coagulate the dissolved polymer.

11.2.8 Centrifuge the sample for 3 minutes at 2000 rpm.

11.2.9 Using the conditions prescribed (6.6 of this method), chromatograph 1 µl of the supernate.

11.2.10 Obtain the peak areas and calculate the concentration of the component of interest as described in the calculations (12.2 of this method).

12.0 Calculations

12.1 Calibration:

$RF_x=(W_x \times A_{is}) / (W_{is} \times A_x)$

Where:

RF_x=the relative response factor for n-hexane

W_x=the weight (g) of n-hexane in the CALIBRATION SOLUTION

A_{is}=the area of AMS

W_{is}=the weight (g) of AMS in the CALIBRATION SOLUTION

A_x=the area of n-hexane

12.2 Procedure:

12.2.1 Correction Factor for calculating dry crumb weight.

F=1—(% moisture / 100)

Where:

F=Correction factor for calculating dry crumb weight

% moisture determined by appropriate method

12.2.2 Moisture adjustment for chromatographic determination.

$W_s=F \times W_c$

Where:

W_s=the weight (g) of the dry polymer corrected for moisture

F=Correction factor for calculating dry crumb weight

W_c=the weight (g) of the wet crumb in section 9.6

12.2.3 Concentration (ppm) of hexane in the wet crumb.

$ppm_x=(A_x * RF_x * W_{is} * 10000) / (A_{is} * W_s)$

Where:

ppm_x=parts per million of n-hexane in the polymer

A_x=the area of n-hexane

RF_x=the relative response factor for n-hexane

W_{is}=the weight (g) of AMS in the sample solution

A_{is}=the area of AMS

W_s=the weight (g) of the dry polymer corrected for moisture

13.0 Method Performance

13.1 Precision for the method was determined at the 0.08% level.

The standard deviation was 0.01 and the percent relative standard deviation (RSD) was 16.3 % with five degrees of freedom.

14.0 Waste Generation

14.1 Waste generation should be minimized where possible.

15.0 Waste Management

15.1 Discard liquid chemical waste into the chemical waste drum.

15.2 Discard polymer waste into the polymer waste container.

16.0 References

16.1 This method is based on Goodyear Chemical Division Test Method E–964.

[FR Doc. 97–6506 Filed 3–14–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 79

[FRL–5707–7]

Registration of Fuels and Fuel Additives: Changes in Requirements, and Applicability to Blenders of Deposit Control Gasoline Additives

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action finalizes several specific changes to existing regulations which require the registration and testing of designated motor vehicle fuels and fuel additives (F/FAs) by their manufacturers. Included are changes to the regulatory definitions of ''fuel manufacturer,'' ''additive,'' and ''small business,'' as well as modifications to grouping rules for biodiesel and synthetic fuels. These changes will streamline F/FA registration and testing burdens and reduce the number of respondents, while maintaining the informational value of the program and its contributions to the public health and environmental goals of the Clean Air Act.

Another previously proposed change, to establish a *de minimis* provision for F/FAs containing certain ''atypical'' elements, is not addressed in this action. However, in a direct final rule also published elsewhere in this issue of the Federal Register, certain deadlines related to testing of atypical F/FAs are extended while EPA determines the most appropriate disposition of the *de minimis* proposal.

EFFECTIVE DATE: This action will be effective on May 16, 1997.

ADDRESSES: Documents related to this final rule have been placed in Public Docket No. A–90–07 located at the U.S. EPA, Air Docket Section, Room M–1500, 401 M Street S.W., Washington, DC 20460. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m., Monday through Friday, except on Federal holidays. A reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Jim Caldwell (202–233–9303) or Joseph Fernandes (202–233–9016), U.S. EPA, Office of Mobile Sources, Fuels and Energy Division, Mail Code 6406J, 401 M Street SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Electronic copies of this rule and earlier rulemaking documents related to the F/FA Registration Program are available free of charge on EPA's Technology Transfer Network Bulletin Board System (TTNBBS, phone access 919–541–5742) and on the Internet (http://www.epa.gov/omswww). Parties requiring assistance may call Mr. Fernandes at (202) 233–9016.

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 potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine this preamble and the changes to the regulatory text. You should also carefully examine all provisions of the registration program at 40 CFR part 79.

II. Introduction

A. Background

The F/FA registration program is authorized by section 211 of the Clean Air Act (CAA) and codified in 40 CFR part 79. In accordance with CAA sections 211(a) and (b)(1), basic registration requirements applicable to gasoline and diesel fuels and their additives were issued in 1975. These regulations require manufacturers to submit information on their F/FA products, such as the commercial identity, chemical composition, purpose-in-use, and range of concentration, in order to have such products registered by the EPA.

Additional registration requirements, implementing sections 211(b)(2) and (e), were proposed in April 1992 and

February 1994 (57 FR 13168 and 59 FR 8886, respectively) and were finalized on June 27, 1994 (59 FR 33042). The additional regulations require manufacturers, as part of their F/FA registration responsibilities, to conduct tests and submit information on the health effects of their F/FA products. These requirements are organized within three tiers. Tier 1 requires analysis of the combustion and evaporative emissions of F/FAs and a survey of existing scientific information on the public health and welfare effects of these emissions. To the extent that adequate test data are not already available (as defined in the regulations), Tier 2 requires manufacturers to conduct specified toxicology tests to screen for potential adverse health effects of the F/FA emissions. Additional testing may be required under Tier 3 at EPA's discretion.

The rule also includes several provisions to reduce the information collection and testing burdens. Among these provisions is a voluntary grouping and cost sharing program which allows manufacturers of similar F/FAs to pool their resources and efforts in complying with the requirements. Special provisions for small manufacturers are also included.

