

TABLE II.—RECONFIRMATION OF PART 60 DELEGATIONS AS THEY APPLY TO MASSACHUSETTS TITLE V OPERATING PERMITS PROGRAM—Continued

Table with 2 columns: Code (Kb, AAa, VV, DDD, III, NNN, OOO, PPP, RRR, SSS, TTT, UUU, VVV) and Description (PETROLEUM LIQUID STORAGE VESSELS 7/23/84, ELECTRIC ARC FURNACES AND ARGON-OXYGEN DECARBURIZATION, EQUIPMENT LEAKS OF VOC IN SOCFI, etc.)

TABLE III.—DELEGATION OF PART 63 STANDARDS AS THEY APPLY TO MASSACHUSETTS TITLE V OPERATING PERMITS PROGRAM

PART 63 SUBPART CATEGORIES

Table with 2 columns: Code (A, F, G, H, I, M, N, O, Q, R, T, W, X, EE) and Description (General Provisions, National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry, etc.)

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding the entry for Massachusetts in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

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Massachusetts

(a) Department of Environmental Protection: submitted on April 28, 1995; interim approval effective on March 4, 1996; interim approval expires March 2, 1998.

(b) (Reserved)

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[FR Doc. 96-2248 Filed 2-1-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 80

[FRL-5412-1]

RIN 2060-AD55

Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Clean Air Act prohibits the introduction of gasoline containing lead or lead additives into commerce for use as a motor vehicle fuel after December 31, 1995. In today's action, EPA revises its regulations regarding gasoline so as to prohibit the introduction of gasoline which is produced with the use of any lead additive, or contains more than 0.05 gram of lead per gallon, into commerce for use as motor vehicle fuel effective January 1, 1996, remove existing regulatory provisions which will no longer be necessary as a result of this ban, and modify other provisions to

reflect the institution of this ban. Among the provisions deleted are recordkeeping and reporting requirements for refiners and importers, and the requirement that motor vehicle manufacturers place "unleaded fuel only" labels on the dashboard and on or around the fuel filler inlet area of each motor vehicle produced. EPA believes that continuance of the provisions deleted by this rule would pose needless costs on industry in light of the ban.

In the proposed rules Section of today's Federal Register, EPA is proposing to issue a regulatory ban on the introduction of gasoline which is produced with the use of any lead additive, or contains more than 0.05 gram of lead per gallon, into commerce for use as a motor vehicle fuel effective January 1, 1996, and to remove existing regulatory provisions which will no longer be necessary as a result of this ban, and modify other provisions to reflect the institution of this ban. If adverse comment or a request for an opportunity 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 the leaded gasoline prohibition and related regulatory changes will be provided.

The statutory ban goes into effect as of January 1, 1996, whether or not EPA amends its regulations by January 1, 1996 to incorporate the statutory ban on the introduction of gasoline containing lead or lead additives into commerce for use as motor vehicle fuel.

DATES: This action will become effective on March 4, 1996 unless notice is received by February 20, 1996 from someone who wishes to submit adverse comment or request 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: Materials relevant to this rulemaking have been placed in Docket A-95-13. The docket is located at the U.S. Environmental Protection Agency, Air Docket Section, 401 M Street, SW., Washington, DC 20460 in Room M-1500 of Waterside Mall. Documents may be inspected between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket material. Those wishing to notify EPA of their intent to submit adverse comment or request an opportunity for a public hearing on this action should contact Paulina Chen, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233-9031.

FOR FURTHER INFORMATION CONTACT: Paulina Chen, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233-9031.

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, 9600, 14.4K, or 28.8K 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
- (8) Leaded fuel and engine bans

Today's action will be in the form of a ZIP file and can be identified by the following title: LEADBAN.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.

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. Introduction

A. Background

In the early 1970s, EPA issued regulations regarding lead in gasoline in order to accomplish two purposes. First, EPA issued regulations designed to ensure the availability of unleaded gasoline for use in motor vehicles equipped with emission control systems such as catalytic converters. EPA had determined that lead additives would impair to a significant degree the performance of emission control systems. 38 FR 1254 (Jan. 10, 1973). Second, EPA issued regulations designed to gradually reduce the content of lead in leaded gasoline, because EPA found that lead particle emissions from motor vehicles presented a significant risk of harm to the health of urban populations, especially children. 38 FR 33734 (Dec. 6, 1973).

