relieved of the transportation conformity rule's requirements for regional analysis of NO_X emissions. However, once the maintenance plan for the middle Tennessee ozone nonattainment area is approved, any previously approved NO_X conformity exemption no longer applies. The area must then demonstrate as part of its conformity determinations that the transportation plan and Transportation Improvement Plan (TIP) are consistent with the motor vehicle emissions budget for NO_X where such a budget is established by the maintenance plan.

Final Action

The EPA is approving Tennessee's request to exempt the Middle Tennessee moderate O_3 nonattainment area from the section 182(f) NO_X RACT and NO_X conformity requirements without a prior proposal for approval because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This approval is based upon the evidence provided by Tennessee showing compliance with the requirements outlined in the CAA and in applicable EPA guidance. If a violation of the O_3 NAAQS occurs in any portion of the Middle Tennessee area while the area is designated nonattainment, the exemption from the NO_X RACT and NO_X conformity requirements of section 182(f) of the CAA in the applicable area shall no longer apply.

This action is not a SIP revision and is not subject to the requirements of section 110 of the CAA. The authority to approve or disapprove exemptions from NO_X requirements under section 182 of the CAA was delegated to the Regional Administrator from the Administrator in a memo dated July 6, 1994, from Jonathan Cannon, Assistant Administrator, to the Administrator, titled, ''Proposed Delegation of Authority: 'Exemptions from Nitrogen Oxide Requirements Under Clean Air Act section 182(f) and Related Provisions of the Transportation and General Conformity Rules' Decision Memorandum.'' In a separate document in this Federal Register publication, the EPA is proposing to approve the request should adverse or critical comments be filed. This action will be effective September 9, 1996 unless, by August 12, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the separate proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective September 9, 1996.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 9, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2).)

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. This rule approves an exemption from a CAA requirement. Therefore, I certify that it does not have a significant impact on any small entities affected.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 182 of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being approved by this action will impose any new requirements. Since such sources are already subject to these regulations under State law, no new requirements are imposed by this approval. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: June 18, 1996.

A. Stanley Meiburg,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart RR—Tennessee

2. Section 52.2237 is added to read as follows:

§ 52.2237 NO_X RACT and NO_X conformity exemption.

Approval—EPA is approving the section 182(f) oxides of nitrogen (NO_X) reasonably available control technology (RACT) and NO_X conformity exemption request submitted by the Tennessee Department of Environment and Conservation on March 21, 1995, for the five county middle Tennessee (Nashville) ozone moderate nonattainment area. This approval exempts the area from implementing federal NO_X RACT on major sources of NO_X and exempts Tennessee from NO_X conformity. This approval does not exempt sources from any State required or State Implementation Plan (SIP) approved NO_X controls. If a violation of the ozone NAAQS occurs in the area, the exemption from the requirement of section 182(f) of the CAA in the applicable area shall not apply.

[FR Doc. 96–17644 Filed 7–10–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 79

[FRL–5532–4]

Registration of Fuels and Fuel Additives: Minor Changes to the Testing Requirements for Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (''EPA'' or the ''Agency'') is issuing, as a direct final rule, minor changes to the health-effects testing requirements at 40 CFR Part 79, Subpart F. These requirements deal with the exposure of animals to evaporate and exhaust emissions from motor vehicles. The changes allow for increased flexibility in engine selection, correct an inconsistency with respect to mixing chamber quality assurance, establish clearer exposure timing requirements, provide a necessary option for the units in which emissions data are reported for heavy-duty vehicle engines, clarify oxygen purity requirements, make some minor syntax changes, clarify the handling of the measurements of background chemical species in the ambient air used by the engine generating emissions, clarify the driving schedules, clarify the exposure concentration requirements in the inhalation chamber, clarify dilution system requirements, and clarify the requirements for the collection of particulates and semi-volatiles. These changes will reduce the testing costs without affecting the environmental objectives. This action is being taken without prior notice because EPA believes that the minor changes in the testing requirements will be noncontroversial.

The rule implementing the testing requirements was finalized on May 27, 1994 (59 FR 33042, June 27, 1994). The test data will be used by the Agency to determine if the emissions of certain gasolines and/or diesel fuels present an unacceptable risk to public health. For additional background information see the procedure in this issue of the Federal Register proposing changes to the registration regulations. The changes in this direct final rule have also been incorporated into that notice of proposed rulemaking. If an adverse comment or a request for a public hearing is received on this direct final rule, EPA will withdraw the direct final rule and address the comment(s) in a subsequent final rule based on the proposed rule.

DATES: This action will be effective on August 26, 1996 unless EPA receives an adverse comment or a request for a public hearing by August 12, 1996. If EPA receives an adverse comment or hearing request by that date, EPA will withdraw this action via a document in the Federal Register. All correspondence should be directed to the addresses below.

ADDRESSES: Materials relevant to this rulemaking have been placed in Docket A–90–07. The docket is located at the U.S. Environmental Protection Agency, Air Docket Section (LE–131), 401 M Street, S.W., Washington, DC 20460 in Room M–1500 of Waterside Mall. Documents may be inspected between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying. Those wishing to notify EPA of their intent to submit an adverse comment or request a public hearing should contact Joseph Fernandes (202) 233–9756 or Jim Caldwell (202) 233–9303 at the EPA.