On July 11, 1996, EPA published a Notice of Proposed Rulemaking (NPRM, 61 FR 36535), proposing several specific changes to the F/FA registration regulations.[1] The proposed modifications were designed to reduce the number of respondents and streamline the requirements of the program. For example, EPA proposed to change the definition of a fuel manufacturer so that the addition of a small volume of an additive to fuel would not by itself cause a party to be considered a fuel manufacturer. EPA also proposed to change the definition of an additive to exclude substances composed solely of carbon and/or hydrogen. Together, these two proposals were expected to relieve hundreds of businesses from existing regulatory responsibilities to register and test F/FAs. Other proposals potentially affected small businesses, biodiesel and synthetic fuel manufacturers, and manufacturers of atypical F/FAs (i.e., those containing elements other than carbon, hydrogen, oxygen, nitrogen, and sulfur). In response to the NPRM, EPA received 43 written comments, which are available in the docket for public review.

B. Today's Actions

This final rule promulgates most of the revisions proposed in the NPRM of July 11, 1996. The specific regulatory revisions are discussed in Sections III through VII of this preamble, including analyses of the public comments related to each issue.

One of the provisions which EPA proposed in the NPRM was a *de minimis* provision, which would delete standard Tier 2 requirements for certain atypical F/FAs when the atypical elements are present at very low concentrations. Additives qualifying for this *de minimis* provision were proposed to be those containing no atypical elements other than aluminum, boron, calcium, sodium, zinc, magnesium, phosphorus, potassium, and/or iron, where the total of these elements would not exceed 25 parts per million when the additive is mixed in fuel at the maximum recommended concentration.

The proposed *de minimis* provision is not finalized in today's action, but is still under consideration. EPA received significant public comment about all aspects of the proposal, and has not yet fully analyzed the suggestions therein. Nevertheless, EPA is aware that this delay in resolving the *de minimis* issue might result in significant uncertainty for manufacturers of atypical additives, who do not know whether EPA will finalize the proposed exemption or what the scope of the final exemption might be, but who nonetheless face regulatory deadlines in the near future. In particular, all F/FA manufacturers (except some small businesses and others qualifying for specific exemptions or alternative deadlines) are required by May 27, 1997 to either (1) submit the results of completed Tier 2 testing to EPA, or (2) demonstrate the existence of suitable arrangements for Tier 2 test completion by May 27, 2000. However, if EPA does adopt a *de minimis* provision in a future rulemaking action, some atypical manufacturers would not be subject to these Tier 2 requirements.

To permit EPA to consider all issues raised in response to the proposed provision, without any unnecessary adverse impact on the manufacturers, EPA is publishing elsewhere in this issue of the Federal Register a direct final rule, extending each of the two deadlines related to Tier 2 testing by 18 months, for all atypical F/FAs.[2] Thus, during the time needed by EPA to complete its determination of the most appropriate disposition of the *de minimis* proposal, potentially-affected manufacturers will be relieved of compliance deadlines which might no longer apply to them. EPA estimates that the 18-month extension will be adequate for the Agency to complete its analysis and publish a final rule (or other notification as appropriate), while still leaving sufficient time for manufacturers of atypical F/FAs to comply with any applicable requirements to secure contractual arrangements for timely completion of Tier 2 testing.

III. Fuel Manufacturer and Additive Definitions

A. Background

In the NPRM of July 11, 1996, EPA proposed several changes affecting the definition of a fuel additive and the definition of a fuel manufacturer. These changes were intended to ease regulatory burdens by reducing the number of entities subject to F/FA registration responsibilities and by streamlining certain registration requirements.

First, EPA proposed to revise the definition of an additive (at § 79.2(e)) to exclude substances composed solely of carbon and/or hydrogen. The proposed change would reinstate the definition that was in effect prior to the final rule of May 27, 1994, and would provide regulatory relief to perhaps hundreds of companies considered to be ''fuel manufacturers'' only because they add common hydrocarbon stocks to finished fuels.

Similarly, EPA proposed to revise the definition of a fuel manufacturer (at 79.2(d)) to exclude those parties whose ''manufacturing'' activity consists only of adding small amounts of detergent and/or other performance additives to fuel. Specifically, EPA proposed that parties which merely add additives in amounts accounting for less than 1 percent by volume of the resulting additive/fuel mixture would not be considered fuel manufacturers by virture of this activity. In such cases, the registration and testing requirements for the additives themselves are already being met by the responsible additive manufacturers. Thus, including as fuel manufacturers those entities whose only relevant activity is the blending of such additives into fuel has the effect of

[1] In addition to the NPRM, a direct final rule, ''Registration of Fuels and Fuel additives: Minor Changes to the Testing Requirements for Registration,'' appeared in the same issue of the Federal Register (61 FR 36506, July 11, 1996). Another technical change was promulgated in a subsequent direct final rule, ''Registration of Fuels and Fuel Additives: Minor Revisions'' (61 FR 58744, November 18, 1996).

[2] Deadlines for requirements not proposed to be affected by the *de minimis* provision (i.e., Tier 1 and potential Alternative Tier 2 and/or Tier 3 requirements) are not affected by these extensions.

increasing the number of F/FA registration respondents while yielding little incremental information to EPA.

The proposed ''one-percent solution'' described above would not change the registration responsibilities of parties who add oxygenates in amounts sufficient to produce mixtures categorized as non-baseline.[3] EPA judged that it is generally appropriate for manufacturers of oxygenated fuels to share (along with oxygenate manufacturers) the responsibility for registering and testing these mixtures. The blending of oxygenates in relatively large volumes can cause substantive changes in the basic properties, emission composition, and toxic potential of the fuel. Furthermore, in the case of most oxygenates, the blending is accomplished ''upstream'' by fuel refiners and importers. Thus, other manufacturing activities besides the addition of oxygenate generally define these blenders as fuel manufacturers and make them responsible for F/FA registration and testing requirements.

However, certain physical properties prevent transport of ethanol-containing fuel through the pipeline distribution system, so that ethanol must be added to fuel downstream rather than at the refinery. In addition to refiners and importers, therefore, many ethanol blenders are terminal operators and truckers who are considered ''fuel manufacturers'' only because of their oxygenate-blending activity. Some of these entities qualify for the small business exemption at 79.58(d)(2), which exempts them from Tier 1 and Tier 2 testing responsibilities. As fuel manufacturers, however, they must still comply with the reporting requirements of the F/FA registration program. As pointed out in the NPRM, these requirements may constitute a significant paperwork burden for such respondents, while adding little information to EPA in regard to oxygenated fuels beyond that which is available through other program reporting mechanisms.