The first category of regulations, which were designed to ensure the availability of unleaded gasoline, defined unleaded gasoline as gasoline containing not more than 0.05 gram of lead per gallon and not more than 0.005 gram of phosphorus per gallon. 38 FR at 1255. The Agency allowed up to 0.05 gram of lead per gallon in unleaded gasoline because it determined this maximum trace level would provide adequate protection for catalyst emission control devices and would be practicable for the petroleum industry. 38 FR 1254. The current definition of unleaded gasoline still allows for trace amounts of lead up to 0.05 gram per gallon but expressly prohibits the use of

any lead additive in the production of unleaded gasoline. 40 C.F.R. 80.2(g).

The same 1973 regulations also limited phosphorus in unleaded gasoline to 0.005 gram per gallon or less, because the Agency found this maximum, set at trace levels, was necessary to prevent catalyst deterioration in emission control systems. 38 FR 1254-55. The current definition of unleaded gasoline still limits phosphorus to no more than 0.005 gram per gallon. 40 C.F.R. 80.2(g).

In 1973, EPA also instituted the lead phasedown program designed to minimize the lead content of leaded gasoline. Through an orderly phase out, including banking and trading of lead credits, and through aggressive enforcement, the lead phasedown program was successful. By 1988, it was estimated that total lead usage in gasoline had been reduced to less than one percent of the amount of lead used in the peak year of 1970.¹ The remaining uses of leaded gasoline in motor vehicles are predominantly in rural areas.

B. Statutory Authority

In 1990 Congress added section 211(n) to the Clean Air Act, which provides as follows:

After December 31, 1995, it shall be unlawful for any person to sell, offer for sale, supply, offer for supply, dispense, transport,

¹ Persons interested in detailed historical information may refer to the following Federal Register notices: "Regulation of Fuel Additives—Advanced Notice of Proposed Rulemaking," 36 FR 1486 (January 30, 1971); "Regulation of Fuels and Fuel Additives—Notice of Proposed Rulemaking," 37 FR 3882 (February 23, 1972); "Regulation of Fuels and Fuel Additives—Notice of Proposed Rulemaking," 38 FR 1254 (January 10, 1973); "Proposed Rulemaking Concerning Availability of Unleaded Gas," 38 FR 28301 (October 12, 1973); "Control of Lead Additives in Gasoline," 38 FR 33734 (December 6, 1973); "Fuels and Fuel Additives—Suspension of Enforcement of Regulations for Control of Lead Additives in Gasoline," 40 FR 7480 (February 20, 1975); "Fuels and Fuel Additives—Lifting of Suspension of Enforcement of Regulations for Control of Lead Additives in Gasoline," 41 FR 13984 (April 1, 1976); "Regulation of Fuel and Fuel Additives—Lifting of Suspension of Enforcement of Regulation Additives in Gasoline," 41 FR 28352 (July 9, 1976); "Regulation of Fuels and Fuel Additives—Control of Lead Additives in Gasoline," 41 FR 42675 (September 28, 1976); "Lead Additives in Gasoline: Controls on Refiners, Clarifications and Response to Public Comments," 41 FR 55646 (December 21, 1976); "Regulation of Fuels and Fuel Additives: Small Refinery Amendment—Final Rulemaking," 44 FR 46275 (August 7, 1979); "Controls Applicable to Gasoline Refiners; Lead Phase-Down Regulations—Notice of Proposed Rulemaking," 45 FR 3722. Also see: "Regulation of Fuels and Fuel Additives—Proposed Rule," 47 FR 7812 (February 22, 1982); "Regulation of Fuels and Fuel Additives—Withdrawal of Proposed Rule," 47 FR 38070 (August 27, 1982); "Regulation of Fuels and Fuel Additives—Final Rule," 47 FR 49322 (October 29, 1982).

or introduce into commerce, for use as fuel in any motor vehicle (as defined in section 7554(2) of this title) as gasoline which contains lead or lead additives.

