* * * * *

(b) Use of product codes and other non-regulatory language.

(1) Product codes and other non-regulatory language may not be used as a substitute for the PTD warning language specified in paragraph (a)(6) of this section for custody transfers of base gasoline to truck carriers, retail outlets, and wholesale purchaser-consumer facilities, or for transfers of exempt base

gasoline to be used for research, development, or test purposes.

* * * * *

[FR Doc. 97-29390 Filed 11-5-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5916-7]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Browning-Ferris Industries—South Brunswick Landfill Site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces its intent to delete the Browning-Ferris Industries—South Brunswick Landfill Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C 9601 *et seq.* EPA and the New Jersey Department of Environmental Protection (NJDEP) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before December 8, 1997.

ADDRESSES: Comments may be mailed to: Mary Anne Rosa, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway-19th Floor, New York, NY 10007-1866.

The deletion docket and other comprehensive information on this Site is available for viewing at the Browning-Ferris Industries—South Brunswick Landfill Site information repository at the following location: Town of South Brunswick Municipal Building, P.O. Box 190, Monmouth Junction, New Jersey 08852, (908) 329-4000.

FOR FURTHER INFORMATION CONTACT: Mary Anne Rosa, Remedial Project Manager, U.S. Environmental Protection

Agency, Region II, 290 Broadway—19th Floor, New York, New York 10007-1866, (212) 637-4407.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletion

I. Introduction

EPA Region II announces its intent to delete the Browning-Ferris Industries—South Brunswick Landfill Site, which is located in South Brunswick Township, Middlesex County, New Jersey, from the NPL, which constitutes Appendix B of the NCP, 40 CFR part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site until December 8, 1997.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that sites may be deleted from the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA in consultation with NJDEP, shall consider whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate responses under CERCLA have been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release of hazardous substances poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region II issued a Record of Decision (ROD) which documented the remedial action activities; (2) all appropriate responses under CERCLA