Recognizing the unique market structure for ethanol blending activities, EPA proposed to revise the fuel manufacturer definition to exclude oxygenate blenders who meet the regulatory definition of a small business. For convenient reference, it was also proposed that the definition of ''oxygenate compound'' at 40 CFR 79.50 also be incorporated at 40 CFR 79.2(k).

B. Summary of Comments and Final Actions

Comments about the proposed definition changes were overwhelmingly supportive and, with some modification, EPA is finalizing them in today's action. The modifications are discussed below.

Several commenters said that the proposed new definition of a fuel manufacturer could be misinterpreted as excluding or changing the requirements of fuel refiners and importers, in addition to entities whose fuel ''manufacturing'' activity is limited to the blending of additives or oxygenates into fuel. EPA did not intend the proposed changes to affect any of the existing registration and testing responsibilities of refiners and importers for any of the fuel formulations they produce or blend. Accordingly, the regulatory language for the revised definitions has been modified to eliminate the potential ambiguity.

Some commenters said that all oxygenate blenders other than refiners and importers should be excluded from the definition of a fuel manufacturer, not just those oxygenate blenders which are small businesses (docket items VII–D–06, VII–D–12, VII–D–14). They stated that this broad exemption would level the playing field among blenders without impeding the development of health effects data, since oxygenate manufacturers and major fuel refiners and importers would retain this responsibility.

EPA has carefully considered the commenters' arguments in relation to other provisions of the F/FA registration and testing program. The program is structured around the concept that business entities which profit from the sale of a F/FA product should generally share responsibility for its potential effects on the public health and welfare. Such businesses have thus been required to share in the burdens associated with determining these potential effects. However, this general principle is tempered by various provisions which recognize that other factors, such as characteristics of the F/FA marketplace and distribution system, must also be taken into account when assigning the regulatory burdens. For example, the special provision for relabeled additives (§ 79.58(a)) provides an exemption based on the position of a business entity in the product marketing and distribution chain. The special provisions for small businesses (§ 79.58(d)) also grant exemptions based upon financial and marketplace factors. Moreover, provisions finalized in today's action permit this exemption to ''pass through'' to customers of small businesses, regardless of the size of the customers, to prevent disruption of marketplace relationships (see section IV.B, below).

EPA's proposal to exclude as fuel manufacturers those oxygenate blenders who meet small business criteria would certainly provide additional regulatory relief to this financial segment of the industry. However, as pointed out by the commenters, the proposed change would not fully resolve the underlying problem it was intended to address: The regulation's unequal impact on different segments of the oxygenate marketplace.

EPA identified this in the NPRM as the basic problem which was proposed to be addressed through regulatory revision. Specifically, in the background discussion provided in the NPRM, EPA described the oxygenate marketplace characteristics which created the need for the proposed change as follows: ''In the case of oxygenates other than ethanol, the oxygenate is generally added to gasoline at the fuel refinery, before the gasoline is distributed through the pipeline. These 'upstream' blenders tend to be relatively limited in number, and often are large fuel manufacturing businesses. Ethanol, on the other hand, is generally prohibited from transport through the pipeline * * *, and must be added to the fuel downstream. Thus, rather than being blended by relatively few fuel refiners, ethanol is added to fuel by large numbers of terminal operators, fuel halers, and some fuel retailers * * *'' (61 FR 36537).

EPA thus recognized in the NPRM that, among the various fuel oxygenates, only ethanol blending involved numerous entities other than importers and refiners. Logically, the inclusion of oxygenate blenders as fuel manufacturers when they are not otherwise fuel importers or refiners has a potentially greater disruptive impact on the ethanol marketplace than on the market for other oxygenates. To alleviate some of this imbalance, EPA proposed in the NPRM to exempt small oxygenate blenders from the fuel manufacturer definition, noting that many of the entities involved in ethanol blending already qualify for small business exemptions and thus have requirements limited only to paperwork submittal. However, upon reconsideration, EPA agrees with the commenters that a more equitable outcome can be attained by exempting all entities whose only ''manufacturing'' activity is the blending of oxygenate. This would restrict the

[3] As specified in § 79.56(e)(3), non-baseline F/FAs contain (among other criteria) no elements in addition to carbon, hydrogen, oxygen, nitrogen, and sulfur, and, in the case of gasoline F/FAs, contain 1.5 percent or more oxygen by weight, and, in the case of diesel F/FAs, contain 1.0 percent or more oxygen by weight.

regulatory responsibility for registration and testing of ethanol and ethanol blends to the same types of business entities that are subject to these requirements with respect to other oxygenates and oxygenate blends, i.e., oxygenate manufacturers, fuel refiners, and importers.

Thus, for the reasons discussed above, this final rule revises the definition of a fuel manufacturer to specifically exclude oxygenate blenders, regardless of their size, if they are not also fuel refiners or importers.

IV. Small Business Provisions

A. Tax-Based Revenue

Under § 79.58(d), qualification for the F/FA program's small business provisions is based in part on a manufacturer's total annual sales revenue: a $50 million limit for manufacturers of baseline and non-baseline F/FAs, and a $10 million limit for manufacturers of atypical F/FAs. After these criteria were promulgated, communications from trade organizations (docket item VI–D–05) suggested that the total sales limits should be revised to take tax effects into account. These organizations pointed out that sales and excise taxes accumulate as the fuel passes along the refining-distribution-marketing chain, but are generally not included in the price paid for the fuel (nor in the gross sales revenue of the seller) until the fuel is marketed at the retail level. The accumulated sales and excise taxes may represent a considerable portion of a small retailer's fuel-related sales revenues. Thus, the commenters said, small marketers would be disadvantaged in comparison with small refiners and other upstream businesses unless these tax effects were reflected in the small business definition.

EPA found these arguments persuasive, and proposed to change § 79.58(d) to allow revenue representing the collection of taxes to be excluded from a manufacturer's total annual sales for the purpose of qualifying as a small business. EPA also proposed to revise § 79.59(b)(5)(ii) to require the submittal, at EPA's request, of documentation showing the validity of sales amounts excluded as taxes. All comments received about these proposals (docket items VII–D–02, VII–D–06, and VII–D–21) were supportive, and the proposed regulatory changes are finalized in today's final rule.