42 U.S.C. 7545(n). The term "motor vehicle" is defined to include any self-propelled vehicle designed for transporting persons or property on a street or highway. 42 U.S.C. 7550(2).²

Section 211(n)'s prohibition will become effective January 1, 1996. By this action, EPA is incorporating the statutory ban into the agency's existing regulations on the lead content of gasoline, and is simplifying the existing regulations accordingly. In so doing, EPA had to determine whether Congress specifically intended in section 211(n) to ban the introduction into commerce for use in motor vehicles of gasoline which contains even a trace amount of lead, or whether this prohibition could reasonably be interpreted as authorizing the continued sale of unleaded gasoline which includes the trace amount of lead currently allowed under EPA's regulations.

As EPA interprets the statutory ban, it prohibits the sale of gasoline which is produced with the use of any lead additive or contains more than a trace amount of lead, but allows the continued sale of gasoline which meets EPA's current definition of unleaded gasoline. EPA has historically defined unleaded gasoline as gasoline that is produced without the use of any lead additive and that contains no more than 0.05 gram of lead per gallon.³ EPA interprets section 211(n) this way for the following reasons.

Unleaded gasoline that was produced without lead additives may pick up trace amounts of lead as it passes through refinery and transport systems that had previously contained leaded gasoline. The language of section 211(n) indicates no clear Congressional intent regarding such trace amounts of lead that unintentionally exist in gasoline which was produced without the use of lead additives. Had Congress wanted to ban even unintentional, trace amounts of lead, it could have made its intent clear with, for example, statutory language banning gasoline that "contains any lead or lead additives."

² Section 211(n) of the Clean Air Act refers to the definition of motor vehicle in 42 U.S.C. 7554(2), but the definition appears in section 7550(2) (section 7554 pertains to urban bus standards). EPA believes that section 211(n) contains a typographical error and that Congress intended to refer to the definition of motor vehicle that appears in 42 U.S.C. 7550(2).

³ The regulatory definition of "unleaded gasoline" also contains a cap on the amount of phosphorus, see 40 CFR 80.2(g), but the phosphorus cap is not relevant to the discussion of section 211(n).

While the text of section 211(n) is ambiguous, its heading and the heading of section 220 of the 1990 amendments, which added section 211(n) to the Clean Air Act, suggest that Congress intended to ban the use in motor vehicles of leaded gasoline, which EPA has historically defined as gasoline that is produced with the use of a lead additive or that contains more than 0.05 gram of lead per gallon. See 40 CFR 80.2(f). Where headings are enacted by Congress in conjunction with the statutory text and the meaning of the text is ambiguous, headings may help elucidate congressional intent. *E.g.*, *United States v. Wallington*, 889 F.2d 573, 577 (5th Cir. 1989). In this instance, the heading of section 220 of the 1990 amendments reads "Lead Phasedown" while the heading of section 211(n) reads "Prohibition on Leaded Gasoline for Highway Use." Clean Air Act Amendments of 1990, Pub. L. No. 101-549, § 220, 104 Stat. ____, 2500 (1990). Since it is presumed that Congress was familiar with EPA's existing regulations implementing the phasedown of lead in leaded gasoline,⁴ these headings suggest that Congress intended to complete the lead phasedown program by banning the use in motor vehicles after 1995 of gasoline that is produced with the use of a lead additive or that contains more than 0.05 gram of lead per gallon.

The legislative history of the Clean Air Act Amendments of 1990 supports this interpretation of Congress's intent in adding section 211(n) to the Clean Air Act. While the conference report for the 1990 amendments contains no explanation of section 220, the "Chafee-Baucus Statement of Senate Managers," which was included in the Congressional Record at the request of Senators Chafee and Baucus to supplement the conference report, describes the provision as banning "the sale of leaded gasoline * * *." 136 Cong. Rec. S16,938 (Oct. 27, 1990). This evidence supports EPA's conclusion that section 211(n) may reasonably be interpreted as banning in 1996 the introduction into commerce for use as a motor vehicle fuel all gasoline that is produced with the use of any lead additive or that contains more than 0.05 gram lead per gallon. See *Chevron, USA v. NRDC*, 467 U.S. 837 (1984).

