

- Sec. 232 Reporting—excluding any reference to TRS (3–10–93)
 Sec. 234 Upset Conditions—excluding any reference to TRS (3–10–93)

Primary Aluminum Plants

- Sec. 255 Statement of Purpose (3–10–93)
 Sec. 260 Definitions (3–10–93)
 Sec. 265 Emission Standards (3–10–93)
 Sec. 270 Special Problem Areas (3–10–93)
 Sec. 275 Repealed
 Sec. 280 Monitoring (3–10–93)
 Sec. 285 Reporting (3–10–93)

Specific Industrial Standards

- Sec. 305 Definitions (3–10–93)
 Sec. 310 General Provisions (11–4–93)
 Sec. 315 Veneer and Plywood Manufacturing Operations (3–10–93)
 Sec. 320 Particleboard Manufacturing Operations (3–10–93)
 Sec. 325 Hardboard Manufacturing Operations (3–10–93)

Regulations for Sulfite Pulp Mills

- Sec. 350 Definitions (3–10–93)
 Sec. 355 Statement of Purpose (3–10–93)
 Sec. 360 Minimum Emission Standards (3–10–93)
 Sec. 365 Repealed
 Sec. 370 Monitoring and Reporting (3–10–93)
 Sec. 375 Repealed
 Sec. 380 Exceptions (3–10–93)

Laterite Ore Production of Ferronickel

- Sec. 405 Statement of Purpose (3–10–93)
 Sec. 410 Definitions (3–10–93)
 Sec. 415 Emission Standards (3–10–93)
 Sec. 420 Repealed
 Sec. 425 Repealed
 Sec. 430 Monitoring and Reporting (3–10–93)

* * * * *

3.2 Lane Regional Air Pollution Authority Regulations

* * * * *

Title 47 Rules for Open Outdoor Burning

- 47–001 General Policy (8–14–84)
 47–005 Statutory Exemptions from These Rules (8–14–84)
 47–010 Definitions (9–8–92)
 47–015 Open Burning Requirements (9–8–92)
 47–020 Letter Permits (9–8–92)
 47–025 Repealed
 47–030 Summary of Seasons, Areas, and Permit Requirements for Open Outdoor Burning (9–8–92)

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[FR Doc. 95–610 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 80

[AMS–FRL–5134–5]

Regulation of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to Moderate Ozone Nonattainment Areas in Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Under section 211(k)(6) of the Clean Air Act, as amended (Act), the Administrator of EPA shall apply the prohibition against the sale of gasoline that has not been controlled under EPA's reformulated gasoline (RFG) regulations in an ozone nonattainment area upon the application of the governor of the state in which the nonattainment area is located. This action extends the prohibition set forth in section 211(k)(5) of the Act to three moderate ozone non-attainment areas in Wisconsin, including those counties in the federal RFG program. In Phase I beginning on January 1, 1995, reformulated gasoline will achieve a 15 to 17 percent reduction in both ozone-forming volatile organic compound (VOC) emissions and toxics emissions from motor vehicles. In Phase II beginning on January 1, 2000, the program will achieve a 25 to 29 percent VOC reduction, a 20 to 22 percent reduction in toxics emissions, and a 5 to 7 percent nitrogen oxide (NO_x) reduction.

EFFECTIVE DATES: This action will be effective on March 13, 1995 unless notice is received by February 10, 1995 that adverse or critical comments will be submitted or that an opportunity to submit such comments at a public hearing is requested.

If such comments or a request for a public hearing are received by the Agency, then EPA will publish a subsequent **Federal Register** notice withdrawing this action and will issue a notice of proposed rulemaking.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) to Public Docket No. A–94–46, at Air Docket Section, U.S. Environmental Protection Agency, Waterside Mall, Room M–1500, 401 M Street SW., Washington, DC 20460. The Agency requests that commenters also send a copy of any comments to Joann Jackson Stephens at U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

Other materials relevant to the RFG rulemaking, and hence today's action,

are contained in Public Docket Nos. A–91–02, A–92–12, A–93–49, and A–94–30. These dockets are also located in Waterside Mall at the above listed address. The dockets may be inspected from 8:00 a.m. until 4:00 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Joann Jackson Stephens, Telephone: (313) 668–4276.