B. Extension of Applicability of Tier 2 Exemption

Under the existing regulations, it is possible for the manufacturer of an additive to be exempt from Tier 2 testing requirements under the special provisions for small businesses, while larger fuel manufacturers who buy and blend this additive into fuel do not qualify for the exemption and must still test the additive/fuel mixture. As described in the NPRM, this combination of circumstances has led to awkward and unintended outcomes. EPA thus proposed to revise § 79.58(d) to exempt fuel manufacturers from Tier 2 requirements arising from the use of an additive which is itself exempt from Tier 2 under the small business provisions.

The one comment received on this issue (docket item VII–D–27) was supportive. However, the commenter suggested that the ''pass through'' of the Tier 2 exemption should apply not only to parties who blend an exempted additive into fuel, but also to other additive manufacturers who buy and blend the exempted additive with other additives and then bring the resulting multifunctional additive to the marketplace. The commenter was concerned that non-exempt customers who are secondary additive manufacturers, just like those who are fuel manufacturers, might stop purchasing the additive in lieu of having to conduct their own Tier 2 testing.

EPA agrees that this situation falls within the intent of the proposal. That is, passing the Tier 2 exemption through to secondary additive manufacturers as well as fuel manufacturers will help preserve the business base of small additive manufacturers by shielding their customers from Tier 2 requirements. The new regulatory language at § 79.58(d)(6) extends the applicability of the small business exemption accordingly. However, the ''pass through'' of the Tier 2 exemption to secondary additive manufacturers only applies if the secondary manufacturer blends the exempted additive with one or more other registered additives and/or substances containing only carbon and/or hydrogen. This approach is consistent with the conditions qualifying for exemption from periodic additive reporting requirements, under § 79.5(b).

C. Small Business Definition Basis

While supportive of the tax-related changes discussed above, one commenter also said that the small business definition should be further changed, such that only fuel-related revenue would be included in determining whether a business is considered ''small'' for the purpose of this program (docket item VII–D–02). The revenue amounts specified in the small business definition adopted in May 1994 were selected to strike a reasonable balance between EPA's scientific (and statutorily-mandated) need for information and the financial ability of responsible business entities to provide that information. Thus, the revenue cut-off points were selected on the basis of the total sales revenue of the ultimate parent companies of registered F/FA manufacturers. EPA did not propose to change this basic aspect of the small business definition, and is not addressing this issue in this rulemaking.

V. Biodiesel Provisions

A. Background

Biodiesel fuels and most blends of bio-and conventional diesel fuel contain more than 1.0 weight percent oxygen and thus, according to § 79.56(e)(3)(ii)(B), fall into the non-baseline diesel category. Under § 79.56(e)(4)(ii)(B)(*2*), as adopted in May 1994, biodiesel fuels derived from vegetable oil (''mixed alkyl esters of plant origin'') are grouped separately from biodiesel fuels derived from animal fat (''mixed alkyl esters of animal origin''). For each group, the representative to be used in health effects testing is required to be that member product with the highest maximum recommended concentration reported in its registration data. During testing, the selected product is to be used at this maximum concentration.

In the rule promulgated in May, 1994, EPA established the two separate biodiesel groups because of concern that the composition of animal-derived and vegetable-derived fuels might differ considerably, and thus might demonstrate different toxicological properties. Both vegetable oil and animal fat are composed of triglycerides, and the process used to convert the triglycerides to fuel (i.e., an esterification process in which an alcohol is reacted with fat or oil) is the same for both. As discussed in the preamble to the May 1994 rule, EPA understood that up to 3.0 percent of the resulting chemical mixture may be composed of non-esterified reactants, other reaction products, and possible contaminants, and EPA was concerned that these components could vary significantly between the different feedstocks.

In subsequent communications with EPA (see docket item VI–E–01), representatives of the industry asserted that biodiesel produced from different lipid sources are substantially the same. As a result of its evaluation of these arguments, EPA proposed to revise the

grouping rules in § 79.56(e)(4)(ii)(B)(*2*) to permit animal-and vegetable-derived biodiesels to be grouped together. EPA requested comment on this proposed change, as well as data comparing the composition and emissions of biodiesel fuels derived from different feedstocks.

In the NPRM, EPA also requested comment on a possible change to the rule governing the biodiesel blend selected to serve as the group representative, such that a particular percent blend would be specified (e.g., 100 percent or 20 percent) rather than requiring the highest concentration registered for a biodiesel product to be used. Comments were also requested on the practicality of different blend options with respect to their compatibility with test vehicles or engines.

B. Summary of Comments

Comments submitted by the National Biodiesel Board (NBB) and the Fats and Proteins Research Foundation, Inc. (FPRF) supported the proposal to permit biodiesel F/FAs derived from animal fats, vegetable fats, used/recycled vegetable oils, fats and greases to be consolidated into one group (Docket items VII–D–17 and VII–D–19). NBB and FPRF commented that biodiesel F/FAs from these various sources have similar composition. They stated that the primary difference is a shift in the composition of saturated fatty esters, e.g., soybean oil is typically 12–15 percent saturated while tallow is typically 50 percent saturated. NBB stated that this difference appears to have little effect on biodiesel emission characteristics, and submitted a recent study demonstrating that these fuels respond in a similar manner when burned in a diesel engine.[4] The FPRF commented that it would be inconsistent with the treatment of petroleum-based fuels and economically detrimental to biodiesel manufacturers to require duplicate testing for different biofuels.

In regard to EPA's concerns about the non-esterified portion of biodiesel, NBB noted that the American Society for Testing and Materials (ASTM) Biodiesel Task force (within Committee D2, Section E2 on diesel fuels) has been working actively to develop and promulgate a standard for biodiesel. According to NBB, the ASTM standard will minimize any source-related differences which might exist in the non-ester fraction. The standard is expected to set a minimum conversion of the starting fats and oils to 97.9% ester product, based on the free and total glycerine specification. NBB said that the remaining 2.1% of non-ester materials is nearly all composed of partially reacted lipids, primarily monoglycerides and diglycerides. Under the ASTM standard, trace byproducts would be limited in composition and amount by ash, flashpoint, free glycerine, acid value, carbon residue, and sediment specifications. The NBB suggested that, once the ASTM standard for biodiesel is finalized, the Agency should incorporate it into the specifications for the biodiesel group representative.

