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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

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

Dated: January 17, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

Title 40 of the Code of Federal Regulations, chapter I, part 52, 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.

2. Section 52.1220 is amended by adding paragraph (c)(59) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(59) On September 1, 1999, the State of Minnesota submitted a site-specific revision to the Minnesota Sulfur Dioxide (SO_2) SIP for the Northern States Power Company (NSP) Riverside Plant, located in Minneapolis, Hennepin County, Minnesota. Specifically, EPA is approving into the SO_2 SIP only those portions of the NSP Riverside Plant Title V Operating Permit cited as ''Title I condition: State Implementation Plan for SO_2.'' In this same action, EPA is removing from the state SO_2 SIP the NSP Riverside Plant Administrative Order previously approved and amended in paragraphs (c)(30) and (c)(46) of this section respectively.

(i) Incorporation by reference.

(A) Air Emission Permit No. 05300015–001, issued by the Minnesota Pollution Control Agency (MPCA) to Northern States Power Company—Riverside Plant on May 11, 1999, Title I conditions only.

[FR Doc. 02–4400 Filed 2–25–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7147–1]

RIN 2060–AJ79

Regulation of Fuel and Fuel Additives: Reformulated Gasoline Transition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With today's action the Environmental Protection Agency (EPA) is taking action to improve flexibility of refiners and terminal operators during the springtime transition to summer grade reformulated gasoline (RFG). Specifically, we are eliminating the requirements for blendstock tracking and accounting. This change will increase refiners' flexibility to transfer gasoline blendstocks, and help to improve the responsiveness of the gasoline supply system, by removing some significant refinery compliance and reporting burdens that are no longer necessary.

Today's actions, in combination with other Agency actions, are intended to help ease the annual spring transition from winter grade RFG to summer grade RFG by promoting improved RFG inventories during this transition period. These actions include EPA's future extension of the 2% VOC enforcement tolerance to include the first turn of summer grade RFG tanks at terminals, and EPA's recent final rule regarding the procedures for using previously certified gasoline. In order to help the public understand the relationship between today's actions and these prior Agency actions, we briefly summarize these two related EPA actions in the preamble to today's final rule.

We are also making certain technical modifications to existing regulations. Specifically, we are updating certain ASTM designated analytical test methods for reformulated and conventional gasoline to their most recent ASTM version, and also updating several sampling methods to their most recent ASTM version. These updates will allow improvements in the test method procedures and sampling procedures that will ensure better operation for the user of the test methods and sampling procedures.

Finally, while EPA proposed to establish a new April 15 annual compliance date for reformulated gasoline (RFG) and reformulated blendstock for oxygenate blending (RBOB), we are not taking final action on that proposal today.

DATES: This rule is effective April 29, 2002, except for the amendments to 40 CFR 80.65, 80.92, 80.101, 80.102, 80.104, 80.105, 80.106, and 80.128 (sections dealing with the elimination of blendstock accounting) which are effective February 26, 2002. For additional information on the effective date, see **SUPPLEMENTARY INFORMATION.** The incorporation by reference of certain publications in this rule is approved by the Director of the Office of the Federal Register as of April 29, 2002.

FOR FURTHER INFORMATION CONTACT: For further information about this rule, contact Chris McKenna, Chemical Engineer, Office of Transportation and Air Quality, Transportation and Regional Programs Division, at (202) 564–9037 or *mckenna.chris@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA believes that it is appropriate to make certain amendments in today's final rule effective immediately upon today's publication in the **Federal Register**. This rule will not impose an additional burden on regulated parties. By making these changes effective immediately, refiners and terminals will be able to maximize the opportunity to incorporate these changes within their operating procedures, which should promote the availability of summer RFG during this spring's transition period. These affected parties have stated that they needed changes to be effective no later than early February to allow sufficient lead time to affect this year's winter to summer transition. EPA notes that the general requirement in 5 U.S.C. 553(d) of the Administrative Procedure Act (APA), concerning publication or service of a substantive rule not less than 30 days prior to its effective date, does not apply here. CAA section 307(d)(1) provides that section 553 of the APA does not apply to promulgation or revision of any regulation pertaining to fuels or fuel additives under section 211 of the CAA. Even if section 553(d) of the APA were to apply, there is good cause under section 553(d)(3) to provide less than 30 days notice, for the reasons noted above.

The contents of today's preamble are listed in the following outline.

I. Regulated Entities

Entities potentially affected by this action include those involved with the production, importation, distribution, sale and storage of gasoline motor fuel.

The table below gives some examples of entities that may have to comply with the regulations. However, since these are only examples, you should carefully examine these and other existing regulations in 40 CFR part 80. If you have any questions, please call the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Category	NAICS codes [1]	SIC codes [2]	Examples of potentially regulated parties
Industry	324110	2911	Petroleum refiners.
Industry	422710 422720	5171 5172	Gasoline Marketers and Distributors.

[1] North American Industry Classification System (NAICS).
[2] Standard Industrial Classification (SIC) system code.