FOR FURTHER INFORMATION CONTACT: Joseph Fernandes (202) 233–9756 or Jim Caldwell (202) 233–9303, USEPA, Office of Mobile Sources, Fuels and Energy Division, Mail Code 6406J, 401 M Street, S.W., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

Regulated categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry	Manufacturers of gasoline and diesel fuel. Manufacturers of additives for gasoline and diesel fuel.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity would be regulated by this action, you should carefully examine this preamble and the proposed changes to the regulatory text. You should also carefully examine the existing provisions of the registration program at 40 CFR part 79.

II. Background

For program background, see the notice in this issue of the Federal Register proposing non-minor changes to the registration regulations for fuels and fuel additives (F/FA). The changes to the testing requirements in this direct final rule are minor and noncontroversial.

III. Requirements for New Vehicles/Engines

To ensure that the tests conducted on the emissions of one F/FA are not affected by ''carryover'' emissions from other F/FAs previously used in the test vehicle, § 79.57 of the registration regulations requires that a new vehicle or engine be used in the testing of each F/FA. The regulations also recommend that one or more identical new vehicles or engines be acquired as backup emission generators for each F/FA.

The regulated industry has commented to EPA that this requirement is burdensome, expensive, and unnecessary. They argue that suitable conditioning procedures can satisfactorily ''flush out'' the remnants of one F/FA and its emissions, so that the same vehicle or engine can be used in testing another F/FA without fear of carryover effects. If this were permitted, a substantially smaller fleet of initial test vehicles/engines might suffice for a given series of F/FAs. Also, a relatively small number of additional vehicles could be acquired to serve as shared backups for the testing of more than one F/FA.

A previous technical communication [1] discussed in detail the possibility of short-term and long-term carryover effects due to test vehicles/engines being used for multiple F/FAs. It also described the restrictions and procedural safeguards which could be adopted to minimize potential carryover problems. Based on that earlier discussion, EPA believes it is now appropriate to ease some of the restrictions on test vehicle use in some circumstances.

Under this revision, the requirement that only new vehicles be used in the test program (specified in § 79.57(a)(1)) has been retained, since it would not be possible to know how, and with what range of F/FA products, a vehicle had been operated in general use. However, it is now acceptable for a single test vehicle or engine to be used sequentially by different F/FA manufacturers for tests on different F/FAs, assuming that adequate documentation is furnished to demonstrate that the test vehicle/engine had not been used for purposes other than testing under this program and that such previous testing was restricted to F/FA types (see below) for which such test vehicle sharing was allowed. The responsibility for assuring the adequacy of such documentation falls to the fuel manufacturer who secondarily acquires the test vehicle.

As discussed in the previously-cited technical memorandum, concerns about possible long-term carryover effects arise primarily in regard to ''atypical''

[1] 1. Memo to Docket A–90–07 from James D. Greaves, ''A Preconditioning Cycle for Potential Use in the Fuels and Fuel Additives Registration Program,'' 1992 (Docket Item II–B–8).

elements. Consistent with that discussion, EPA believes that the current prohibition against using test vehicles/engines for more than one F/FA should be retained in the case of atypical F/FAs. However, in the case of F/FAs which belong to the same fuel family (as defined in § 79.56(e)(1)) and which contain no elements other than carbon, hydrogen, oxygen, nitrogen, and sulfur, EPA believes that long-term carryover effects are of minimal concern, and thus believes that it is acceptable to permit test vehicles to be used for more than one such F/FA. Thus, for example, a given test vehicle/engine could be used in testing base gasoline and one or more nonbaseline gasoline formulations. A vehicle that had been used for baseline and/or nonbaseline gasoline testing may be used in testing one a typical F/FA formulation, but may not subsequently be used for additional baseline/nonbaseline F/FA testing nor for testing of other atypical F/FAs.

To prevent short-term carryover effects, a preconditioning procedure is required to ''flush out'' the remnants of a previously tested F/FA and its emissions from a vehicle's fuel system, engine, exhaust system, and emission control system, before that vehicle is used in the testing of another F/FA. A suitable ''intermediate preconditioning cycle'' was described in the technical memorandum cited previously, and EPA has adopted this cycle, to prevent short-term carryover effects between tested F/FAs. Section 79.52(b)(2) is revised accordingly.

IV. Mixing Chamber Quality Assurance

The method specified in the F/FA program regulations for generating combustion emissions to be used in biological testing (§ 79.57(e)(2)) requires a mixing chamber or other apparatus to smooth out the variability in emission concentrations related to transient-cycle operations. As a quality assurance mechanism, § 79.57(e)(2)(iii)(C) states that this apparatus ''must function such that the average concentration of total hydrocarbons leaving the apparatus shall be within 10 percent of the average concentration of hydrocarbons entering the chamber.'' EPA has noted that this language is inconsistent with § 79.57(e)(2)(iv)(C), which allows intentional dilution of the exhaust stream to occur ''in the mixing chamber (and/or after leaving the chamber) to achieve the desired biological exposure concentrations.''