In response to EPA's request for comment about the most appropriate biodiesel blend for use in health effects testing, one commenter (docket item VII–D–28) felt that testing should be done on a formulation which reflects the levels at which biodiesel would actually be expected to be blended, i.e., 20 percent or less. On the other hand, the NBB supported the choice of 100 percent biodiesel as the group representative. NBB said that valid approximations of the potential health effects of biodiesel blends may be determined from utilizing data resulting from the testing of base diesel fuel and 100 percent biodiesel, extrapolating the data based on scientific observations of the linear trends of emissions. NBB stated that the use of 100 percent biodiesel in health effects testing need not be precluded by concerns about engine compatibility, so long as recognized problems (i.e., accelerated deterioration of fuel hoses and fuel pump seals) are addressed in the testing protocol. However, NBB also noted that the potential market applications for biodiesel range from less than 5 percent for low blend/premium diesel to 100 percent applications in marine and underground mining markets. Vehicles subject to urban bus and/or clean fuel fleet regulatory programs are likely to operate on 20 percent blends due to operating performance features such as increased lubricity and economic competitiveness vis-a-vis other alternative fuels. Off-road markets such as underground mining and marine will likely use blends approaching 100 percent in order to comply with environmental and safety regulations.

C. Analysis and Conclusions

While the available data are not comprehensive, EPA agrees with industry commenters that plant- and animal-derived biodiesel fuels appear to have generally similar chemical composition. It is EPA's understanding that, whether the feedstock is plant or animal, the nonesterified fraction of biofuel is mostly composed of partially reacted lipids of different chain lengths, primarily monoglycerides and diglycerides. EPA is encouraged to learn that ASTM is developing compositional standards designed to ensure biodiesel quality. For the reasons discussed in the previous section, the ASTM standards, when finalized, should serve to further limit both the amount and chemical variability of non-ester components and any other differences that may exist between biodiesel fuels derived from plant and animal feedstocks. Thus, the Agency's earlier concern about the possible variation in non-ester components depending on plant or animal lipid source is largely allayed.

For these reasons, grouping of biodiesel F/FAs based upon their plant vs. animal feedstock origin does not appear to be warranted at this time. Accordingly, as proposed, the Agency is today revising the grouping rule for biodiesel F/FAs to permit plant and animal biodiesel F/FAs to group together and be represented by one group representative for compliance with Tier 1 and Tier 2 testing requirements.

Nevertheless, EPA wishes to emphasize that the data currently available do not demonstrate equivalent composition and emission characteristics across all biodiesel formulations. In fact, significant variations may exist even within the same feedstock. For example, soybeans grown under different climatological conditions may have different chemical compositions and, therefore, could have different emission profiles. The potential use of waste cooking oils and recycled grease as biodiesel feedstocks may also present cause for concern. In addition to lipid source, the identity of the alcohol used in the biodiesel production process may also have significant effects on both regulated and unregulated emissions. Furthermore, if the proposed ASTM standards for biodiesel fuels are not finalized, or if the final standards do not provide the expected level of biodiesel quality control, then additional variability concerns are likely to arise.

It is important to recall, therefore, that Tiers 1 and 2 are largely intended to provide screening-level information. Under the Tier 3 testing authority specified in 79.54, EPA may require not only follow-up testing on the group representative which underwent Tier 1 and Tier 2 testing, but also may require testing of one or more other members of a group. Thus, even though this final rule will allow all biodiesel F/FAs to

[4] Van Gerpen, J. *Comparison of the Engine Performance and Emission Characteristics of Vegetable Oil-Based and Animal Fat-Based BIodiesel.* Iowa State University, August 1996. (Docket item VII–D–19).

group together and be represented in Tier 1 and Tier 2 testing by one test substance, EPA is not precluded from requiring any other vegetable-derived, animal-derived, or other biodiesel F/FAs to undergo separate testing in the future under the Tier 3 authority.

In regard to selecting the biodiesel group representative, EPA has decided that 100 percent biofuel is most appropriate for the screening purposes of Tiers 1 and 2. EPA has received industry assurances, both in written comments (docket item VII–D–19) and in follow-up communications,[5] that the use of 100 percent biofuel does not require significant engine modifications. Furthermore, while 20 percent biodiesel formulations are expected to predominate in the commercial marketplace during the short term, both lower and higher percent blends may see greater market penetration in the future. For example, the state of Iowa has announced plans for a one-year trial of five percent biodiesel fuel in its vehicle fleet.[6] At the other extreme, some biodiesel manufacturers have registered blends of up to 50 percent, and 100 percent biofuels are anticipated for certain nonroad applications.

In view of the diversity of biodiesel fuel blend percentages and the uncertainty about future usage patterns, EPA believes that Tier 1 and Tier 2 testing on 100 percent biofuel will provide the most useful and widely applicable screening information. These tests will furnish a detailed profile of the emissions produced during the combustion of biofuel itself as well as screening information on the potential toxicity of these emissions. Such data can be expected to help inform EPA's initial evaluation, not only of 100 percent biofuel, but also of various percentage biodiesel fuels. It must be noted, however, that EPA does not accept the biodiesel industry's suggestion that such data can just be extrapolated to give valid approximations of the effects of various biodiesel blends. This suggestion implicitly assumes that the emissions generated by any given biodiesel percentage blend are simply the weighted sum of the emissions generated separately by baseline diesel fuel and 100 percent biofuel, without regard to possible interactions between them. To strengthen the credibility of this assumption, detailed characterization of the combustion emissions from biodiesel blends would be required. EPA therefore encourages the biodiesel industry group to consider conducting, on a voluntary basis, emission characterization tests on one or more biodiesel percentage blends, parallel to the Tier 1 testing required to be run on the 100 percent biofuel group representative. If submitted to EPA along with the required Tier 1 submittal, such information could help to allay EPA's concerns about the possible variability of different biodiesel blends.