II. Rule Changes

A. Elimination of Blendstock Accounting Requirements

The current blendstock tracking and accounting requirements in § 80.102 were included in the RFG/anti-dumping regulations out of a concern that refineries with 1990 baselines cleaner than the anti-dumping statutory baseline might transfer dirty gasoline blendstocks to refineries with dirtier baselines because such refineries would be better able to use the dirty blendstocks while still meeting their anti-dumping baseline. Under the current regulations, if a cleaner refinery transfers large quantities of certain dirty blendstocks to another refinery, the cleaner refinery must account for all of the blendstocks it produces and transfers in its anti-dumping compliance calculations in specified subsequent annual averaging periods. Thus, the cleaner refinery would not be able to evade its more stringent baseline by transferring blendstocks.

In the Notice of Proposed Rulemaking (NPRM) (66 FR 6163, December 3, 2001), we determined, based on a recent analysis of the current blendstock tracking and accounting requirements in § 80.102 [1], that, under most circumstances, refineries today would have little or no incentive to transfer blendstocks to other refineries for the purpose of evading a more stringent baseline.[2] We also concluded that the current blendstock tracking and accounting requirements create significant additional compliance and reporting burdens, and, in some cases, may have the effect of deterring refiners or importers from transferring gasoline blendstocks that they otherwise would transfer in the normal course of business in response to legitimate supply concerns and other refinery needs. Therefore, we concluded that the existing blendstock tracking and accounting requirements were unnecessary and that eliminating those requirements may help to improve the responsiveness of the gasoline supply system by increasing refiners' flexibility to transfer gasoline blendstocks. As a result, we proposed to eliminate the current blendstock tracking and accounting requirements in § 80.102.

We continued to have concern that a refinery with a baseline more stringent than the anti-dumping statutory baseline could create an off-site terminal blending facility acting as a refinery for the sole purpose of certifying gasoline at the less stringent anti-dumping statutory baseline. To address this limited situation in which blendstock transfers could possibly be undertaken for the purpose of evading a more stringent baseline, we proposed to replace the existing provisions with a significantly less restrictive program for regulating blendstock transfers. Our proposed program would have required a refinery with a baseline that is more stringent than the anti-dumping statutory baseline, and that produces less gasoline than its 1990 baseline volume during the annual averaging period,[3] to petition

[1] See Draft Technical Support Document: Analysis of regulation to establish new date for receipt of summer grade RFG at terminals, Air Docket A–2001–21, Document Number II–B–1.

[2] When a refinery produces more total gasoline than that produced in 1990, the additional gasoline over and above the refinery's 1990 baseline volume must meet the statutory baseline regardless of the refinery's individual baseline. Since nearly all refineries currently produce significantly more gasoline than they produced in 1990, EPA believes that the blendstock transfers that are likely to occur today will be between donor and recipient refineries whose total production is well above 1990 baseline volume levels with or without a transfer. If transfers under these conditions occur between refiners producing only CG, there will be no net change in the quality of their combined CG pool because the donor refiner's gallons at the statutory baseline would be replaced by the recipient refiner's gallons at this same baseline. Thus, there would likely be no motivation or opportunity for ''gaming the system'' under these circumstances. Where either or both refiners make RFG and CG, there is some potential for meeting a slightly lower baseline by transferring blendstocks. However, it is unlikely that there would ever be any impact more significant than a small decrease in the stringency of compliance requirements, meaning that the gaming possibilities of such a transfer are very small, and thus any such transfers would produce only very small economic benefits which may be more than offset by the transactional costs associated with the transfer. As a result, the transfer of blendstocks from one refinery to another where both refineries produce more gasoline than they did in 1990 has very little potential to cause any adverse environmental impact.

Additionally, EPA has carefully examined individual refinery situations and has concluded that for the very limited number of refineries producing volumes where a transfer could result in some increased emissions, there is little possibility for gaming since clean/dirty refinery baseline pairs within a specific emission category (NO_X or toxics) are very uncommon. (i.e, for NO_X and toxics, almost all members of this refinery subset are clean for one pollutant and dirty for the other severely limiting any opportunity for gaming.

[3] As discussed in footnote 2 above, there is likely to be no motivation or opportunity to transfer blendstocks for the purpose of evading a more stringent baseline where the refinery produces more gasoline than its 1990 baseline volume during the annual averaging period. Only in situations where

EPA for approval to transfer specified dirty blendstocks in excess of five percent of the refinery's annual production. Under the proposal, the refinery would be required to demonstrate that such blendstock transfers were for a legitimate operational purpose.

We received several comments on the details of the proposed petition requirements. We also received a number of comments recommending that EPA totally eliminate any requirements relating to blendstock transfers. These commenters believe that restrictions on blendstock transfers are unnecessary, particularly in light of the new toxics requirements under the Mobile Source Air Toxics (MSAT)[4] rule and the new controls on sulfur under the Tier 2 Gasoline Sulfur (Tier 2)[5] rule. These commenters believe these rules will have the effect of imposing more stringent toxics and NO_X performance requirements on conventional gasoline (CG) than currently required under the anti-dumping program.