To correct this inconsistency, the language in § 79.57(e)(2)(iii)(C) is changed to account for intentional exhaust dilution. Specifically, the following phrase has been added to the end of the provision cited above: ''* * *, taking into account any further intentional dilution occurring in the apparatus pursuant to paragraph (e)(2)(iv)(C) of this section.''

V. Exposure Interruptions

Section 79.57(e)(2)(vii) of the regulations specifies how long biological exposures may be interrupted without voiding a test-in-progress. EPA has received feedback from the regulated industry that the language in this section is confusing and that, furthermore, it is inconsistent with customary laboratory practices. EPA agrees with this criticism and has revised the cited section, substituting new exposure time requirements.

Specifically, EPA has incorporated into the regulations the following minimum requirements: (1) A daily exposure must be at least 6 hours plus the time necessary to build the chamber atmosphere to 90 percent of the target exposure atmosphere; (2) A day in which the minimum exposure time has not been achieved does not count as an exposure day; (3) Exposures must be conducted at least 4 days per week; (4) No more than two non-exposure days may occur consecutively during the exposure period, including weekends and days on which the minimum exposure time has not been met.

These exposure rules purposely do not make allowance for Federal holidays. EPA believes that additional ''down'' days for holidays could impact the results of the 90-day test periods required under Tier 2, and could interfere with EPA's ability to compare the results with other F/FAs tested during cycles in which holidays did not occur. Furthermore, if a particular health effects test guideline contains exposure requirements that differ from these general rules, then the specific requirements would take precedence. An example is the Fertility and Teratology assessment at § 79.63(c)(1), which requires exposures to pregnant animal subjects each day during the first 15 days of gestation.

Under this change, biological tests which did not achieve exposures consistent with the above rules would be considered void. The same rules would be applied to both evaporative emission and exhaust emission tests. See the revised language at §§ 79.57(f)(3), 79.57(e)(2)(vii) and 79.61(d)(5). A new § 79.63(e)(4)(iii) has been added to emphasize the special exposure requirements of § 79.63(c)(1).

VI. Units for Reporting Emissions Data

Section 79.52(b)(1)(iv) specifies that manufacturers report emissions data in units of grams per mile and weight percent total hydrocarbons. These units are typically used to report emissions data from light-duty vehicles operating on chassis dynamometers, but may be inappropriate for reporting emissions data from other engine/vehicle classes operating on engine dynamometers. As such, the wording of paragraph 79.52(b)(1)(iv) has been changed to specify that F/FA manufacturers should use brake-specific emission values in units of grams per brake-horsepower/hour (gm/BHP-HR) where these units are appropriate to the emissions test configuration and the vehicle/engine being tested.

If brake-specific emissions data are reported, then corresponding changes are needed at several other points in the regulations. Section 79.52(b)(2)(iii)(D) specified that the concentration of individual polyaromatic hydrocarbons (PAHs) and nitrated-polyaromatic hydrocarbons (NPAHs) identified in Tier 1 emissions analyses shall be reported only in units of microgram (μg) per mile, with 0.001 μg per mile as the minimum threshold for identifying and reporting on a particular PAH or NPAH compound. Similarly, § 79.52(b)(2)(iii)(E) specified that the concentration of each polychlorinated dibenzodioxin/polychlorinated dibenzofuran (PCDD/PCDF) identified in the Tier 1 emissions stream shall be reported in units of picograms (pg) per mile, with 0.5 pg per mile or more as the minimum threshold for identifying and reporting on a particular PCDD/PCDF compound.

These sections have been revised to allow reporting of PAH, NPAH, and PCDD/PCDF emissions data in units of grams per BHP-HR, where appropriate. The counterpart to the g/mile reporting threshold for PAH and NPAH compounds, expressed in terms of brake-specific emissions, would be 0.5 nanograms per BHP-HR or more. Likewise, the counterpart to the g/mile reporting threshold for PCDD/PCDF compounds would be 0.3 pg per BHP-HR or more. These counterpart values were derived by applying fleet average conversion factors for converting grams per mile to grams per BHP-HR, specified in EPA Technical Report EPA–AA–SDSB–89–1.

For similar reasons, §§ 79.68 (f)(1) and (f)(5)(vi) of the Salmonella typhimurium reverse mutation assay guidelines have been modified to permit data from this assay to be presented in units of either revertants per kilometer (mile) or

revertants per BHP–HR, whichever is appropriate to the case at hand.

VII. Oxygenate Purity

Section 79.51(i) specifies that a fuel manufacturer who reports the potential use of more than one oxygenating additive in his non-baseline fuel is responsible for testing (or participating in group testing) of a separate fuel formulation for each such oxygenating additive. This provision has caused some concern that the occurrence in an oxygenate additive of unintended oxygenate byproducts of the manufacturing process could multiply the testing responsibilities of a fuel manufacturer. For example, concern has been expressed that the occurrence of a small amount of tertiary-amyl-ethyl ether (TAEE) as an unintended byproduct of ethyl-tertiary-butyl ether (ETBE) production will affect the grouping of an ETBE additive and will cause a fuel manufacturer who blends ETBE into his fuel to be responsible for testing TAEE as well as ETBE (see docket item VI–D–10). This was not EPA's intention in promulgating this provision. Section 79.51(i)(4) has been revised to state that small amounts of unintended oxygenate compounds occurring as byproducts of the manufacturing process of an oxygenating additive do not affect the grouping of the affected F/FAs nor the testing responsibilities of their manufacturers.