A direct final rule published elsewhere in this issue of the Federal Register (see discussion in section II.B of this preamble) includes a change extending the Tier 1 deadline for biodiesel F/FAs to one year from today's date. Interested readers should consult that notice for additional information.

VI. Synthetic Fuel Provisions

A. Background

Under §§ 79.56(e)(3) (i)(B) and (ii)(B), a fuel derived from any source other than conventional petroleum is assigned to a non-baseline category. Further, under § 79.56(e)(4)(ii) (A)*(3)* and (B)*(3)*, separate non-baseline groups are defined for formulations derived in whole or in part from each non-conventional source or process, including coal, tar or oil sands, shale, and recycled chemical or petrochemical products. The objective of these grouping provisions was to assure separate testing for fuels which EPA expected would differ from conventional fuels in composition or other properties, and which therefore might have different public health impacts.

Following promulgation of the regulations in May 1994, EPA received communications from some affected industries (e.g., see docket items VI–D–02 and VI–D–03), indicating that fuels derived from ''synthetic'' feedstocks (''synfuels'') do not necessarily differ from fuels derived from conventional petroleum sources. Based on this information, EPA solicited substantive comment and supporting data relevant to possible revision of the rules for grouping these fuels. Several alternatives were discussed in the proposal, including (1) case-by-case assignment of a synfuel to a baseline or non-baseline group, determined by comparative compositional analysis, (2) baseline or non-baseline assignment determined by the proportion of the final fuel derived from a non-conventional source, and (3) elimination of the distinction between conventional petroleum and some or all non-conventional crude sources as a criterion for group assignment. Changes to the rules for selecting group representatives were also proposed. In addition, EPA proposed to eliminate the phrase ''non-conventional process'' as a grouping criterion [in §§ 79.56(e)(4)(ii)(A)*(3)* and (ii)(B)*(3)*], because the phrase was open to misinterpretation and confusion.

B. Summary of Comments

EPA received over twenty written comments on these issues, all strongly in favor of removing the general distinction between synthetic and conventional sources as a criterion for group assignment. Some commenters provided analytic data and other information showing that properties of crude oil derived from tar (or oil) sands are well within the range for conventional crude and that, after processing, these fuels are frequently lower in sulfur, olefins, and metal content than conventional fuels (see, for example, docket items VII–D–03, VII–D–04, VII–D–15, VII–D–25, VII–D–29, VII–D–34, VII–D–42). Commenters pointed out that commercialized synfuels are subject to the same EPA regulations and industry specifications (e.g., ASTM and pipeline requirements) as conventional fuels, and are totally commingled and fungible with them. They felt that grouping based on the proportion of synthetically-derived component would therefore not only be arbitrary, but would create unjustifiable market restrictions.

Information submitted in regard to coal-derived fuels similarly supported their categorization as baseline fuels, without respect to blend ratio. One commenter, reporting the results of a recent analysis of fuels derived from coal liquefaction processes, stated that these distillates are similar to petroleum in terms of hydrocarbon composition and are of adequate quality to be blended directly into refinery streams (docket item VII–D–41). The U.S. Department of Energy's Pittsburgh Energy Technology Center submitted data (docket item VII–D–43) showing that coal-derived Fischer-Tropsch diesel fuels were superior to petroleum-derived fuels in terms of performance (higher cetane number and lower aromatic content) and ''cleanliness'' (heteroatom composition and paraffin distribution).

C. Conclusions

EPA has reviewed the qualitative and quantitative information submitted by the commenters and agrees that motor vehicle fuels derived from oil or tar sands or synthesized from coal appear

[5] See memorandum of December 6, 1996 from Joseph Sopata to Docket A–90–07, entitled, ''Phone Conversations with Leroy Watson of the National Biodiesel Board (NBB).''

[6] ''Iowa DOT to Use 5% blends of Biodiesel in State Fleet,'' *Oxyfuel News*, Vol VIII, No. 45, Page 6, November 18, 1996.

to fall within the broad range of properties and components of other F/FAs that are categorized as baseline. Today's final rule deletes fuels derived from these sources from the list of synthetically-derived fuels considered to be non-baseline, thus allowing them to join the baseline F/FA groups. As noted in section V.C. of this preamble, however, EPA retains the authority in § 79.54 to require additional testing at the Tier 3 level, including testing of different representative(s) of a group than those tested at the Tier 1 and/or Tier 2 level. For example, under Tier 3, EPA could require special analyses of the composition or emissions of members of the baseline F/FA group that are derived from non-conventional sources. Separate toxicology testing of these or other group members could also be required under Tier 3.

In addition to the change described above, today's final rule deletes ''non-conventional process'' from the non-baseline grouping criteria. No comments were received regarding the grouping of motor vehicle fuels which might be synthesized from shale or from recycled or other petrochemical sources (e.g., used motor oils, recovered chemical spills, recycled plastics, industrial waste streams), and EPA has not changed the grouping rules or group representative specifications for these fuels.

VII. Tier I Exposure Analysis

In the NPRM, EPA proposed to delete the Tier 1 requirement [at § 79.52(c)] to provide a qualitative discussion of potential public exposure to F/FA emission products. Since it was to be based on data already required to be submitted for registration (e.g., annual and projected production volume, marketing, and distribution data for F/FA products), EPA concluded upon review that the required discussion would add little or no incremental value to other data requirements. Public commenters agreed that this requirement was redundant and should be deleted.

In this final rule, therefore, EPA has deleted § 79.52(c) and modified the introductory paragraph in § 79.52(a) accordingly. Deletion of this Tier 1 requirement does not in any way imply that EPA considers population exposure data to be unimportant. On the contrary, information on exposures is necessary for quantitative risk assessment. However, rigorous population exposure studies that would be useful to risk assessment are complex, expensive, and beyond the intended scope of the Tier 1 and Tier 2 screening requirements. As described above and in the proposed rule, the information that was to be submitted under the original Tier 1 requirement would generally be based on production and sales data. The resulting qualitative analysis would be only inferentially related to actual population exposure and, in any case, is already available to EPA in manufacturers' basic registration data submittals (see §§ 79.59(b) (2) and (3)). As such, it would be duplicative and of little incremental value in assessing risk.