We have reconsidered our proposal in light of the comments we received. We agree that the MSAT and Tier 2 rules, in most situations, will result in more stringent toxics and NO_X performance for conventional gasoline than the current anti-dumping requirements. We believe that these rules, in combination with the fact that almost all refiners now produce greater volumes of gasoline than they did in 1990, will virtually eliminate any potential for refiners to engage in blendstock transfers that would degrade the quality of conventional gasoline. The recently promulgated MSAT rule for example, which is effective beginning in 2002, requires each refinery to meet a performance standard for toxic air emissions for CG and RFG equivalent to the actual performance of that refinery's CG or RFG during the baseline years 1998, 1999, and 2000. This rule also establishes a default toxics baseline, based on the national average for toxics emissions performance during the baseline years for refineries that are unable to establish an individual toxics baseline. Because the new MSAT default baseline is more stringent than the anti-dumping statutory exhaust toxics baseline, only a refinery with a toxics baseline that is more stringent than the MSAT default baseline would have any incentive to transfer dirty blendstocks to a newly created terminal/refinery facility (which would be subject to the MSAT default baseline) for the purpose of evading its more stringent toxics baseline.

We believe that the more stringent sulfur standards under the Tier 2 rule will have a similar effect with regard to the potential for refiners and importers to use blendstock transfers as a means of evading a more stringent NO_X anti-dumping baseline. Since all refiners and importers (with certain exceptions in the early years of the Tier 2 program) will be subject to an annual average sulfur standard of 30 ppm, and because removal of sulfur tends to reduce NO_X emissions from gasoline, generally under Tier 2 refiners are likely to produce gasoline that has better NO_X performance. Thus, we believe the low sulfur requirements also will tend to reduce the incentive to transfer dirty blendstocks to another refinery, including a new terminal/refinery facility, for the purpose of evading a more stringent NO_X baseline. In any event, we believe that the cost of creating a new terminal/refinery facility as described above for the purpose of evading a more stringent baseline would likely outweigh any possible economic benefit.

In light of these observations, we believe that the blendstock tracking and accounting provisions now have no significant independent utility in the context of the RFG/anti-dumping program. Because these provisions present a potentially significant burden for refiners, and may result unnecessarily in added rigidity in the gasoline production and distribution system, we have decided to eliminate these blendstock tracking and accounting provisions altogether.

Accordingly, today's final rule deletes the current blendstock tracking and accounting requirements in § 80.102, and does not replace them with any other restrictions on blendstock transfers. However, we intend to closely monitor situations in which new terminal/refinery facilities are created to determine if such facilities are being created for the purpose of evading a more stringent baseline. If we find that such facilities are being created for this purpose, we may reinstate the blendstock accounting requirements or impose other appropriate restrictions on blendstock transfers in the future.

B. Updating ASTM Designated Analytical Test Methods for Reformulated and Conventional Gasoline to Their Most Recent ASTM Version

Refiners, importers and oxygenate blenders producing gasoline are required to test RFG and CG for various fuel parameters like olefins, distillation points, benzene and RVP. During the federal RFG rulemaking, and in response to comments by the regulated industry, EPA designated analytical test methods that the Agency would use for enforcement and compliance purposes. See 40 CFR 80.46 (59 FR 7813 (February 16, 1994)). On December 3, 2001, the Agency proposed to update certain designated analytical test methods for measuring olefins, RVP, Distillation, and oxygen and oxygenate content analysis in reformulated and conventional gasoline.

The American Petroleum Institute (API), the National Petroleum Refiners Association (NPRA), and several refiners commented in support of updating certain analytical test methods in the proposal with caveats. One commenter also requested that an adequate transition time be provided for industry to become familiar with the ASTM test methods before they are required to implement them. Therefore, the Agency today is making the test method changes effective sixty (60) days after publication of the final rule in the **Federal Register**. We are confident that sixty (60) days is sufficient lead time for industry to become familiar and implement these ASTM test methods. Table 3 lists the designated analytical test methods which are being updated for each gasoline parameter measured under RFG and CG fuels program in today's final rule. We have reviewed these newer versions of the ASTM test methods. We believe that the revisions in the newer versions of the ASTM designated test methods are not significant changes that would cause a user of an older version of the same method to incur significant costs. All of the revisions were deemed necessary by ASTM so that improvements in the test method's procedures would ensure better operation for the user of the test method.

a refinery produces less than its 1990 baseline volume would there be any incentive to transfer blendstocks for the purpose of evading a more stringent baseline.

[4] 66 FR 17230 (March 29, 2001).

[5] 65 FR 6698 (February 10, 2000).

TABLE 3.—DESIGNATED ANALYTICAL TEST METHOD UNDER RFG AND CG FUEL PROGRAMS

Fuel parameter	Designated analytical test method
Olefins	ASTM D 1319–98, entitled, ''Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Absorption''.
Reid Vapor Pressure	ASTM D 5191–01, entitled, ''Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method)'', except that the following correlation equation be used with ASTM D 5191–01: RVP psi = (0.956*X)-0.347 RVP kPa = (0.956*X)-2.39 Where: X=total measured vapor pressure in psi or kPa
Distillation	ASTM D 86–01, entitled, ''Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure''.
Oxygen and Oxygen content analysis	ASTM D 5599–00, entitled, ''Standard Test Method for Determination of Oxygenates in Gasoline by Gas Chromatography and Oxygen Selective Flame Ionization Detection''.[1]
Aromatics	ASTM D 5769–98, entitled, ''Standard Test Method for Determination of Benzene, Toluene, and Total Aromatics in Finished Gasolines by Gas Chromatography/Mass Spectrometry'', except that the sample chilling requirements in section 8 of this method be optional.[2]