E. Minor Syntax Changes and Clarifications

Minor changes to the regulations are also needed to correct some specific syntax errors. The phrase ''Within May 27, 1997,'' occurring at the beginning of both §§ 79.51(c)(1)(ii) (A) and (B), has been changed to ''No later than May 27, 1997''. Similarly, the phrase ''within May 26, 2000,'' occurring within § 79.51(c)(1)(ii)(B), has been changed to ''by May 26, 2000.'' The language at the beginning of § 79.51(e)(1), which read, ''A testing facility, emissions analysis or health and/or welfare effects, shall permit * * *'' has been changed to: ''A testing facility, whether engaged in emissions analysis or health and/or welfare effects testing under these regulations, shall permit * * *'' Some of the wording in §§ 79.57(e) (2)(i), (2)(ii) (2)(ii)(B), (3)(i), and (3)(i)(A) has been changed to clarify the driving schedules to be used when operating the vehicle or engine to generate combustion emissions for biological testing. The wording in §§ 79.51(h), (h)(1)(ii), and (h)(1)(ii) (A) and (B) dealing with additives belonging to more than one fuel family, has been revised to make this provision easier to understand, without changing the substance of the requirements.

VIII. Background Concentrations

Section 79.52(b)(l)(iii) requires that the ambient/dilution air to the engine generating emissions for characterization be analyzed for levels of background chemical species present at the time of emission sampling (for both combustion and evaporative emissions). These background chemical species concentrations are to be reported with emissions speciation data. This information is necessary so that it can be subtracted from the measured combustion and evaporative concentrations in order to determine the contribution for the F/FA. Section 79.52(b)(l)(iii) is revised to clarify this and require that only the corrected values be reported.

IX. Repetitive Driving Schedules

Section 79.57(e)(l)(I) requires the Light-Duty Urban Dynamometer Driving Schedule (UDDS) or the Heavy Duty Engine Dynamometer Schedule (EDS) as per 40 CFR part 86. Both of these driving schedules require cold starts at the beginning of the cycle, and they include extended engine-off times (10 minutes between bags 2 and 3 for light duty and 20 minutes between cold and hot cycles for heavy duty). While the inclusion of cold starts and extended engine-off times are appropriate for the certification of new vehicles and engines, these two requirements pose significant impracticalities from the standpoint of generating combustion emissions for animal exposures.

First, if the UDDS were repeated as per the new vehicle certification procedure, an eight hour animal exposure would require 24 engines sequenced for a cold start every 20 minutes. Second, the engine-off time requirements from the certification procedure typically involve extended periods of zero emissions. If these were incorporated into the Tier 2 biological testing, the later requirements for a ''settling chamber'' which will dampen out transients to the point that exposure concentrations are held constant within ±10%, would result in the need for a huge settling chamber.

Thus it is appropriate to allow the engine used for animal exposures to be operated over repeated ''hot'' driving cycles. This would entail repeated Bags 2 and 3 of the UDDS for light-duty vehicles and back-to-back repeats of the heavy-duty transient cycle for heavy-duty engines. Both of these should be run without extended idles or engine-off periods.

Repeated operation of the engine over the hot portions (bags 2 and 3) of the FTP will avoid the extended engine-off periods which do not contribute anything to animal exposure. This would minimize the transients in the species concentrations, and reduce the need for a large settling chamber, without changing the nature of the species present for the animal exposure. A new § 79.57(e)(1)(i)(C) has been added to reflect this.

X. Exposure Concentration

Section 79.57(e)(2)(vi)(B) requires that the mean exposure concentration in the inhalation chamber be within 10 percent of the target concentration on 90 percent or more of the days. This implies that target concentrations must be established for CO, CO_2, NO_X, SO_X, and total HC, and none can vary by more than 10% of the targets on 90% or more of the exposure days. Given the fundamentals of engine combustion and the transient nature of the driving cycles, it is impossible to maintain all combustion emission products at a constant level all of the time. The focus should be on the pollutants which are limiting for the animals in terms of exposure, which is CO for gasoline and NO_X for diesel. The engine operator will only be able to vary the exhaust dilution ratio, and thus control is assured for only one pollutant (CO or NO_X) at a time. Section 79.57(e)(2)(vi)(B) has been revised accordingly.

XI. Dilution System

Section 79.57(e)(2)(I) states that the biological tests are to be performed ''* * * using emissions generated from the test vehicle or engine operated in general accordance with the FTP procedures cited in this section.'' Later in this section (at § 79.57(e)(2)(iii)), the regulations state that ''An apparatues to integrate the large concentration swings typical of transient-cycle exhaust is to be used between the FTP-Constant Volume Sampler (CVS) source of emissions and the exposure chamber containing the animal test cages.'' These statements imply that a CVS is required to be used as a first stage of dilution in the delivery of combustion emissions for animal exposure. However, we have received a comment that the dilution needed for gasoline blends and for diesel fuels will be more than can be accomplished with a CVS. Therefore, the test laboratory should not be required to use a CVS as a first stage of dilution. In fact, it may be most practical to use a constant dilution (rather than volume) sampler to minimize transient concentrations for the animal exposures. Section

§ 79.57(e)(2)(iii) has been revised to allow the use of any dilution system design that achieves the necessary concentration of CO or NO_X (whichever is limiting) and reduces transient concentration exposure.

