and, is therefore not subject to review by the Office of Management and Budget. In addition, this correction action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with state officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

However, conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that a state is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new Federal requirement.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this correction action must be filed in the United States Court of Appeals for the appropriate circuit by January 5, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 29, 1997.

William T. Wisnieski,

Acting Regional Administrator, Region III.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2026 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 52.2026 Conditional Approval.

* * * * *

(a) If the Commonwealth fails to start its program according to the schedule it provided (i.e., by no later than November 15, 1997 for the five-county Philadelphia area and no later than November 15, 1999 for the remaining sixteen counties), this conditional approval will convert to a disapproval after EPA sends a letter to the state. If the Commonwealth fails to satisfy the following conditions per the deadlines listed within each condition, this conditional approval will automatically convert to a disapproval as explained under section 110(k) of the Clean Air Act. The conditions for approvability are as follows:

(1) By no later than September 15, 1997, a notice must be published in the *Pennsylvania Bulletin* by the Secretary of the Pennsylvania Department of Transportation which certifies that the enhanced I/M program is required in order to comply with Federal law and also certifies the geographic areas which are subject to the enhanced I/M program (the geographic coverage must be identical to that listed in Appendix A–1 of the March 22, 1996 SIP submittal), and certifies the commencement date of the enhanced I/M program.

* * * * *

[FR Doc. 97–29388 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5917–9]

Removal of Requirement in Gasoline Deposit Control Additives Rule Regarding the Identification of the Oxygenate Content of Transferred Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending the gasoline deposit control additives program, (the ''detergent rule'') to remove the requirement that certain information on the oxygenate content of transferred gasoline must be included in the gasoline's product transfer document. EPA is taking this action to avoid unnecessary disruption to the gasoline distribution system and because the Agency believes that it will result in no negative environmental impact.

In the proposed rules section of today's **Federal Register**, EPA is proposing the same action covered by this direct final rule (*i.e.*, to amend the detergent rule to remove the requirement that certain information on the oxygenate content of transferred gasoline must be included in the gasoline's product transfer document), as well as several other actions impacting the detergent rule. If adverse comment or a request for a public hearing is received on this direct final rule, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule on the related proposed rule. No additional

opportunity for public comment on this removal of certain detergent rule product transfer document oxygenate information will be provided.

DATES: This action will become effective on January 5, 1998, unless notice is received by December 8, 1997 from someone who wishes to submit adverse comment or requests an opportunity for a public hearing. If such notice is received, EPA will withdraw this direct final rule, and a timely notice will be published in the **Federal Register** to indicate the withdrawal.

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 direct final rule 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:
http://www.epa.gov/docs/fedrgstr/EPA–AIR/ (Either select desired date or use Search feature.)

Office of Mobile Sources Web Site:
http://www.epa.gov/OMSWWW/ (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:

Table of Contents

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. Final 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). Final 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. 40 CFR 80.158(a)(5) and 80.171(a)(5). Members of the gasoline refining and distribution industry informed EPA that this requirement 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 this Direct Final Rule which removes the specified PTD

[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 VI-–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.

oxygenate requirement, or until December 31, 1997, whichever comes first. [3]

III. Removal of Identification Requirement 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 other information about the product's regulatory status.

One such 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 with 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 commingled 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 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, 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, on August 28, l996, the Agency issued its first enforcement discretion letter temporarily suspending enforcement of this PTD requirement.

B. Rule Amendment

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 amending the detergent program through this direct final rule to eliminate the requirement that PTDs for gasoline must identify the oxygenates found in the transferred product. At the same time, an NPRM is being published to address this issue with full notice and comment. Under the proposal, a new requirement would take the place of the deleted PTD identification requirement. The proposed requirement would mandate 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. This direct final rule, however, is merely deleting the PTD oxygenate identification requirement. The Agency believes this is appropriate because no oxygenate-restricted detergents have been certified to date, so there is presently no potential for misadditization based on inappropriate use of oxygenate-restricted detergents through the deletion of this PTD requirement. Further, the deletion of this requirement until the issue is resolved through the NPRM process does not in any way affect the detergent rule's requirement of proper additization of gasoline in full compliance with all certification restrictions of the detergent being used.

IV. Environmental Impact

This rule is expected to have no negative environmental impact. Controls on proper gasoline additization are not affected by this rule. Further, no oxygenate-restricted detergents have been certified yet, so the absence of the specific PTD oxygenate information on transferred gasoline will have no impact on the proper additization of such gasoline.

V. Economic Impact and Impact on Small Entities

EPA has determined that this final rule will not have a significant impact on a substantial number of small entities because it removes a regulatory requirement with which parties would otherwise have to comply. This rule is not expected to result in any additional compliance cost to regulated parties and may be expected to reduce compliance cost. Therefore, a regulatory flexibility analysis has not been prepared.

VI. Public Participation and Effective Date

The Agency is publishing this action as a direct final rule because it views it as non-controversial and anticipates no adverse comments. However, in a separate Notice of Proposed Rulemaking (NPRM) in today's **Federal Register**, the Agency is proposing, among other things, to eliminate the PTD requirement should adverse or critical comments be filed. Thus, today's direct final action will be effective January 5, 1998 unless the Agency receives notice by December 8, 1997 that adverse or critical comments will be submitted or that a party requests the opportunity to submit such oral comments pursuant to section 307(d)(5) of the Clean Air Act, as amended.

If the Agency receives such comments, EPA will withdraw this action before the effective date by publishing a subsequent document. All public comments received will then be addressed in a subsequent final rule based on the NPRM published elsewhere in today's **Federal Register**. The Agency will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective January 5, 1998.

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

VII. Executive Order 12866

Under Executive Order 12866,[4] the Agency must determine whether a regulation is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one 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 of 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.[5]

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

VIII. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''UMRA''), Public Law 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, for any rule subject to Section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under Section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that the final rule promulgated today does not include a federal mandate as defined in UMRA. The rule does not include a federal mandate that may result in estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of $100 million or more, and it does not establish regulatory requirements that may significantly or uniquely affect small governments.

IX. Paperwork Reduction Act

The action in today's notice does not impose any new information collection burden. Implementation of this action would eliminate the existing requirement that product transfer documents (PTDs) for gasoline must identify the oxygenates present. No new information collection requirements would result from the implementation of the regulatory amendment which is the subject of this action. To the contrary, its implementation would eliminate a compliance burden from the majority of regulated parties.

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.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

XI. Statutory Authority

The statutory authority for the proposed action in this rule 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 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)).

§ 80.158 [Amended]

2. Section 80.158(a) 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).

§ 80.171 [Amended]

3. Section 80.171(a) 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).

[FR Doc. 97–29391 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AZ–001–BU; FRL–5917–4]

Clean Air Act Reclassification; Arizona-Phoenix Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finding that the Phoenix nonattainment area (Maricopa

[4] 58 FR 51736 (October 4, 1993).

[5] *Id.* at section 3(f)(1)–(4).