[1] Prior to September 1, 2004, and when oxygenates are limited to MTBE, ETBE, TAME, DIPE, tertiary-amyl alcohol, and C_1 and C_4 alcohols, any refiner, importer, or oxygenate blender may determine oxygenate content using ASTM standard method D 4815–99, entitled, ''Standard Test Method for Determination of MTBE, TAME, tertiary-amyl Alcohol and C_1 and C_4 Alcohols in Gasoline by Gas Chromatography'' provided the result is correlated to ASTM D 5599–00.

[2] Prior to September 1, 2004, any refiner, or importer may determine aromatics content using ASTM standard method D 1319–99, entitled, ''Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Absorption'' provided the result is correlated to ASTM D 5769–98.

A detailed discussion of all the comments received on the testing methods, alternatives to those we are promulgating today, and our reasons for selection of the test methods in Table 3 are contained in the Response to Comments document for this rulemaking (see item V–C–1 in Docket A–2001–21).

C. Corrections to Gasoline and Diesel Sample Testing Methodology

40 CFR Part 80, Appendices D and G, specify sampling procedures for gasoline and diesel fuel for all motor vehicle fuel programs under 40 CFR Part 80, including the programs for unleaded gasoline, gasoline volatility, diesel sulfur, RFG, and anti-dumping. We proposed to replace the sampling procedures in Appendices D and G with the following ASTM standard practices:

- D 4057–95(2000), ''Standard Practice for Manual Sampling of Petroleum and Petroleum Products;''
- D 4177–95(2000), ''Standard Practice for Automatic Sampling of Petroleum and Petroleum Products;''
- D 5842–95(2000), ''Standard Practice for Sampling and Handling of Fuels for Volatility Measurements;'' and
- D 5854–96(2000), ''Standard Practice for Mixing and Handling of Liquid Samples of Petroleum and Petroleum Products.''

These changes were formerly proposed in ''Regulation of Fuels and Fuel Additives: Modifications to Standards and Requirements for Reformulated and Conventional Gasoline—Proposed Rule,'' 62 FR 37338 (July 11, 1997), although these provisions were never finalized. Since we are updating various other test methods via this notice, it is logical to consider sampling methodologies here as well.

Appendices D and G of 40 CFR Part 80 were adopted from the 1981 version of D 4057. Over time, however, ASTM has updated D 4057, and these changes are not reflected in Appendices D and G.

EPA received several supportive comments for adopting the ASTM sampling methods as proposed. One commenter also requested that an adequate transition time be provided for industry to become familiar with the ASTM sampling methods before they are required to implement them. Therefore, the Agency today is making the sampling method changes effective sixty (60) days after publication of the final rule in the **Federal Register**. We are confident that sixty (60) days is sufficient lead time for industry to become familiar and implement these ASTM sampling methods.

Thus, EPA is today adopting three ASTM methods in addition to D 4057–95(2000) as proposed in order to include procedures that address a broad scope of sampling situations that are relevant to EPA's motor vehicle fuels programs. D 4177–95(2000) deals with automatic sampling of petroleum products, which is relevant under the anti-dumping regulations for refiners who produce conventional gasoline using an in-line blending operation where automatic sampling is necessary. Similarly, D 5842–95(2000) deals with sampling and sample handling for volatility measurement, which is relevant to determining compliance with the volatility standards in § 80.27 and the RFG standards in § 80.41. Last, D 5854–96(2000) deals with the creation of composite samples, which is relevant under the RFG and anti-dumping programs in certain situations involving imported gasoline where the gasoline from multiple ship compartments is treated as a single batch.

We believe it is appropriate to replace Appendices D and G with ASTM standard practices. The current ASTM practices reflect up-to-date procedures, which if followed would result in improved sample quality for regulatory purposes. In addition, today's adoption of industry standard procedures reduces the regulatory burden because parties would be able to follow their customary practices when meeting regulatory requirements.

III. Description of Related Agency Actions

Two other actions by EPA, in combination with today's final actions, are also expected to help to facilitate the annual spring transition from winter grade RFG to summer grade RFG by increasing RFG inventories during this transition period. These are not final regulatory actions being taken in today's final rule, but are separate and independent Agency actions that are related to today's final actions in intent and effect.

A. Extension of the 2 Percent Testing Tolerance

RFG at facilities upstream of retail outlets must meet the standards for VOC emissions performance from May 1 through September 15 each year, and additionally at retail outlets from June 1 through September 15 each year. These standards are a minimum 25% reduction in VOC emissions in southern RFG areas and a minimum 23.4% reduction in northern RFG areas. EPA has allowed a 2% tolerance when evaluating compliance with these standards at locations downstream of refineries since, due to testing variability, a refiner's test results could show compliance for some particular RFG, yet a downstream party's test results could show noncompliance for that same RFG. This 2% tolerance has applied at terminals only after a terminal has obtained a test result showing compliance with the VOC standard without application of the tolerance.