XII. Collection of Particulates and Semi-volatiles

Section 79.57(e)(1)(ii) states that emissions of particulates and semi-volatiles are to be collected over triplicate FTP tests for light-duty vehicles and analyzed as part of the requirements for the characterization of combustion emissions. However, the regulatory language in § 79.57(e)(1)(iii)(A) further states that ''If the mass of particulate emissions or semi-volatile emissions obtained during one driving cycle is not sufficient for characterization, then the driving cycle may be performed again and the extracted fractions combined prior to chemical analysis.'' The number of driving cycles that ''may be performed'' is left unclear and potentially conflicts with the triplicate FTP requirements. We have received a comment that the available literature on gasoline blends suggests that the amount of particulate and semi-volatile emissions collected from one FTP test on a light-duty vehicle is extremely minute, if not less than the detection limits afforded by measurement and analytical procedures currently in use. Thus § 79.57(e)(1)(iii)(A) has been revised to clarify that no more than the three FTP tests are required to be performed for the collection of particulate and semi-volatile emissions. And, the test laboratory should focus on the characterization of the limit detection for particulates and semi-volatile emissions.

XIII. Environmental and Economic Impacts

The environmental impacts of today's action are minimal, as discussed above. Additionally, economic impacts are beneficial to affected manufacturers due to the additional flexibility afforded in today's notice. Minimal anti-competitive effects are expected. A regulatory support document which presents EPA's analysis of the cost impacts of the May 1994 rule is available in Public Docket A–90–07 located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460.

XIV. Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. This rule will reduce regulatory burdens on small businesses by reducing or eliminating the reporting and testing requirements for many small businesses. EPA has determined that this rule will not have a significant adverse economic impact on a substantial number of small businesses.

XV. Administrative Designation

Pursuant to Executive Order 12866 (58 FR 51735 [October 4, 1993]), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the executive order. The order defines ''significant regulatory actions 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 entitlement, 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, it has been determined that this direct final rule is not a ''significant regulatory action''. The regulatory revisions in this notice will reduce testing the requirements and costs.

XVI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and implementing regulations, 5 CFR Part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

XVII. Submission to Congress and the General Accounting Office

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

XVIII. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate; or by the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The Agency has determined that the action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed action does not establish regulatory requirements that may significantly or uniquely affect small governments. In fact, this proposed action has the net effect of reducing the burden of the fuel and fuel additive registration program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

XIX. Statutory Authority

The statutory authority for this direct final rule is provided by sections 205 (b) and (c), 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7524 (b) and (c), 7545, and 7601(a), Public Law 95–95).

List of Subjects in 40 CFR Part 79

Environmental protection, Fuel, Fuel additive, Gasoline, Motor vehicle pollution, Penalties.

Dated: June 27, 1996.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 79 of title 40 of the Code of Federal Regulations is amended as follows:

PART 79—[AMENDED]

1. The authority citation for part 79 continues to read as follows:

Authority: 42 U.S.C. 7414, 7524, 7545 and 7601.

2. Section 79.51 is amended by revising paragraphs (c)(1)(ii)(A), (c)(1)(ii)(B), the first sentence of paragraphs (e)(1), (h) introductory text,

(h)(1)(ii); and by adding a new paragraph (i)(4) to read as follows:

§ 79.51 General requirements and provisions.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(A) No later than May 27, 1997, all applicable Tier 1 and Tier 2 requirements must be submitted to EPA, pursuant to §§ 79.52, 79.53, and 79.59; or

(B) No later than May 27, 1997, all applicable Tier 1 requirements (pursuant to §§ 79.52 and 79.59), plus evidence of a contract with a qualified laboratory (or other suitable arrangement) for completion of all applicable Tier 2 requirements, must be submitted to EPA. For this purpose, a qualified laboratory is one which can demonstrate the capabilities and credentials specified in § 79.53(c)(1). In addition, by May 26, 2000, all applicable Tier 2 requirements (pursuant to §§ 79.53 and 79.59) must be submitted to EPA.

* * * * *

(e) *Inspection of a testing facility.* (1) A testing facility, whether engaged in emissions analysis or health and/or welfare effects testing under the regulations in this subpart, shall permit an authorized employee or duly designated representative of EPA, at reasonable times and in a reasonable manner, to inspect the facility and to inspect (and in the case of records also to copy) all records and specimens required to be maintained regarding studies to which this subpart applies. * * *

* * * * *

(h) *Special Requirements for Additives.* When an additive is the test subject, the following rules apply:

* * * * *

(1) * * *

(ii) Additives belonging to more than one fuel family.