VIII. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this direct final rule is not a ''significant regulatory action''. In fact, the provisions finalized by this action will decrease the number of parties to which these regulations apply and will reduce the requirements and costs of other parties subject to the regulations.

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions. This rule will reduce or eliminate the reporting and testing requirements for many small businesses, and will simplify compliance and reduce potential testing requirements for all affected parties.

C. Paperwork Reduction Act

Per the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR part 1320, this action does not involve the addition of any collection of information as defined therein.

D. Unfunded Mandates Reform 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.

EPA 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 final rule does not establish regulatory requirements that may significantly or uniquely affect small governments. In fact, this final rule 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.

E. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 79

Environmental protection, Fuel additives, Gasoline, Motor vehicle

pollution, Penalties, Reporting and recordkeeping requirements.

Dated: March 4, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 79 of chapter I 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 79.2 is amended by revising paragraphs (d) and (e) and by adding paragraph (k), to read as follows:

§ 79.2 Definitions.

* * * * *

(d) *Fuel manufacturer* means any person who, for sale or introduction into commerce, produces, manufactures, or imports a fuel or causes or directs the alteration of the chemical composition of a bulk fuel, or the mixture of chemical compounds in a bulk fuel, by adding to it an additive, except:

(1) A party (other than a fuel refiner or importer) who adds a quantity of additive(s) amounting to less than 1.0 percent by volume of the resultant additive(s)/fuel mixture is not thereby considered a fuel manufacturer.

(2) A party (other than a fuel refiner or importer) who adds an oxygenate compound to fuel in any otherwise allowable amount is not thereby considered a fuel manufacturer.

(e) *Additive* means any substance, other than one composed solely of carbon and/or hydrogen, that is intentionally added to a fuel named in the designation (including any added to a motor vehicle's fuel system) and that is not intentionally removed prior to sale or use.

* * * * *

(k) *Oxygenate compound* means an oxygen-containing, ashless organic compound, such as an alcohol or ether, which may be used as a fuel or fuel additive.

3. Section 79.52 is amended by revising the first sentence in paragraph (a) and removing and reserving paragraph (c), to read as follows:

§ 79.52 Tier 1.

(a) *General Specifications.* Tier 1 requires manufacturers of designated fuels or fuel additives (or groups of manufacturers pursuant to § 79.56) to supply to the Administrator the identity and concentration of certain emission products of such fuels or additives and any available information regarding the health and welfare effects of the whole and speciated emissions of such fuels or additives. * * *

* * * * *

4. Section 79.56 is amended by revising paragraphs (e)(3)(i)(A)(*5*), (e)(3)(i)(B), (e)(3)(ii)(A)(*5*), (e)(3)(ii)(B), (e)(4)(ii)(A)(*3*) introductory text, (e)(4)(ii)(A)(*3*)(*i*), (e)(4)(ii)(B)(*1*), (e)(4)(ii)(B)(*1*), (e)(4)(ii)(B)(*2*) introductory text, (e)(4)(ii)(B)(*2*)(*ii*), (e)(4)(ii)(B)(*3*) introductory text, and (e)(4)(ii)(B)(*3*)(*i*); and by adding paragraph (e)(4)(ii)(B)(*2*)(*iv*) to read as follows:

§ 79.56 Fuel and fuel additive grouping system.

* * * * *

(e) * * *

(3) * * *

(i) * * *

(A) * * *

(*5*) Derived only from conventional petroleum, heavy oil deposits, coal, tar sands, and/or oil sands.

(B) The Non-Baseline Gasoline category is comprised of gasoline fuels and associated additives which conform to the specifications in paragraph (e)(3)(i)(A) of this section for the Baseline Gasoline category except that they contain 1.5 percent or more oxygen by weight and/or may be derived from sources other than those listed in paragraph (e)(3)(i)(A)(*5*) of this section.

* * * * *

(ii) * * *

(A) * * *

(*5*) Derived only from conventional petroleum, heavy oil deposits, coal, tar sands, and/or oil sands.

(B) The Non-Baseline Diesel category is comprised of diesel fuels and associated additives which conform to the specifications in paragraph (e)(3)(ii)(A) of this section for the Baseline Diesel category except that they contain 1.0 percent or more oxygen by weight and/or may be derived from sources other than those listed in paragraph (e)(3)(ii)(A)(*5*) of this section.

* * * * *

(4) * * *

(ii) * * *

(A) * * *

(*3*) Separate non-baseline gasoline groups shall also be defined for gasoline formulations derived from each particular petroleum source not listed in paragraph (e)(3)(i)(A)(*5*) of this section.

(*i*) Such groups may include, but are not limited to, those derived from shale, used oil, waste plastics, and other recycled chemical/petrochemical products.

* * * * *

(B) * * *

(*1*) For diesel fuel and additive products which contain 1.0 percent or more oxygen by weight in the form of alcohol(s) and/or ether(s):

(*i*) A separate non-baseline diesel group shall be defined by each individual alcohol or ether listed as a component in the registration application or basic registration data of any such fuel or additive.

(*ii*) For each such group, the representative to be used in testing shall be a formulation consisting of the diesel base fuel blended with the relevant alcohol or ether in an amount equivalent to the highest actual or recommended concentration-in-use of the alcohol or ether recorded in the basic registration data of any member fuel or additive product.

(*2*) A separate non-baseline diesel group is also defined for each of the following classes of oxygenating compounds: mixed nitroso-compounds; mixed nitro-compounds; mixed alkyl nitrates; mixed alkyl nitrites; peroxides; furans; mixed alkyl esters of plant and/or animal origin (biodiesel). For each such group, the representative to be used in testing shall be formulated as follows:

* * * * *

(*ii*) The selected compound shall be the one recorded in any member product's registration application with the highest actual or recommended maximum concentration-in-use.

* * * * *

(*iv*) The compound thus selected shall be the group representative, and shall be used in testing at the following concentration:

(*A*) For biodiesel groups, the representative shall be 100 percent biodiesel fuel.