Since it is not a regulatory provision, no mention was made in the NPRM of allowing use of the 2% testing tolerance for the VOC performance standard for the first tank of RFG at terminals classified as VOC controlled. Nonetheless, several commenters mentioned that such an extension of the existing enforcement tolerance would provide more help in easing the seasonal transition from winter to summer RFG than any of the actions that EPA proposed (including the terminal receipt date). Moreover, commenters pointed out that the 2% tolerance is already applied to subsequent tanks of summer RFG at terminals after the first tank of summer RFG, and its extension would have no adverse impact on the overall emission characteristics of summer grade RFG. EPA agrees, in general, with the commenters, and is planning to issue guidance to extend applicability of the 2% enforcement tolerance to cover the first tank of RFG classified as VOC controlled at terminals.

This extension of EPA's enforcement tolerance will help to increase flexibility for terminals during the crucial period of seasonal transitions for the first tank of RFG at terminals classified as VOC controlled, the tank for which terminals typically have the most difficulty meeting the VOC standard. This extension should help provide some relief in meeting the VOC standard for tanks which may contain a small amount of residual non-VOC controlled RFG (the tank ''heel'') prior to refilling the tank with VOC-controlled RFG, tanks which may have slightly missed meeting the VOC performance standards without the 2% tolerance.

B. Promulgation of Provisions for Using Previously Certified Gasoline

In December of 2001, EPA finalized a rule to permit reclassification of previously certified gasoline (PCG) (66 FR 67098, December 28, 2001). This rule allows extremely ''clean'' conventional gasoline (CG) to be reclassified as RFG, winter RFG to be reclassified as summer RFG, and VOC Region 2 RFG to be reclassified as Region 1 RFG in a manner that eliminates the potential for degrading the emissions performance of the various gasoline pools. The PCG rule will provide refiners with greater flexibility to potentially increase summer RFG production during the transition by allowing reclassification of winter RFG to summer RFG.

IV. Provisions Not Finalized in Today's Rule

A. Proposed April 15 Terminal Receipt Date

In EPA's December 3, 2001, notice of proposed rulemaking, EPA proposed a new April 15 date on or after which no persons except retailers and wholesale purchaser consumers would be able to accept receipt of any RFG or RBOB other than summer grade RFG or RBOB. We also solicited comment on (1) the elimination or delay of the May 1 up-stream compliance date, (2) establishment of April 1 as the terminal receipt date (rather than April 15), (3) establishment of a two step turnover process for terminals, and (4) establishing an April 15 terminal receipt date but limiting it to the Chicago/Milwaukee RFG areas.

EPA received numerous comments on this part of the proposal. Commenters generally believed that any such changes would be unlikely to have beneficial effects on gasoline supply during the seasonal transition period, and many commenters expressed concern that changes in the regulatory scheme too close to the beginning of the summer ozone season could actually complicate the transition. EPA recognizes that there are many complicated factors, in addition to EPA's compliance deadlines, that have an impact on gasoline supply during the seasonal transition period, including some EPA was unaware of when this rule was proposed. EPA wants to more fully understand these factors before making any final decisions about whether to adopt a different compliance deadline (or deadlines) for terminals or others. Therefore, EPA is not taking any final action today on the proposed April 15 terminal receipt date. A detailed discussion of EPA's decision is included in the response to comments (item V–C–1 in Docket A–2001–21).

B. Proposed Adjustment to the RVP Minimum for RFG

In the notice of proposed rulemaking, EPA asked for comment on reducing the minimum allowable RVP for summer RFG from 6.4 to 6.0 psi, as an additional means of helping ease the winter to summer RFG transition. EPA has decided not to take any final action on this item at this time. A more detailed discussion of EPA's decision is included in the response to comments (item V–C–1 in Docket A–2001–21).

V. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action 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 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, we have determined that this final rule is not a significant regulatory action.

B. Executive Order 13132 (Federalism)

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

the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The final rule eliminates the existing blendstock accounting requirements at 40 CFR 80.102 and updates ASTM test methods to their most recent version. Thus, Executive Order 13132 does not apply to this final rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this final rule from State and local officials.

C. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This rule applies to gasoline refiners, blenders and importers that supply gasoline to RFG areas. Today's action modifies the Federal RFG requirements, and does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

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

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that has not more than 1,500 employees (13 CFR 121.201); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, we believe that this action will not have a significant economic impact on a substantial number of small entities. We have determined that no small entities will experience an impact from this proposal.

Although this final rule will not have a significant impact on a substantial number of small entities, EPA has nonetheless tried to reduce the impact of this rule on small entities. We continue to be interested in the potential impacts of the final rule on small entities and welcome comments on issues related to such impacts.