(A) If an additive product is registered in two or more fuel families as of May 27, 1994, then the manufacturer of that additive is responsible for testing (or participating in group testing of) the respective additive/base fuel mixtures in compliance with the requirements of this subpart for each fuel family in which the manufacturer wishes to maintain a registration for its additive.

(B) If a manufacturer is seeking to register such additive in two or more fuel families then, for testing and registration purposes, the additive shall be considered to be a member of each fuel family in which the manufacturer is seeking registration. The manufacturer is responsible for testing (or participating in group testing of) the respective additive/base fuel mixture in compliance with the requirements of this subpart for each fuel family in which the manufacturer wishes to obtain a product registration for its additive.

* * * * *

(i) * * *

(4) The presence in a particular oxygenating additive of small amounts of other unintended oxygenate compounds as byproducts of the manufacturing process of the given oxygenating additive does not affect the grouping of that additive and does not create multiple testing responsibilities for manufacturers who blend that additive into fuel.

* * * * *

3. Section 79.52 is amended by revising paragraphs (b)(1)(iii) and (b)(1)(iv), (b)(2)(iii)(D) introductory text, and (b)(2)(iii)(E) introductory text, to read as follows:

§ 79.52 Tier 1.

* * * * *

(b) * * *

(1) * * *

(iii) Measurement of background emissions: It is required that ambient/dilution air be analyzed for levels of background chemical species present at the time of emissions sampling (for both combustion and evaporative emissions) and that sample values be corrected by substracting the concentrations contributed by the ambient/dilution air. Background chemical species measurement/analysis during the FTP is specified in §§ 86.109–94(c)(5) and 86.135–94 of this chapter.

(iv) Concentrations of emission products shall be reported either in units of grams per mile (g/mi) or grams per brake-horsepower/hour (g/bhp-hr) (for chassis dynamometer and engine dynamometer test configurations, respectively), as well as in units of weight percent of measured total hydrocarbons.

* * * * *

(2) * * *

(iii) * * *

(D) The analytical method used to measure species of PAHs and NPAHs should be capable of detecting at least 1 ppm (equivalent to 0.001 microgram (μg) of compound per milligram of organic extract) of these compounds in the extractable organic matter. The concentration of each individual PAH or NPAH compound identified shall be reported in units of microgram per mile or nanograms per brake-horsepower/hour (for chassis dynamometer and engine dynamometer test configurations, respectively). Each compound which is present at 0.001 μg per mile (0.5 nanograms per brake-horsepower/hour) or more must be identified, measured, and reported. The following individual species shall be measured:

* * * * *

(E) The analytical method used to measure species and classes of PCDD/PCDFs should be capable of detecting at least 1 part per trillion (ppt) (equivalent to 0.001 picogram (pg) of compound per milligram of organic extract) of these compounds in the extractable organic matter. The concentration of each individual PCDD/PCDF compound identified shall be reported in units of picograms (pg) per mile or picograms per brake-horsepower/hour (for chassis dynamometer and engine dynamometer test configurations, respectively). Each compound which is present at 0.5 pg/mile (0.3 pg/bhp-hr) or more must be identified, measured, and reported.

* * * * *

4. Section 79.57 is amended by adding paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii) and (e)(1)(i)(C); and by revising paragraphs (e)(1)(iii)(A), (e)(2)(i), (e)(2)(ii) introductory text, (e)(2)(ii)(B), (e)(2)(iii) introductory text, (e)(2)(iii)(C), (e)(2)(vi)(B), (e)(2)(vii), (e)(3)(i)(A), and (f)(3); and by revising the word ''cycle'' to read ''schedule'' in paragraph (e)(3)(i) introductory text; to read as follows:

§ 79.57 Emission generation.

* * * * *

(b) * * *

(2) * * *

(i) A vehicle or engine may be used to generate emissions for the testing of more than one fuel or additive, provided that all such fuels and additives belong to the same fuel family pursuant to § 79.56(e)(i), and that, once a vehicle or engine has been used to generate emissions for an atypical fuel or additive (pursuant to § 79.56(e)(2)(iii)), it shall not be used in the testing of any other fuel or additive. Paragraphs (a) (2) and (3) of this section shall apply only to the first fuel or additive tested.

(ii) Prior to being used to generate emissions for testing an additional fuel or additive, a vehicle or engine which has previously been used for testing a different fuel or additive shall undergo an effective intermediate preconditioning cycle to remove the previously used fuel and its emissions from the vehicle's fuel and exhaust systems and from the combustion emission and evaporative emission control systems, if any.

(iii) Such preconditioning shall include, at a minimum, the following steps:

(A) The canister (if any) shall be removed from the vehicle and purged with 300 °F nitrogen at 20 liters per minute until the incremental weight loss of the canister is less than 1 gram in 30 minutes. This typically takes 3–4 hours and removes 100 to 120 grams of adsorbed gasoline vapors.

(B) The fuel tank shall be drained and filled to capacity with the new test fuel or additive/fuel mixture.

(C) The vehicle or engine shall be operated until at least 95% of the fuel tank capacity is consumed.

(D) The purged canister shall be returned to the vehicle.

(E) The fuel tank shall be drained and filled to 40% capacity with test fuel.