EPA originally issued regulations mandating the availability of unleaded gasoline for use in motor vehicles containing catalytic converters or similar emission control devices under

⁴ Congress is presumed to be familiar with an agency's construction of the existing provisions of a statute when Congress amends the statute. N. Singer, *Sutherland Statutes and Statutory Construction*, § 22.35 (5th Ed. 1992).

section 211(c) of the Clean Air Act, which authorizes the Administrator to control the manufacture, introduction into commerce, offering for sale, or sale of any fuel additive for use in a motor vehicle if the emission products of such additive will impair to a significant degree the performance of any emission control device. 42 U.S.C. 7545(c)(1). The definition of "unleaded gasoline" which EPA finalized at that time and which remains in effect today includes a phosphorus cap of not more than 0.005 gram per gallon because phosphorus above this trace level could cause catalyst deterioration in emission control systems. EPA's actions in this rule do not change its prior exercise of authority under section 211(c) to control the amount of phosphorus in gasoline.

EPA also promulgates this final rule pursuant to its authority under section 301(a) of the Clean Air Act, 42 U.S.C. 7601(a).

C. Availability of Gasoline Containing Lead or Lead Additives for Uses Other Than as Motor Vehicle Fuel

Section 211(n) bans the use of gasoline containing lead or lead additives for use as a motor vehicle fuel but does not restrict other potential uses of gasoline containing lead or lead additives. The definition of motor vehicle is limited to self-propelled vehicles designed for transporting persons or property on a street or highway. 42 U.S.C. 7550(2). The regulations of 40 CFR Part 80, which are amended by this rule, apply only to fuel that is sold for use in motor vehicles. See 40 CFR 80.2(c). The petroleum industry may continue to make and market gasoline produced with lead additives for all remaining uses, including use as fuel in aircraft, racing cars, and nonroad engines such as farm equipment engines and marine engines, to the extent otherwise allowed by law.

II. Description of Today's Rule

Today's direct final rule amends 40 CFR Part 80 to prohibit the introduction into commerce for use as a motor vehicle fuel after December 31, 1995 of gasoline which is produced with the use of any lead additive, or contains more than 0.05 gram of lead per gallon, in accordance with section 211(n) of the Clean Air Act. Because the existing regulations at 40 CFR Part 80 currently allow the sale of leaded gasoline for use as a motor vehicle fuel, and the prohibition in Section 211(n) makes some of Part 80's requirements unnecessary, this rule also deletes the provisions which are no longer needed, and modifies other provisions to reflect the institution of the ban.

A detailed description of this rule's changes to 40 CFR Part 80 is offered below. This rule becomes effective on March 4, 1996 and all changes discussed below become effective on that date.

A. Prohibition on the Sale of Gasoline Which is Produced With the Use of Any Lead Additive or Contains More Than 0.05 Gram of Lead Per Gallon

In accordance with the statutory ban set forth in section 211(n) of the Clean Air Act, this rule adds a paragraph (b) to section 80.22 that prohibits introducing into commerce for use as fuel in motor vehicles gasoline which is produced with the use of any lead additive or contains more than 0.05 gram of lead per gallon. As explained above, EPA will permit an unintentional trace level of lead in motor vehicle fuel. Also, the term "lead additive" as defined in section 80.2(e) encompasses pure lead as well as lead compounds, so that the ban in section 80.22(b) will cover gasoline produced with the use of pure lead as well as lead compounds.

B. Related Changes

Several of Part 80's existing provisions will become unnecessary once the statutory ban on the use of gasoline containing lead or lead additives as a motor vehicle fuel goes into effect on January 1, 1996. Accordingly, this rule deletes or revises the following provisions effective March 4, 1996.

Section 80.2(f). Section 80.2(f) currently contains the definition of leaded gasoline and is deleted. The definition of leaded gasoline is no longer necessary in regulations relating to motor vehicle fuels once the statute's ban on using gasoline containing lead or lead additives as motor vehicle fuel goes into effect.

Section 80.7. Section 80.7 currently explains the extent to which EPA may require persons to provide information to EPA when EPA has reason to believe that a violation of section 211(c) of the Clean Air Act and the regulations thereunder has occurred. This rule amends section 80.7 to include a reference to violations of section 211(n) of the Clean Air Act and the regulations thereunder. It also deletes the reference to labels and signs in section 80.7(c), because these items will no longer be required under section 80.22 (see discussion of section 80.22).

Section 80.20. This rule deletes section 80.20 in its entirety. Section 80.20 contains provisions related to the phasedown of lead content in gasoline produced for use in motor vehicles which will become obsolete once the

sale of gasoline containing lead or lead additives for use in motor vehicles is banned. The provisions specify interim phases of lead reduction, reporting requirements for refiners and importers to show compliance with the lead content restrictions, and provisions allowing inter-refinery averaging and banking of lead usage rights.