E. Paperwork Reduction Act

The information collection requirements in this final rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. An Information Collection Request (ICR) document has been prepared by EPA (OMB # 2060–0277, EPA ICR No. 1591.15) and a copy may be obtained from Susan Auby by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW., Washington, DC 20460, by e-mail at *auby.susan@epamail.epa.gov,* or by calling (202) 260–4901. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr.*

Today's action eliminates the current blendstock tracking and accounting provisions of the RFG/anti-dumping regulations. The information collection hour burden associated with the current blendstock tracking and accounting provisions is estimated to be 24 hours per respondent to track blendstock transfers and prepare each blendstock accounting report, and 80 hours per respondent to prepare a request for a waiver of the blendstock accounting requirements (under extreme or unusual circumstances). The respondent cost associated with the current blendstock tracking and accounting requirements is estimated to be $60 per hour for blendstock tracking and preparation of each blendstock accounting report and blendstock accounting waiver request. The total information collection hour burden associated with the current blendstock tracking and accounting provisions is estimated to be 4,880 hours per year. This is based on an estimate of 200 respondents at 24 hours for blendstock tracking and preparation of blendstock accounting reports, and one respondent at 80 hours for preparation of blendstock accounting waiver requests. This hour burden is eliminated by today's action. The total cost burden associated with the current blendstock tracking and accounting provisions is estimated to be $292,800 per year (4,880 hours × $60 per hour). This cost burden is eliminated by today's action.

Regarding recordkeeping and reporting burdens, in a letter dated December 12, 2000, the National Petrochemical & Refiners Association (NPRA) commented on EPA's draft Information Collection Request for reformulated and conventional gasoline reporting. 65 FR 60939 (October 13, 2000). In the letter, NPRA made several requests relating to the RFG program's current information collection burden. Although today's action does not address all of NPRA's requests, as discussed above, today's action eliminates all of the current burden associated with the RFG program's anti-dumping blendstock tracking and accounting requirements. The current blendstock provisions impose substantial recordkeeping and reporting burdens on refiners who transfer blendstocks. These recordkeeping and reporting burdens may have had the effect of deterring refiners from transferring such blendstocks. Today's action eliminates these burdens for all refiners. We believe this reduction in information collection burden will result in a more free exchange of blendstocks.

OMB has approved the information collection requirements contained in the final RFG/anti-dumping rulemaking

(See 59 FR 7716 (February 16, 1994) and has assigned OMB control number 2060–0277 (EPA ICR No. 1591.13). EPA ICR 1591.14 associated with this rule will be encompassed in the next renewal of ICR 1591.13.

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. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

F. 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 in 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 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 final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. The final rule would impose no enforceable duty on any State, local or tribal governments or the private sector. This final rule applies to gasoline refiners, blenders and importers that supply gasoline to RFG areas.

G. Executive Order 13045: Children's Health Protection

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rulemaking involves environmental monitoring or measurement. Consistent with the Agency's Performance Based Measurement System (''PBMS''), EPA proposes not to require the use of specific, prescribed analytic methods. Rather, the Agency plans to allow the use of any method that meets the prescribed performance criteria. The PBMS approach is intended to be more flexible and cost-effective for the regulated community; it is also intended to encourage innovation in analytical technology and improved data quality. EPA is not precluding the use of any method, whether it constitutes a voluntary consensus standard or not, as long as it meets the performance criteria specified.

This final rule will update certain designated analytical test methods to their most recent ASTM version for the RFG program. Today's action does not establish new technical standards or analytical test methods, although it does update certain ASTM test methods and sampling methods to their current versions. To the extent that this action would allow the use of standards developed by voluntary consensus bodies (such as ASTM) this action would further the objectives of the NTTAA. The Agency plans to address the objectives of the NTTAA more broadly in an upcoming rulemaking to establish performance-based criteria for qualification of alternative analytical test methods.

I. Executive Order 13211 (Energy Effects)

This rule is not an economically ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it does not have a significant adverse effect on the supply, distribution, or use of energy. EPA is allowing additional flexibility for refiners to transfer blendstocks, which should allow refiners to better respond to fluctuations in gasoline supply or demand.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A ''major rule'' cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(a).

VI. Statutory Provisions and Legal Authority

Statutory authority for today's final rule comes from sections 211(c) and 211(k) of the CAA (42.U.S.C. 7545(c) and (k)). Section 211(c) allows EPA to regulate fuels that contribute to air pollution which endangers public health or welfare, or which impairs emission control equipment. Section 211(k) prescribes requirements for RFG and conventional gasoline and requires EPA to promulgate regulations establishing these requirements. Additional support for the procedural aspects of the fuels controls in today's rule comes from sections 114(a) and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Incorporation by reference, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: February 11, 2002.

Christine Todd Whitman,

Administrator.

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

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

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

Authority: 42 U.S.C. 7414, 7545, and 7601(a).

2. Section 80.8 is added to Subpart A to read as follows:

§ 80.8 Sampling methods for gasoline and diesel fuel.

The sampling methods specified in this section shall be used to collect samples of gasoline and diesel fuel for purposes of determining compliance with the requirements of this part.

(a) *Manual sampling.* Manual sampling of tanks and pipelines shall be performed according to the applicable procedures specified in American Society for Testing and Materials (ASTM) method D 4057–95(2000), entitled ''Standard Practice for Manual Sampling of Petroleum and Petroleum Products.''

(b) *Automatic sampling.* Automatic sampling of petroleum products in pipelines shall be performed according to the applicable procedures specified in ASTM method D 4177–95(2000), entitled ''Standard Practice for Automatic Sampling of Petroleum and Petroleum Products.''