(F) Two-hour fuel tank heat builds from 72–120 °F shall be performed repeatedly as necessary to achieve canister breakthrough. The fuel tank must be drained and filled prior to each heat build.

* * * * *

(e) * * *

(1) * * *

(i) * * *

(C) For Tier 2 testing, the engines shall operate on repeated bags 2 and 3 of the UDDS or back to back repeats of the heavy-duty transient cycle of the EDS.

* * * * *

(iii) * * *

(A) In the case of combustion emissions generated from light-duty vehicles/engines, the samples consist of three bags of vapor emissions (one from each segment of the light-duty exhaust emission cycle) plus one sample of particulate-phase emissions and one sample of semi-volatile-phase emissions (collected over all segments of the exhaust emission cycle). If the mass of particulate emissions or semi-volatile emissions obtained during one driving cycle is not sufficient for characterization, up to three driving cycles may be performed and the extracted fractions combined prior to chemical analysis. Particulate-phase emissions shall not be combined with semi-volatile-phase emissions. The test laboratory should focus on the characterization of the limit of detection for particulates and semi-volatile emissions.

* * * * *

(2) * * * *Generating whole combustion emissions for biological testing.* (i) Biological tests requiring whole combustion emissions shall be conducted using emissions generated from the test vehicle or engine operated in accordance with general FTP requirements.

(ii) Light-duty test vehicles/engines shall be repeatedly operated over the Urban Dynamometer Driving Schedule (UDDS) (or equivalent engine dynamometer trace, per paragraph (e)(1)(i)(A) of this section) and heavy-duty test engines shall be repeatedly operated over the Engine Dynamometer Schedule (EDS) (see 40 CFR part 86, appendix I).

* * * * *

(B) The UDDS or EDS shall be repeated as many times as required for the biological test session.

* * * * *

(iii) An apparatus to integrate the large concentration swings typical of transient-cycle exhaust is to be used between the source of emissions and the exposure chamber containing the animal test cages(s). The purpose of such apparatus is to decrease the variability of the biological exposure atmosphere and achieve the necessary concentration of CO or NO_X, whichever is limiting.

* * * * *

(C) The mixing chamber (or any alternative emission moderation apparatus) must function such that the average concentration of total hydrocarbons leaving the apparatus shall be within 10 percent of the average concentration of hydrocarbons entering the chamber, taking into account any further intentional dilution occurring in the apparatus pursuant to paragraph (e)(2)(iv)(C) of this section.

* * * * *

(vi) * * *

(B) These procedures include requirements that the mean exposure concentration in the inhalation test chamber shall be within 10 percent of the target concentration for the single species being controlled (establish in the development phase of testing) on 90 percent or more of exposure days and that daily monitoring of CO, CO_2, NO_X, SO_X, and total hydrocarbons in the exposure chamber shall be required. Analysis of the particle size distribution shall also be performed to established the stability and consistency of particle size distribution in the test exposure.

* * * * *

(vii) To allow for customary laboratory scheduling and unforeseen problems affecting the combustion emission generation or dilution equipment, biological exposures may be interrupted on limited occasions, as specified in § 79.61(d)(5). Interruptions exceeding these limitations shall cause the affected test(s) to be void. Testers shall be aware of concerns for backup vehicles/engines cited in paragraph (a)(7)(ii) of this section.

* * * * *

(3) * * *

(i) * * *

* * * * *

(A) Particulate emissions shall be collected on particulate filters and extracted from the collection equipment for use in biological tests. The number of repetitions of the applicable driving schedule required to collect sufficient quantities of the particulate emissions will vary, depending on the characteristics of the engine, the test fuel, and the requirements of the biological test protocol. The particulate sample may be collected on one or more filters, as necessary.

* * * * *

(f) * * *

(3) For biological testing, vapor shall be withdrawn from the EEG at a constant rate, diluted with air as required for the particular study, and conducted immediately to the biological testing chamber(s) in a manner similar to the method used in § 79.57(e), excluding the mixing chamber therein. The rate of emission generation shall be high enough to supply the biological exposure chamber with sufficient emissions to allow for a minimum of fifteen air changes per exposure chamber per hour. To allow for customary laboratory scheduling and for unforeseen problems with the evaporative emission generation or dilution equipment, biological exposures may be interrupted on limited occasions, as specified in § 79.61(d)(5). Interruptions exceeding these limitations shall cause the affected test(s) to be void.

* * * * *

5. Section 79.61 is amended by revising paragraph (d)(5) to read as follows:

§ 79.61 Vehicle emissions inhalation exposure guideline.

* * * * *

(d) * * *

* * * * *

(5) *Exposure Conditions.* The preferred exposure regimen consists of exposing the study animals to the test atmosphere on a repeated basis for at least 6 hours per day on a 7-day per week basis for the exposure period. However, unless precluded by the requirements of a particular test protocol, exposures based on a nominal 5-day-per-week regimen will be considered acceptable, subject to the following rules:

(i) Each daily exposure during the exposure period must be at least 6 hours

plus the time necessary to build the chamber atmosphere to 90 percent of the target exposure atmosphere. A day in which this minimum exposure time has not been achieved does not count as an exposure day.