Section 80.21. This rule deletes section 80.21 in its entirety. Section 80.21 contains controls applicable to gasoline distributors similar to the provisions in 80.22. For simplification, these provisions will be consolidated in the general controls and prohibitions under 80.22.

Section 80.22. This rule changes the title of section 80.22 to reflect the consolidation of sections 80.21 and 80.22. The title will be changed from "Controls applicable to gasoline retailers and wholesale purchaser-consumers" to "Controls and prohibitions."

Section 80.22(a). This rule modifies section 80.22(a) to reflect the simultaneous removal of both the definition of leaded gasoline (see discussion of section 80.2(f)) and the requirement to label motor vehicles "unleaded gasoline only" (see discussion of section 80.24).

Section 80.22(d) and (e). This rule deletes section 80.22(d), which requires notices at each gasoline pump stand prohibiting the introduction of leaded gasoline into motor vehicles designed for unleaded gasoline. This rule also deletes section 80.22(e), which requires that gasoline pumps be labelled to identify whether they contain leaded or unleaded gasoline.

EPA believes that these requirements are no longer necessary to prevent misfueling. Leaded gasoline has been largely phased out and now accounts for less than one percent of gasoline sold in urban areas. EPA's discussions with the gasoline refiners which produced leaded gasoline in 1995 have revealed that all but one refiner have already ceased to produce gasoline with the use of lead additives. One refiner continues to produce leaded fuel for nonroad uses. Many fuel pumps dispensing gasoline used in nonroad applications are not located at retailers and wholesale purchaser-consumers, although some fuel pumps dispensing racing fuel may be located at retailers and wholesale purchaser-consumers. EPA believes it unlikely that misfueling of motor vehicles with gasoline which is produced with the use of any lead additive, or contains more than 0.05 gram of lead per gallon, will occur at these locations, because such gasoline costs significantly more than unleaded

gasoline. For example, racing fuel currently costs around five dollars per gallon.

Section 80.22(f). Section 80.22(f) regulates nozzle spout sizes of pumps dispensing gasoline. First, the dates in this section are modified to reflect the institution of this ban. Second, paragraph 80.22(f)(1) contains the requirement for the nozzle size of pumps dispensing leaded gasoline, and this requirement will no longer be necessary because gasoline containing lead or lead additives will no longer be permitted to be dispensed into motor vehicles as a result of the statutory ban. Although leaded fuel will still be available for nonroad uses, EPA currently does not regulate the nozzle sizes on pumps dispensing such fuel. Therefore, this rule deletes paragraph 80.22(f)(1). EPA is retaining a nozzle size requirement for dispensing unleaded gasoline in paragraph 80.22(f)(2) in order to ensure that nozzles function properly in conjunction with the motor vehicle fuel inlet restrictors, which must be of a certain size per the requirement of section 80.24(b).

Sections 80.22(g) and (h). Sections 80.22(g) and (h) refer to compliance with sections 80.22(e) and (f) for multiple grades of gasoline. These sections' references to 80.22(e) are irrelevant because this rule deletes that subsection. With respect to paragraph (f), section 80.22(g) permits the Administrator to grant an exception to the requirement of paragraph (f) upon demonstration that alternate equipment will comply with the objectives of paragraph (f). EPA is not aware of any exceptions granted under paragraph (g) at this time and believes the exception authority provided by 80.22(g) is not needed. According to section 80.22(h), compliance with paragraph (f) is required for only one grade where there is more than one grade of unleaded gasoline offered for sale. EPA believes that, to ensure that the statute's ban is implemented properly, the requirements of paragraph (f) should apply to each pump dispensing unleaded gasoline. Therefore, sections 80.22(g) and 80.22(h) are deleted.

Section 80.22(i). Section 80.22(i), which refers to an exemption from the requirements of section 80.22(b), is deleted. Section 80.22(i) was inadvertently retained when section 80.22(b) was deleted in a prior rulemaking and is currently obsolete. The new section 80.22(b) added by this rule bears no relation to section 80.22(i), and therefore section 80.22(i) must be deleted to avoid confusion.