(*B*) Otherwise, the group representative shall be the selected compound mixed into diesel base fuel at the maximum recommended concentration-in-use.

(*3*) Separate non-baseline diesel groups shall also be defined for diesel formulations derived from each particular petroleum source not listed in paragraph (e)(3)(i)(A)(*5*) of this section.

(*i*) Such groups may include, but are not limited to, those derived from shale, used oil, waste plastics, and other recycled chemical/petrochemical products.

* * * * *

5. Section 79.58 is amended by revising the last sentence of paragraph (d)(1) and adding paragraph (d)6), to read as follows:

§ 79.58 Special provisions.

* * * * *

(d) * * *

(1) * * * *Total annual sales* means the average of the manufacturer's total sales revenue, excluding any revenue which represents the collection of federal, state, or local excise taxes or sales taxes, in each of the three years prior to such manufacturer's submittal to EPA of the basic registration information pursuant to § 79.59(b)(2) through (b)(5).

* * * * *

(6) In the case of an additive for which the manufacturer is not required to meet the requirements of Tier 2 pursuant to paragraph (d)(3) of this section:

(i) A fuel manufacturer which blends such an additive into fuel shall not be required to meet the requirements of Tier 2 with respect to such additive/fuel mixture.

(ii) An additive manufacturer which blends such an additive with one or more other registered additive products and/or with substances containing only carbon and/or hydrogen shall not be required to meet the requirements of Tier 2 with respect to such additive or additive blend.

* * * * *

§ 79.59 [Amended]

6. Section 79.59 is amended by removing paragraph (c)(4)(iii) and by removing and reserving paragraph (c)(7)(iii).

[FR Doc. 97–6023 Filed 3–14–97; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Parts 79 and 80

[FRL–5701–8]

Registration of Fuels and Fuel Additives: Extension of Specified Deadlines for Atypical Additives and Biodiesel Fuels; and, Reformulated Gasoline Complex Model: Modification of Survey Precision Requirements

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: In a document published July 11, 1996, EPA proposed to modify specific provisions of the fuels and fuel additives (F/FA) registration and testing program which, if finalized, would change the applicability of certain requirements to specified F/FAs. In the case of that document, EPA proposed changes affecting testing requirements for ''atypical'' and biodiesel F/FAs. The effect of that proposal has been to make the current testing requirements uncertain for potentially affected F/FAs, and to make the current compliance schedules unreasonable for such F/FAs. Therefore, related deadline adjustments are appropriate. Accordingly, this direct final rule extends Tier 1 deadlines for biodiesel fuels and Tier 2 deadlines for atypical F/FAs. These short delays are not expected to have a substantial impact on the benefits of the F/FA testing program, and may prevent certain manufacturers from making unnecessary expenditures.

In this direct final rule, EPA is also modifying the survey precision requirements under the reformulated gasoline (RFG) complex model. This action will permit survey managers to submit a proposed sample size based upon the precision with which means of emission parameters can be estimated, subject to EPA approval. This approach is expected to provide significant cost savings to respondents, without adverse environmental impact.

DATES: This action will be effective on May 16, 1997, unless EPA receives adverse comment or a request for a public hearing by April 16, 1997. If the Agency receives adverse comment or a request for a public hearing, EPA will withdraw this action by publishing timely notice in the Federal Register.

ADDRESSES: Any persons wishing to submit comments should send them (in duplicate, if possible) to the docket address listed below and to Jim Caldwell, U.S. Environmental Protection Agency, Fuels and Energy Division, 401 M Street, S.W. (6406–J), Washington, D.C. 20460. Materials relevant to this direct final rule have been placed in Public Docket A–90–07 located at U.S. Environmental Protection Agency, Air Docket Section, Room M–1500, 401 M Street, S.W., Washington, D.C. 20460. The docket is open for public inspection from 8:00 a.m. until 5:30 p.m., Monday through Friday, except on Federal holidays. A reasonable fee may be charged for photocopying services.

FOR FURTHER INFORMATION CONTACT: For further information, or to notify EPA of an intent to submit an adverse comment or public hearing request, contact Jim Caldwell, (202) 233–9303, or Joseph Fernandes, (202) 233–9016.

SUPPLEMENTARY INFORMATION: Electronic copies of this direct final rule, the regulatory text of this direct final rule, and earlier rulemaking documents related to the F/FA registration program are available free of charge on EPA's Technology Transfer Network Bulletin Board System (TTNBBS, phone access 919–541–5742) and on the Internet (http://www.epa.gov/omswww). Parties requiring assistance may call Mr. Fernandes at (202) 233–9016.

I. Regulated Entities

Regulated categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry	Manufacturers of atypical fuels/fuel additives. Manufacturers of biodiesel fuels/fuel additives. Reformulated gasoline survey participants.

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 all provisions of the F/FAs registration program at 40 CFR part 79 and the RFG program requirements at 40 CFR part 80.

II. Extension of Tier 2 Deadline for Atypical F/FAs

On July 11, 1996, EPA published a Federal Register notice proposing several changes to the F/FA registration and testing regulations.[1] One proposal was a *de minimis* provision which, if finalized, would delete standard Tier 2 requirements for certain atypical F/FAs.[2] This proposal was based on certain conservative judgments and considering available data which indicated that some F/FAs may be reasonably anticipated to have no adverse effects on public health or the environment when they are present at very low concentrations in fuel. F/FAs qualifying for this special provision were proposed to be those containing no atypical elements other than aluminum, boron, calcium, sodium, zinc, magnesium, phosphorus, potassium, and/or iron, where the total of these elements would not exceed 25 parts per million when the additive is mixed in

[1] The F/FA testing requirements are located in 40 CFR Part 79-Subpart F. A detailed discussion of the program, including Tiers 1, 2, and 3 test requirements, may be found in the preamble to the final rule that promulgated these testing requirements (59 FR 33042, June 27, 1994).

[2] Under the grouping provisions of the F/FA health effects testing program, atypical F/FAs are those which contain chemical elements other than carbon, hydrogen, oxygen, nitrogen, and sulfur.