(c) *Sampling and sample handling for volatility measurement.* Samples to be analyzed for Reid Vapor Pressure (RVP) shall be collected and handled according to the applicable procedures in ASTM method D 5842–95(2000), entitled ''Standard Practice for Sampling and Handling of Fuels for Volatility Measurement.''

(d) *Sample compositing.* Composite samples shall be prepared using the applicable procedures in ASTM method D 5854–96(2000), entitled ''Standard Practice for Mixing and Handling of Liquid Samples of Petroleum and Petroleum Products.''

(e) *Incorporations by reference.* ASTM standard practices D 4057–95(2000), D 4177–95(2000), D 5842–95(2000), and D 5854–96(2000), are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428–2959. Copies may be inspected at the Air Docket Section (LE–131), room M–1500, U.S. Environmental Protection Agency, Docket No. A–97–03, 401 M Street, SW., Washington, DC 20460, or at the Office of the Federal Register, National Archives and Records Administration, 800 North Capitol Street, NW., Suite 700, Washington, DC.

3. Section 80.27 is amended by revising paragraphs (b) and (d)(2) to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

* * * * *

(b) *Determination of compliance.* Compliance with the standards listed in paragraph (a) of this section shall be determined by the use of the sampling methodologies specified in § 80.8 and the testing methodology specified in § 80.46(c).

* * * * *

(d) * * *

(2) In order to qualify for the special regulatory treatment specified in paragraph (d)(1) of this section, gasoline must contain denatured, anhydrous ethanol. The concentration of the ethanol, excluding the required denaturing agent, must be at least 9% and no more than 10% (by volume) of the gasoline. The ethanol content of the gasoline shall be determined by the use of one of the testing methodologies specified in § 80.46(g). The maximum ethanol content shall not exceed any applicable waiver conditions under section 211(f) of the Clean Air Act.

* * * * *

4. Section 80.28 is amended by revising paragraphs (g)(2)(ii) and (g)(4)(i) to read as follows:

§ 80.28 Liability for violations of gasoline volatility controls and prohibitions.

* * * * *

(g) * * *

(2) * * *

(ii) Test results using the sampling methodology set forth in § 80.8 and the testing methodology set forth in § 80.46(c), or any other test method where adequate correlation to § 80.46(c) is demonstrated, which show evidence that the gasoline determined to be in violation was in compliance with the applicable standard when it was delivered to the next party in the distribution system.

* * * * *

(4) * * *

(i) Test results using the sampling methodology set forth in § 80.8 and the testing methodology set forth in § 80.46(c), or any other test method where adequate correlation to § 80.46(c) is demonstrated, which show evidence that the gasoline determined to be in violation was in compliance with the applicable standard when transported from the refinery.

* * * * *

5. Section 80.40 is amended by revising paragraph (c)(1) to read as follows:

§ 80.40 Fuel certification procedures.

* * * * *

(c)(1) ''Adjusted VOC gasoline'' for purposes of the general requirements in § 80.65(d)(2)(ii), and the certification procedures in this section is gasoline

that contains 10 volume percent ethanol, or RBOB intended for blending with 10 volume percent ethanol, that is intended for use in the areas described at § 80.70(f) and (i), and is designated by the refiner as adjusted VOC gasoline subject to less stringent VOC standards in § 80.41(e) and (f). In order for ''adjusted VOC gasoline'' to qualify for the regulatory treatment specified in § 80.41(e) and (f), reformulated gasoline must contain denatured, anhydrous ethanol. The concentration of the ethanol, excluding the required denaturing agent, must be at least 9% and no more than 10% (by volume) of the gasoline. The ethanol content of the gasoline shall be determined by use of one of the testing methodologies specified in § 80.46(g).

* * * * *

6. Section 80.46 is amended by revising paragraphs (b), (c), (d), (f), (g) and (h) to read as follows:

§ 80.46 Measurement of reformulated gasoline fuel parameters.

* * * * *

(b) *Olefins.* Olefin content shall be determined using ASTM standard method D 1319–98, entitled ''Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption.''

(c) *Reid vapor pressure (RVP).* Reid vapor pressure (RVP) shall be determined using ASTM standard method D 5191–01, entitled ''Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method),'' except that the following correlation equation must be used:

RVP psi = (0.956 * X) − 0.347

RVP kPa = (0.956 * X) − 2.39

Where:

X = total measured vapor pressure in psi or kPa.

(d) *Distillation.* Distillation parameters shall be determined using ASTM standard method D 86–01, entitled'' Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.''

* * * * *

(f)(1) Aromatic content shall be determined using ASTM D 5769–98, entitled, ''Standard Test Method for Determination of Benzene, Toluene, and Total Aromatics in Finished Gasolines by Gas Chromatography/Mass Spectrometry'', except that the sample chilling requirements in section 8 of this standard method are optional.

(2) [Reserved]

(3) (i) Prior to September 1, 2004, any refiner or importer may determine aromatics content using ASTM standard method D 1319–99, entitled ''Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Flourescent Indicator Adsorption,'' for purposes of meeting any testing requirement involving aromatics content; provided that

(ii) The refiner or importer test result is correlated with the method specified in paragraph (f)(1) of this section.