(ii) Nominally, animal exposures should be conducted for six hours per day for five days per week. In no case should the exposures occur less than four days per week for a total of 65±2 exposure days.

(iii) No more than two non-exposure days may occur consecutively during the exposure period, including days on which the minimum exposure time has not been met.

* * * * *

6. Section 79.63 is amended by adding a new paragraph (e)(4)(iii) to read as follows:

§ 79.63 Fertility assessment/teratology.

* * * * *

(e) * * *

(4) * * *

(iii) Pregnant females shall be exposed to the test atmosphere on each and every day between (and including) the first and fifteenth day of gestation.

* * * * *

7. Section 79.68 is amended by revising paragraphs (f)(1) and (f)(5)(vi) to read as follows:

§ 79.68 Salmonella typhimurium reverse mutation assay.

* * * * *

(f) *Data and report*—(1) *Treatment of results.* Data shall be presented as number of revertant colonies per plate, revertants per kilogram (or liter) of fuel, and as revertants per kilometer (or mile, or brake-horsepower/hour, as appropriate) for each replicate and dose. These same measures shall be recorded on both the negative and positive control plates. The mean number of revertant colonies per plate, revertants per kilogram (or liter) of fuel, and revertants per kilometer (or mile, or brake-horsepower/hour), as well as individual plate counts and standard deviations shall be presented for the test substance, positive control, and negative control plates.

* * * * *

(5) * * *

(vi) Individual plate counts, mean number of revertant colonies per plate, number of revertants per kilometer (or mile, or brake-horsepower/hour), and standard deviation; and

* * * * *

[FR Doc. 96–17549 Filed 7–10–96; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 62

RIN 3067–AC47

National Flood Insurance Program; Allocated Loss Adjustment Expense

AGENCY: Federal Insurance Administration (FEMA).

ACTION: Technical amendment.

SUMMARY: This document amends the interim final rule published on Wednesday, May 15, 1996, 61 FR 24462–24464, FR Doc. 96–12019, which revised the allocated loss adjustment expense fee schedule of the National Flood Insurance Program (NFIP) Write Your Own (WYO) Program under the Financial Assistance/Subsidy Arrangement (the Arrangement). This technical amendment revises the fee schedule of the interim final rule, restoring the previous basis for determining the amount of the flood loss and the resulting fees.

EFFECTIVE DATE: July 11, 1996.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Jr., Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, (202) 646–3422.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1996, the Federal Insurance Administration (FIA) published an interim final rule (FR Doc. 96–12019) that modified the allocated loss adjustment fee schedule of the National Flood Insurance Program (NFIP) Write Your Own Program under the Financial Assistance/Subsidy Arrangement (the Arrangement). That interim final rule added new loss ranges and revised the fees for adjusting claims in the higher ranges under the NFIP. The revised fee schedule also contained footnotes establishing a new basis (replacement cost, not to exceed policy limits, in all cases) for determining the amount of loss.

Before the May 15, 1996 changes, the amount of loss reported and used for determining the allocated loss adjustment fee was either on an actual cash value or a replacement cost basis, depending on how the loss was adjusted. Standard deductibles were applied in all cases. The May 15, 1996 changes required WYO companies to report losses, regardless of how they were adjusted, on a replacement cost basis. This requirement, however, is inconsistent with current systems reporting and recording capabilities.

Need To Correct Publication

A number of WYO companies reported that they could not meet the reporting requirement of the May 15, 1996 interim final rule in a timely manner. In order to meet the reporting requirement, WYO companies need additional time to reprogram their data processing systems. FEMA agrees, and by this amendment reverts to the methods for calculating the amount of loss in effect before the May 15, 1996 interim final rule. The new loss ranges and revised fees for the higher ranges remain the same as in the May 15, 1996 rule.

The basis for determining fees contained in the May 15, 1996 interim final rule will be honored from May 15, 1996 until today, the effective date of this revised interim final rule. FIA will provide separate guidance to WYO companies on how to handle financial reporting from May 15, 1996 until today.

Correction of Publication

Accordingly, Exhibit A, Fee Schedule, of the publication of May 15, 1996, at 61 FR 24463–24464, (FR Doc. 96–12019) is corrected to read as follows:

EXHIBIT A.—FEE SCHEDULE

Range (by covered loss)	Fee
Erroneous Assignment.	$40.00
Closed Without Payment.	125.00
Minimum for Upton-Jones Claims.	800.00
$0.01 to $600.00	150.00
$600.01 to $1,000.00	175.00
$1,000.01 to $2,000.00.	225.00
$2,000.01 to $3,500.00.	275.00
$3,500.01 to $5,000.00.	350.00
$5,000.01 to $7,000.00.	425.00
$7,000.01 to $10,000.00.	500.00
$10,000.01 to $15,000.00.	550.00
$15,000.01 to $25,000.00.	600.00
$25,000.01 to $35,000.00.	675.00
$35,000.01 to $50,000.00.	750.00
$50,000.01 to $100,000.00.	3.0%
$100,000.01 to $250,000.00.	2.3% but not less than $3,000.
$250,000.01 and up	2.1% but not less than $5,750.