Section 80.23. This rule makes three changes to section 80.23, which currently imposes liability for violations of section 80.22(a).

First, the rule changes the introductory text of section 80.23 to include liability for violations of the new section 80.22(b), which is the general provision prohibiting the introduction into commerce for use as motor vehicle fuel of gasoline which is produced with the use of any lead additive or contains more than 0.05 grams of lead per gallon.

Second, the rule deletes subparagraph (e)(2) of section 80.23. Subparagraph (e)(2) offered an "emergency exemption" to allow a retailer or wholesale purchaser-consumer to provide leaded gasoline for use in a motor vehicle designed to use unleaded gasoline in emergency situations, such as when a vehicle has an empty tank and no unleaded gasoline is available within a several mile radius. EPA believes the continued availability of this exemption not only would be unnecessary given the scarce availability of gasoline containing lead or lead additives in comparison to that of unleaded gasoline, but also would be inconsistent with the intent of section 211(n) to prohibit the introduction into commerce for use as motor vehicle fuel of gasoline containing lead or lead additives.

Third, the rule modifies sections 80.23(b)(2)(ii) and (e)(1) to reflect the simultaneous removal of the definition of leaded gasoline.

Section 80.24. This rule simplifies section 80.24, which contains requirements applicable to motor vehicles. EPA has determined that portions of section 80.24 are no longer needed to prevent misfueling (see discussion of sections 80.22 (d) and (e) above). Accordingly, this rule deletes section 80.24(a), which requires that "unleaded gasoline only" labels be affixed to the dashboard and fuel filler inlet of each motor vehicle with an emission control device which will be significantly impaired by the use of gasoline containing lead or lead additives. The labels will no longer be necessary once the ban on fueling motor vehicles with gasoline which is produced with the use of any lead additive, or contains more than 0.05 grams of lead per gallon, becomes effective January 1, 1996.

Similarly, section 80.24(b)(1) currently requires that a pump nozzle dispensing gasoline other than unleaded gasoline must automatically shut off during attempted refueling into a motor vehicle equipped with a fuel filler inlet for unleaded gasoline. It is appropriate

to remove this requirement because the requirement was intended to prevent misfueling and, as stated above (see discussion of sections 80.22 (d) and (e)) EPA now believes misfueling is unlikely, making this safeguard against misfueling unnecessary. Section 80.24(b)(2) explains the scope of section 80.24(b)(1). Once section 80.24(b)(1) is removed, it is appropriate to remove section 80.24(b)(2) as well.

The introductory text of section 80.24 is deleted and the remaining text of section 80.24(b) is modified so that section 80.24(b)'s tank filler inlet size requirements apply to all new motor vehicles, and not just those equipped with an emission control device that would be significantly impaired by the use of gasoline containing lead or lead additives. This modification comports with the statutory ban prohibiting the use of gasoline containing lead or lead additives as a motor vehicle fuel, by requiring that all new motor vehicles are equipped with tank filler inlets matching the size of the nozzle on pumps dispensing unleaded gasoline.

Finally, section 80.24(c) is deleted, because the paragraph clarifies the term "emission control device which will be significantly impaired by the use of leaded gasoline." This term is currently used in the introductory text of section 80.24, but is being removed as explained above. Therefore, section 80.24(c) no longer serves any purpose and will be deleted.

Section 80.25. Section 80.25, which requires lead additive manufacturers to report the amount of lead shipped to refineries, is deleted in its entirety. These reports are currently utilized to verify reports submitted by refineries in the lead phasedown program summarizing the amount of lead used in the production of gasoline. Section 80.20, which contains provisions related to the lead phasedown program, is being deleted in today's action (see discussion of section 80.20), making the requirements of section 80.25 unnecessary.

III. Environmental Impact

This rule is expected to have a positive environmental effect by facilitating smooth implementation of the Clean Air Act prohibition on gasoline containing lead or lead additives for use in motor vehicles, which becomes effective after December 31, 1995. This rule marks the completion of a lead phasedown program which EPA began in 1973 upon determining that lead particle emissions from motor vehicles presented a significant risk of harm to the health of

urban populations, especially in children.