To request copies of this action contact Delores Frank, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668–4295.

SUPPLEMENTARY INFORMATION: A copy of this action is available on the EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTNBBS). The service is free of charge, except for the cost of the phone call. The TTNBBS can be accessed with a dial-in phone line and a high-speed modem per the following information: TTN BBS: 919–541–5742 (1200–14400 bps, no parity, 8 data bits, 1 stop bit), Voice Help-line: 919–541–5384, Accessible via Internet: TELNETttnbbs.rtpnc.epa.gov, Off-line: Mondays from 8:00 AM to 12:00 Noon ET

When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
 <M> OMS
 <K> Rulemaking and Reporting
 <3> Fuels
 <9> Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the RFG rulemaking process. To download any file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp
 Selection or <CR> to exit: D filename.zip

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via

<S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command. 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.

I. Background

As part of the Clean Air Act Amendments of 1990, Congress added a new subsection (k) to section 211 of the Clean Air Act. Subsection (k) prohibits the sale of gasoline that EPA has not certified as reformulated in the nine worst ozone nonattainment areas beginning January 1, 1995. EPA published final regulations for the RFG program on February 16, 1994 and on August 2, 1994. See 59 FR 7716 and 59 FR 39258. Corrections and clarifications to the final RFG regulations were published July 20, 1994. See 59 FR 36944.

Section 211(k)(10)(D) defines the areas covered by the RFG program as the nine ozone nonattainment areas having a 1980 population in excess of 250,000 and having the highest ozone design values during the period 1987 through 1989. Applying those criteria, EPA has determined the nine covered areas to be the metropolitan areas including Los Angeles, Houston, New York City, Baltimore, Chicago, San Diego, Philadelphia, Hartford and Milwaukee. Under section 211(k)(10)(D), any area reclassified as a severe ozone nonattainment area under section 181(b) is also to be included in the RFG program.

Any other ozone nonattainment area may be included in the program at the request of the Governor of the state in which the area is located. Section 211(k)(6)(A) provides that upon the application of a Governor, EPA shall apply the prohibition against the retail sale of conventional gasoline (gasoline EPA has not certified as reformulated) in any area requested by the Governor which has been classified under subpart 2 of Part D of Title I of the Act as a Marginal, Moderate, Serious or Severe ozone nonattainment area.¹ Subparagraph 211(k)(6)(A) further provides that EPA is to apply the prohibition at the retail level as of the date the Administrator "deems appropriate, not later than January 1, 1995, or 1 year after such application is received, whichever is later." In some

cases the effective date may be extended for such an area as provided in section 211(k)(6)(B) based on a determination by EPA that there is "insufficient domestic capacity to produce" reformulated gasoline. Finally, EPA is to publish a governor's application in the **Federal Register**. To date, EPA has received and published applications from the Mayor of the District of Columbia and the Governors of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, Texas, and Kentucky. Although Vermont has requested to opt-in to the program, states without ozone nonattainment areas, such as Vermont, can not do so.

II. The Governor's Request

EPA received an application from the Honorable Tommy G. Thompson, Governor of the state of Wisconsin, for three moderate ozone non-attainment areas to be included in the RFG program. Governor Thompson later clarified his request in reference to implementation dates with the submission of a second letter of application. Both letters are set out in full below.

A. Initial Letter From Wisconsin's Governor

[State of Wisconsin letterhead]

April 6, 1994.

Carol Browner,
USEPA Administrator,
USEPA Headquarters,
401 M Street, SW (101),
Washington, DC 20460

Dear Ms. Browner: The purpose of this letter is to request that you extend the requirement for reformulated gasoline to the three moderate ozone nonattainment areas in Wisconsin. As you know, Section 211(k)(6) of the Clean Air Act gives the Governor the authority to opt into the reformulated gasoline program for ozone nonattainment areas that are not otherwise required to use reformulated gasoline. I am exercising the opt-in provision of Section 211(k)(6) for the three moderate ozone nonattainment areas in Wisconsin; Kewaunee, Manitowoc and Sheboygan Counties.