(g) *Oxygen and oxygenate content analysis.* (1) Oxygen and oxygenate content shall be determined using ASTM standard method D 5599–00, entitled ''Standard Test Method for Determination of Oxygenates in Gasoline by Gas Chromatography and Oxygen Selective Flame Ionization Detection.''

(2) (i) Prior to September 1, 2004, and when the oxygenates present are limited to MTBE, ETBE, TAME, DIPE, tertiary-amyl alcohol and C_1 to C_4 alcohols, any refiner, importer, or oxygenate blender may determine oxygen and oxygenate content using ASTM standard method D 4815–99 entitled ''Standard Test Method for Determination of MTBE, ETBE, TAME, DIPE, tertiary-Amyl Alcohol, and C_1 to C_4 Alcohols in Gasoline by Gas Chromatography,'' for purposes of meeting any testing requirement; provided that

(ii) The refiner or importer test result is correlated with the method specified in paragraph (g)(1) of this section.

(h) *Incorporations by reference.* ASTM standard methods D 3606–99, entitled ''Standard Test Method for Determination of Benzene and Toluene in Finished Motor and Aviation Gasoline by Gas Chromatography;'' D 1319–98, entitled ''Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption;' D 1319–99, entitled ''Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption;'' D 4815–99, entitled ''Standard Test Method for Determination of MTBE, ETBE, TAME, DIPE, tertiary-Amyl Alcohol and C_1 to C_4 Alcohols in Gasoline by Gas Chromatography;'' D 2622–98, entitled ''Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry;'' D 5191–01, entitled, ''Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method);'' D 5599–00, entitled, ''Standard Test Method for Determination of Oxygenates in Gasoline by Gas Chromatography and Oxygen Selective Flame Ionization Detection;'' D 5769–98, entitled, ''Standard Test Method for Determination of Benzene, Toluene, and Total Aromatics in Finished Gasolines by Gas Chromatography/Mass Spectrometry,'' and D 86–01, entitled, ''Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure;'' are incorporated by reference in this section. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428–2959. Copies may be inspected at the Air Docket Section (LE–131), room M–1500, U.S. Environmental Protection Agency, Docket No. A–97–03, 401 M Street, SW., Washington, DC 20460, or at the Office of the Federal Register, National Archives and Records Administration, 800 North Capitol Street, NW., Suite 700, Washington, DC.

7. Section 80.65 is amended by revising paragraph (d)(3) to read as follows:

§ 80.65 General requirements for refiners, importers, and oxygenate blenders.

* * * * *

(d) * * *

(3) Every batch of reformulated or conventional gasoline or RBOB produced or imported at each refinery or import facility shall be assigned a number (the ''batch number''), consisting of the EPA-assigned refiner, importer or oxygenate blender registration number, the EPA facility registration number, the last two digits of the year in which the batch was produced, and a unique number for the batch, beginning with the number one for the first batch produced or imported each calendar year and each subsequent batch during the calendar year being assigned the next sequential number (e.g., 4321–54321–95–000001, 4321–54321–95–000002, etc.).

* * * * *

§ 80.91 [Amended]

9. Section 80.91 is amended by removing paragraph (a)(1)(iii) and removing ''; and'' at the end of paragraph (a)(1)(ii) and adding a period.

10. Section 80.92 is amended by revising the first sentence of paragraph (a)(1) to read as follows:

§ 80.92 Baseline auditor requirements.

(a) * * *

(1) Each refiner or importer is required to have its individual baseline determination methodology, resulting baseline fuel parameter, volume and emissions values verified by an auditor which meets the requirements described in this section. * * *

* * * * *

11. Section 80.101 is amended by removing and reserving paragraphs (d)(2) and (e)(2), removing paragraph (h)(2)(iii), and revising paragraphs (h)(2)(i) and (h)(2)(ii) to read as follows:

§ 80.101 Standards applicable to refiners and importers.

* * * * *

(h) * * *

(2) * * *

(i) Be made as part of the report for the 1995 averaging period required by § 80.105; and

(ii) Apply for the 1995 averaging period and for each subsequent averaging period, and may not thereafter be changed.

* * * * *

§ 80.102 [Removed and Reserved]

12. Section 80.102 is removed and reserved.

13. Section 80.104 is amended by revising paragraphs (a)(1)(i) and removing and reserving paragraph (a)(2)(ix) to read as follows:

§ 80.104 Recordkeeping requirements.

* * * * *

(a) * * *

(1) * * *

(i) Each batch of conventional gasoline; and

* * * * *

§ 80.105 [Amended]

14. Section 80.105 is amended by removing and reserving paragraphs (a)(2) and (a)(3).

§ 80.106 [Amended]

15. Section 80.106 is amended by removing and reserving paragraph (b).

§ 80.128 [Amended]

16. Section 80.128 is amended by removing paragraphs (h) and (i).

Appendix D [Removed and Reserved]

17. Appendix D is removed and reserved.

Appendix E [Removed and Reserved]

18. Appendix E is removed and reserved.

Appendix F [Removed and Reserved]

19. Appendix F is removed and reserved.

Appendix G [Removed and Reserved]

20. Appendix G is removed and reserved.

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