IV. Economic Impact

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires that Federal Agencies examine the impacts of their regulations on small entities. The act requires an Agency to prepare a regulatory flexibility analysis in conjunction with notice and comment rulemaking, unless the Agency head certifies that the rule will not have a significant impact on a substantial number of small entities. 5 U.S.C. 605(b). The Administrator certifies that this rule will not have a significant impact on a substantial number of small entities. This rule is not expected to result in any additional compliance cost to regulated parties and, in fact, is expected to decrease compliance costs for some regulated parties. This decrease in compliance costs is largely due to the deletion of regulatory requirements no longer necessary given the Clean Air Act statutory ban on gasoline containing lead or lead additives for use in motor vehicles. This rule will reduce compliance costs due to the removal of several reporting, labeling, and equipment requirements. Owners of vehicles which are designed to operate on leaded gasoline will not be subject to additional costs as a result of this ban. Many vehicles designed to use leaded gasoline currently use unleaded gasoline, which costs significantly less than leaded gasoline. Lead substitute additives are available for vehicles which operate under higher loads and require additional protection against valve seat wear.

V. Effective Date

This action will become effective March 4, 1996, unless EPA receives notice by February 20, 1996 from someone who wishes to submit adverse comments or request an opportunity for a public hearing. If EPA receives such notice, EPA will withdraw this rule and publish timely notice in the Federal Register of such withdrawal.

VI. Executive Order 12866

Under Executive Order 12866,⁵ 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

⁵ 58 FR 51735 (October 4, 1993).

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.⁶

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.

VII. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("UMRA"), P.L. 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 trigger the requirements of 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.

VIII. Judicial Review

Because this action promulgates a prohibition in Section 211 of the Clean Air Act and is nationally applicable, under Section 307(b)(1) of the Clean Air Act judicial review of this action is available only by the filing of a petition for review in the U.S. Court of Appeals for the D.C. Circuit within sixty days of

publication of this action in the Federal Register, unless EPA withdraws this rule in response to notice of intent to file adverse comment or request the opportunity for a public hearing.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Leaded gasoline, Unleaded gasoline, and Motor vehicle pollution.

Dated: January 29, 1996.

Carol M. Browner,
Administrator.

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)).

§ 80.2 [Amended]

2. Section 80.2 is amended by removing and reserving paragraph (f).

3. Section 80.7 is amended by revising paragraph (a) introductory text and the first sentence of paragraph (c) to read as follows:

§ 80.7 Requests for information.

(a) When the Administrator, the Regional Administrator, or their delegates have reason to believe that a violation of section 211(c) or section 211(n) of the Act and the regulations thereunder has occurred, they may require any refiner, distributor, wholesale purchaser-consumer, or retailer to report the following information regarding receipt, transfer, delivery, or sale of gasoline represented to be unleaded gasoline and to allow the reproduction of such information at all reasonable times.

* * * * *

(b) * * *

(c) Any refiner, distributor, wholesale purchaser-consumer, retailer, or importer shall provide such other information as the Administrator or his authorized representative may reasonably require to enable him to determine whether such refiner, distributor, wholesale purchaser-consumer, retailer, or importer has acted or is acting in compliance with sections 211(c) and 211(n) of the Act and the regulations thereunder and shall, upon request of the Administrator or his authorized representative, produce and allow reproduction of any relevant records at all reasonable times. * * *

§§ 80.20 and 80.21 [Removed and reserved]

4. Sections 80.20 and 80.21 are removed and reserved.

5. Section 80.22 is amended by revising the title and paragraphs (a), (f) introductory text, and (f)(2) introductory text by adding paragraph (b), and by removing and reserving paragraphs (d), (e), (f)(1), (g), (h) and (i) to read as follows:

§ 80.22 Controls and prohibitions.

(a) After December 31, 1995, no person shall sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce gasoline represented to be unleaded gasoline unless such gasoline meets the defined requirements for unleaded gasoline in § 80.2(g); nor shall he dispense, or cause or allow the gasoline other than unleaded gasoline to be dispensed into any motor vehicle which is equipped with a gasoline tank filler inlet which is designed for the introduction of unleaded gasoline.

(b) After December 31, 1995, no person shall sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce for use as fuel in any motor vehicle (as defined in Section 216(2) of the Clean Air Act, 42 U.S.C. 7550(2)), any gasoline which is produced with the use of lead additives or which contains more than 0.05 gram of lead per gallon.