Reformulated Gasoline is a significant component of our 15 percent VOC emission reduction plans for our moderate nonattainment areas, supplying about 1/2 of the necessary emission reductions. After evaluating the public input to our 15 percent VOC plan, I am convinced that reformulated gasoline is critical to the success of the 15 percent plan in our moderate ozone nonattainment areas.

Thank you for considering my request. I am looking forward to the successful implementation of our 15 percent emission reduction plan and a good start to achieving

our goals of attainment of the ozone air quality standard in Eastern Wisconsin.

Sincerely,

Tommy G. Thompson,
Governor.

B. Second Letter From Wisconsin's Governor

[State of Wisconsin letterhead]

August 2, 1994.

Carol Browner,
USEPA Administrator,
USEPA Headquarters,
401 M Street, SW (101),
Washington, DC 20460

Dear Ms. Browner: In April of this year I requested that you extend the federal reformulated gasoline program to the three Wisconsin moderate ozone nonattainment counties of Sheboygan, Manitowoc, and Kewaunee. Your staff subsequently notified the state of the need to clarify the requested effective date for the program within those counties. I understand the program in our six severe ozone counties automatically commences January 1, 1995 based on federal regulation.

Given the summer ozone air quality rationale of the program, I request that the three county opt-in become effective for gasoline blended to meet summer season requirements for 1995. Based on staff meetings with the gasoline refining and wholesale/retail distribution industry, I recommend a June 1, 1995 retail level compliance date. The slight start-up delay for the moderate counties will provide suppliers time to respond to the recently altered market structure.

Thank you for your attention in this regard. I hope this overall program will significantly affect air quality improvement in eastern Wisconsin.

Sincerely,

Tommy G. Thompson,
Governor.

cc: Don Theiler, Air Management, WI-DNR,
Richard Rykowski, Motor Vehicle Emission
Lab, USEPA, Ann Arbor, MI 48105

III. Action

Pursuant to the governor's letter and the provisions of section 211(k)(6), the prohibitions of subsection 211(k)(5) will be applied to the Wisconsin moderate² ozone non-attainment areas of Kewaunee, Manitowoc, and Sheboygan counties beginning June 1, 1995. As of that date they will be treated as covered areas for all purposes of the federal RFG program.

The application of the prohibitions of Section 211(k)(5) to the Wisconsin moderate ozone nonattainment areas at the retail level could take effect no later than August 2, 1995 under section 211(k)(6)(A) which stipulates that the effective program date must be no "later

¹ EPA promulgated such designations pursuant to Section 107(d)(4) of the Act (56 FR 56694; November 6, 1991).

² See 56 FR 56764 (November 6, 1991); 57 FR 56762, 56778 (November 30, 1992); and 40 CFR 81.350.

than January 1, 1995 or 1 year after such application is received, whichever is later". EPA considers the date of the second letter from the Governor as the effective date of the application, as that letter first expresses when Wisconsin would like the program to start and clarifies the Governor's original letter. Additionally, EPA expects there to be sufficient domestic supply of RFG and therefore has no current reason to delay implementation of the program in Wisconsin beyond August 2, 1995.

For those nonattainment areas in Wisconsin, EPA could establish the start of the RFG program at the retail level anytime between January 1, 1995 and August 2, 1995. However, the Agency believes that any effective date for the retail level prior to June 1, 1995 is inappropriate for the following reasons. First, an effective date of January 1, 1995 for the RFG program in Wisconsin would not provide sufficient notice to relevant parties. In addition, implementation of the RFG program in Wisconsin later than January 1, 1995 but earlier than June 1, 1995 would require that winter RFG be sold at the retail level for a brief period before summer VOC-control requirements would become effective. As stated in the Governor's letter, Wisconsin officials are primarily concerned with the benefits derived from VOC-controlled RFG which is required June 1, 1995. Thus, EPA believes that an effective date of June 1, 1995 is suitable for Wisconsin since it is consistent with the beginning of the RFG summer VOC control season and with the request in Governor Thompson's letter.