(c) * * *

* * * * *

(f) Beginning January 1, 1996, every retailer and wholesale purchaser-consumer shall equip all gasoline pumps as follows:

(1) [Reserved]

(2) Each pump from which unleaded gasoline is dispensed into motor vehicles shall be equipped with a nozzle spout which meets the following specifications:

* * * * *

6. Section 80.23 is amended by revising the introductory text and paragraphs (b)(2)(ii) and (e)(1), and by removing and reserving paragraph (e)(2) to read as follows:

§ 80.23 Liability for violations.

Liability for violations of paragraphs (a) and (b) of § 80.22 shall be determined as follows:

* * * * *

(b)(1) * * *

(2) * * *

(ii) That the violation was caused by an act in violation of law (other than the Act or this part), or an act of sabotage, vandalism, or deliberate commingling of gasoline which is produced with the use of lead additives or phosphorus additives with unleaded gasoline, whether or not such acts are violations of law in the jurisdiction where the

⁶Id. at section 3(f)(1)-(4).

violation of the requirements of this part occurred, or

* * * * *

(e)(1) In any case in which a retailer or his employee or agent or a wholesale purchase-consumer or his employee or agent introduced gasoline other than unleaded gasoline into a motor vehicle which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, only the retailer or wholesale purchaser-consumer shall be deemed in violation.

(2) [Reserved].

7. Section 80.24 is amended by removing the introductory text and by removing and reserving paragraph (a), and removing paragraph (c), and by revising paragraph (b) to read as follows:

§ 80.24 Controls applicable to motor vehicle manufacturers.

(a) [Reserved].

(b) The manufacturer of any motor vehicle powered with gasoline shall equip such vehicle with a gasoline tank filler inlet having a restriction which allows the insertion of a nozzle with a spout meeting the specifications in § 80.22(f)(2) and which prevents the insertion of a nozzle of greater size than prescribed in § 80.22(f)(2).

§ 80.25 [Removed and reserved]

8. Section 80.25 is removed and reserved.

[FR Doc. 96-2231 Filed 2-1-96; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

41 CFR Part 302-11

[FTR Amendment 46]

RIN 3090-AF78

Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: The Federal, State, and Puerto Rico tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates. The Federal, State, and Puerto Rico tax tables contained in this rule are for calculating the 1996 RIT allowance to be paid to relocating Federal employees.

DATES: *Effective date:* This final rule is effective January 1, 1996.

Applicability date: The new tables in this final rule apply for RIT allowance payments made on or after January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jane Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703-305-5745.

SUPPLEMENTARY INFORMATION: This amendment provides the tax tables

necessary to compute the relocation income tax (RIT) allowance for employees who are taxed in 1996 on moving expense reimbursements.

GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **FEDERAL REGISTER** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 302-11

Government employees, Income taxes, Relocation allowances and entitlements, Transfers.

For the reasons set out in the preamble, 41 CFR part 302-11 is amended to read as follows:

PART 302-11—RELOCATION INCOME TAX (RIT) ALLOWANCE

1. The authority citation for part 302-11 continues to read as follows:

Authority: 5 U.S.C. 5721-5734; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586; E.O. 12466, 49 FR 7349, 3 CFR, 1984 Comp., p. 165.

2. Appendixes A, B, C, and D to part 302-11 are amended by adding the following tables at the end of each appendix, respectively:

APPENDIX A TO PART 302-11—FEDERAL TAX TABLES FOR RIT ALLOWANCE

* * * * *

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 1995

The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302-11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar year 1995.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	\$6,643	\$30,783	\$11,937	\$44,304	\$16,387	\$57,249	\$8,171	\$28,637
28	30,783	68,684	44,304	102,201	57,249	119,362	28,637	59,017
31	68,684	139,546	102,201	163,966	119,362	173,514	59,017	88,341
36	139,546	283,746	163,966	294,200	173,514	286,217	88,341	147,650
39.6	283,746	294,200	286,217	147,650

APPENDIX B TO PART 302-11—STATE TAX TABLES FOR RIT ALLOWANCE

* * * * *

STATE MARGINAL TAX RATES BY EARNED INCOME LEVEL—TAX YEAR 1995

The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302-11.8(e)(2). This table is to be used for employees who received covered taxable reimbursements during calendar year 1995.