Requiring that the RFG program begin at the onset of the VOC-control season, as requested by Governor Thompson, addresses concerns raised by wholesale/retail distributors to Wisconsin officials regarding the unwillingness of refiners which normally sell gasoline in Wisconsin to supply RFG to a geographic area which is so small and that is such a substantial distance from the nearest RFG market. Wisconsin officials believe that the June 1 effective date will provide the gasoline distribution industry with the necessary lead-time to establish storage and cross sales agreements with refiners (other than those which already market fuel in the area) willing to sell RFG in the three county moderate ozone nonattainment area. Such storage and cross sales agreements will facilitate the sale of reformulated gasoline, which will aid Wisconsin in meeting its statutory 15 percent reduction requirements. In addition, as expressed in the Governor's letter, the main interest in opting into this program is based on a belief that the

state air quality would most benefit from the summer season reformulated gasoline.

RFG VOC-control compliance at the terminal in Wisconsin should be consistent with the final regulatory requirements for the RFG program. Thus, compliance by parties upstream of retail outlets, in Wisconsin, will be effective May 1, 1995. As in the federal volatility program, such an effective date for upstream parties such as terminals is necessary to ensure compliance at the retail level by requiring that RFG be in the pipeline (upstream) prior to June.

IV. Public Participation and Effective Date

The Agency is publishing this action as a direct final rule because it views the addition of the three ozone nonattainment areas in Wisconsin to the RFG program as non-controversial and anticipates no adverse or critical comments. Representatives from the state of Wisconsin have met with refiners that supply the majority of the state's fuel, including those refiners willing to supply RFG to the moderate ozone nonattainment areas, and the parties apparently agree that the on-set of the VOC-control season is an appropriate time to begin implementation of the RFG program. Thus, interested parties appear to agree on the June 1, 1995 date.

This action will be effective on March 13, 1995 unless the Agency receives notice by February 10, 1995 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 such notice or comments are received regarding the addition of the moderate ozone nonattainment areas in Wisconsin to the RFG program, today's action will be withdrawn before the effective date by the publication of a subsequent withdrawal notice in the **Federal Register**. In the event that today's direct final rule is withdrawn as a result of the submission of adverse or critical comments or a request to present such comments at a public hearing, the Agency will issue a notice of proposed rulemaking to extend the RFG program to the three moderate ozone nonattainment counties in Wisconsin.

V. Statutory Authority

The statutory authority for the action finalized today is granted to EPA by Sections 114, 211(c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545(c) and (k), and 7601.

VI. Administrative Designation

Pursuant to Executive Order 12866, [58 FR 51,735 (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. Pursuant to the terms of Executive Order 12866, it has been determined that this direct rule is not a "significant regulatory action".

VII. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) of 1980 requires federal agencies to examine the effects of extending the RFG program to three moderate ozone nonattainment areas in Wisconsin and to identify significant adverse impacts of federal regulations on a substantial number of small entities. Because the RFA does not provide concrete definitions of "small entity," "significant impact," or "substantial number," EPA has established guidelines setting the standards to be used in evaluating impacts on small businesses. For purposes of the RFG program, a small entity is any business which is independently owned and operated and not dominant in its field as defined by SBA regulations under section 3 of the Small Business Act.

The Agency believes that the extension of the RFG program to the three ozone nonattainment areas in Wisconsin is unlikely to have a significant economic impact on a substantial number of small entities. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 80

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

Dated: December 29, 1994.

Carol M. Browner,
Administrator.

40 CFR part 80 is amended by making the following revisions:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

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)).

In § 80.70, paragraphs (l) and (l)(1) are added to read as follows:

§ 80.70 Covered areas.

* * * * *

(l) The ozone nonattainment areas listed in this paragraph (l) are covered areas beginning on May 1, 1995 at the terminal. No requirements under subpart D shall apply to gasoline at a retail outlet or at the facilities of a wholesale purchaser/consumer until June 1, 1995. The geographic extent of each covered area listed in this paragraph (l) shall be the nonattainment boundaries as specified in 40 CFR part 81, subpart C:

(1) The following Wisconsin counties:

- (i) Kewaunee;
 - (ii) Manitowoc;
 - (iii) Sheboygan.
- (2) [Reserved]

[FR Doc. 95-420 Filed 1-10-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 80

[FRL-5134-7]

Temporary Administrative Stay of the Reformulated Gasoline Program: Nine Counties in New York, Twenty-Eight Counties in Pennsylvania, and Two Counties in Maine

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In today's action, EPA is temporarily staying the reformulated gasoline program requirements in nine opt-in counties in New York, in twenty-eight opt-in counties in Pennsylvania and in two opt-in counties in Maine. Today's action stays the applicability of the RFG requirements for these areas effective from January 1, 1995, until July 1, 1995. Although EPA believes that the RFG program provides a highly cost-effective means of reducing ground-level ozone and toxic vehicle emissions, the Agency believes that States should be given the flexibility to choose which programs best meet each State's needs for emissions reductions. In a separate notice of proposed rulemaking to be published soon, EPA will propose to approve the requests for opt-out for these specified counties from the States of New York, Pennsylvania, and Maine. EPA will be unable to take final action on this proposed rulemaking by January 1, 1995, the date when RFG requirements must be met at the retail level. EPA believes a stay in the implementation of the reformulated gasoline requirements in these areas effective January 1, 1995 and continuing until July 1, 1995, will avoid significant disruption in the marketplace while

notice and comment rulemaking proceeds. This temporary stay is issued without prior notice and comment, based on good cause described herein.

EFFECTIVE DATE: This rule is effective on December 29, 1994.

ADDRESSES: Materials relevant to this action have been placed in Docket A-94-68. The docket is located at the Air Docket Section (6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M-1500 Waterside Mall. Documents may be inspected from 8:00 a.m. to 4:00 p.m. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Coryell, U.S. Environmental Protection Agency, Office of Air and Radiation, 401 M Street, SW. (6406J), Washington, DC 20460, (202) 233-9014.

SUPPLEMENTARY INFORMATION: A copy of this action is available on the OAQPS Technology Transfer Network Bulletin Board System (TTNBBS). The TTNBBS can be accessed with a dial-in phone line and a high-speed modem (PH# 919-541-5742). The parity of your modem should be set to none, the data bits to 8, and the stop bits to 1. Either a 1200, 2400, or 9600 baud modem should be used. When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

- (M) OMS
- (K) Rulemaking and Reporting
- (3) Fuels
- (9) Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the reformulated gasoline rulemaking process. Today's action will be in the form of a ZIP file and can be identified by the following titles: STAY.ZIP. To download this file, type the instructions below and transfer according to the appropriate software on your computer:

```
<D>ownload, <P>rotocol, <E>xamine,
<N>ew, <L>ist, or <H>elp Selection
or <CR> to exit: D filename.zip
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You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. 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.

I. Background

A. General Background on Reformulated Gasoline Program and Opt-In Process

The reformulated gasoline program is designed to reduce ozone levels in the largest metropolitan areas of the U.S. with the worst ground-level ozone problems by reducing vehicle emissions of the ozone precursors, specifically volatile organic compounds (VOC), through fuel reformulation. Reformulated gasoline also achieves a significant reduction in air toxics. In Phase II of the program, nitrogen oxides (NO_x), another precursor of ozone, are reduced. The 1990 amendments of the Clean Air Act require reformulated gasoline in the nine cities with the highest levels of ozone. Congress also provided the opportunity for states to choose to opt into the RFG program for their other nonattainment areas.

EPA issued final rules establishing requirements for RFG on December 15, 1993 (59 FR 7716, February 16, 1994). During development of the RFG rule, a number of states inquired as to whether they would be permitted to opt out of the RFG program at a future date or to opt out of certain of the requirements. This was based on their concern that the air quality benefits of RFG, given their specific needs, might not warrant the cost of the program, specifically focusing on the more stringent standards in Phase II of the program (starting in 2000). Such states wished to retain their ability to opt out of the program. Other states indicated they viewed RFG as an interim strategy to help bring their nonattainment areas into attainment sooner than would otherwise be the case.

The regulation issued on December of 1993 did not include procedures for opting out of the RFG program, because EPA had not proposed and was not ready to adopt such procedures at that time. However, the Agency did indicate that it intended to propose such procedures in a separate rule.

B. Jefferson County, New York

Jefferson County was included as a covered area in EPA's reformulated gasoline regulations based on Governor Mario Cuomo's request of October 28, 1991, that this county be included under the Act's opt-in provision for ozone nonattainment areas (57 FR 7926, March 5, 1992). See 40 CFR 80.70(j)(10)(vi). On November 29, 1994, EPA received a petition from the Commissioner of New York's