

COTP QUARTERLY REPORT—Continued

COTP Docket	Location	Type	Effective date
JACKSONVILLE 99-075	ST. JOHNS RIVER, JACKSONVILLE, FL	SAFETY ZONE	11/04/1999
JACKSONVILLE 99-077	ST. JOHNS RIVER, JACKSONVILLE, FL	SAFETY ZONE	11/26/1999
JACKSONVILLE 99-084	INTERCOASTAL WATERWAYS, ST. AUGUSTINE, FL	SAFETY ZONE	12/31/1999
JACKSONVILLE 99-093	ATLANTIC CITY, FL	SAFETY ZONE	12/31/1999
JACKSONVILLE 99-094	INDIAN RIVER, COCOA, FL	SAFETY ZONE	12/31/1999
LA/LONG BEACH 99-006	PIERPONT BAY, VENTURA, CA	SAFETY ZONE	10/03/1999
LOUISVILLE 99-009	OHIO RIVER M, 435.2 TO 437.2	SAFETY ZONE	12/07/1999
MEMPHIS 00-001	LWR MISSISSIPPI RIVER, M. 781.5	SAFETY ZONE	10/13/1999
MEMPHIS 00-002	LWR MISSISSIPPI RIVER, M. 790.5	SAFETY ZONE	10/19/1999
MEMPHIS 00-003	WHITE RIVER, M. 0 TO 10	SAFETY ZONE	10/25/1999
MEMPHIS 00-004	LWR MISSISSIPPI RIVER, M. 607 TO 603	SAFETY ZONE	10/28/1999
MEMPHIS 00-005	WHITE RIVER, M. 0 TO 10	SAFETY ZONE	10/30/1999
MEMPHIS 00-008	WHITE RIVER, M. 0 TO 10	SAFETY ZONE	11/19/1999
MEMPHIS 00-009	LWR MISSISSIPPI RIVER, M. 604 TO 606	SAFETY ZONE	11/25/1999
MEMPHIS 00-010	WHITE RIVER, M. 0 TO 10	SAFETY ZONE	12/04/1999
MEMPHIS 00-011	LWR MISSISSIPPI RIVER, M. 561 TO 563	SAFETY ZONE	12/09/1999
NEW ORLEANS 99-028	LWR MISSISSIPPI RIVER, M. 362.T TO 365	SAFETY ZONE	10/15/1999
NEW ORLEANS 99-029	HALTER MARINE, NEW ORLEANS	SAFETY ZONE	11/06/1999
NEW ORLEANS 99-030	LWR MISSISSIPPI RIVER, M. 221.7 TO 223.7	SAFETY ZONE	11/03/1999
NEW ORLEANS 99-031	LWR MISSISSIPPI RIVER, M. 94 TO 96	SAFETY ZONE	11/18/1999
NEW ORLEANS 99-032	LWR MISSISSIPPI RIVER, M. 94 TO 96	SAFETY ZONE	12/31/1999
NEW ORLEANS 99-033	LWR MISSISSIPPI RIVER, M. 139.4	SAFETY ZONE	12/03/1999
NEW ORLEANS 99-035	LWR MISSISSIPPI RIVER, M. 228 TO 231	SAFETY ZONE	12/11/1999
NEW ORLEANS 99-036	LWR MISSISSIPPI RIVER, M. 362.5 TO 365	SAFETY ZONE	12/31/1999
PITTSBURGH 99-001	ALLEGHENY RIVER, M. 0.1 TO 1.0	SAFETY ZONE	12/31/1999
PITTSBURGH 99-002	OHIO RIVER, M. 29.3 TO 29.5	SAFETY ZONE	12/31/1999
PITTSBURGH 99-003	OHIO RIVER, M. 62.7 TO 62.9	SAFETY ZONE	12/31/1999
PORT ARTHUR 99-001	NECHES RIVER, PORT NECHES, TX	SAFETY ZONE	12/03/1999
SAN DIEGO 99-012	COLORADO RIVER, AZ	SAFETY ZONE	10/30/1999
SAN DIEGO 99-013	SAN DIEGO BAY	SAFETY ZONE	11/31/1999
SAN FRANCISCO BAY 99-024	HUMBOLDT BAY, EUREKA, CA	SAFETY ZONE	10/01/1999
SAN FRANCISCO BAY 99-025	MONTEREY BAY, CA	SAFETY ZONE	10/09/1999
SAN FRANCISCO BAY 99-026	SAN FRANCISCO BAY, CA	SAFETY ZONE	10/20/1999
SAN FRANCISCO BAY 99-027	MONTEREY BAY, CA	SAFETY ZONE	11/12/1999
SAN FRANCISCO BAY 99-028	SAN FRANCISCO BAY, SAN FRANCISCO, CA	SAFETY ZONE	12/31/1999
SAN JUAN 99-078	SAN JUAN HARBOR, SAN JUAN, PUERTO RICO	SAFETY ZONE	11/20/1999
SAN JUAN 99-079	SAN JUAN, PUERTO RICO	SAFETY ZONE	11/22/1999
TAMPA 99-069	TAMPA BAY, FL	SAFETY ZONE	10/12/1999
TAMPA 99-070	TAMPA BAY, FL	SAFETY ZONE	10/14/1999
TAMPA 99-071	WEST COAST, FL	SAFETY ZONE	10/15/1999

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA103-5047a; FRL-6534-7]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Oxygenated Gasoline Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a revision to the Commonwealth of Virginia State Implementation Plan (SIP). The revision makes the oxygenated gasoline program a contingency measure of the maintenance plan for the Northern

Virginia area, which means that the oxygenated gasoline program would only be required to be implemented in the Northern Virginia area if there is a violation of the carbon monoxide (CO) national ambient air quality standard (NAAQS). EPA is approving this revision in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on April 3, 2000 without further notice, unless EPA receives adverse written comment by March 20, 2000. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business

hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Kelly L. Bunker, (215) 814-2177, or by e-mail at bunker.kelly@epa.gov.

SUPPLEMENTARY INFORMATION: In this document the term "we" refers to EPA.

I. Introduction

Motor vehicles are significant contributors of carbon monoxide (CO) emissions. An important control measure to reduce these emissions is the use of oxygenates in motor vehicles' gasoline. Extra oxygen enhances fuel combustion, which tends to be less efficient in cold weather. The oxygen

also helps to offset fuel-rich operating conditions, particularly during vehicle starting, which are more prevalent in the winter. By adding oxygenates to gasoline, exhaust emissions of carbon monoxide are reduced. A gasoline blend containing 2.7 percent (%) oxygen by weight will result in a 15% to 20% reduction in CO emissions.

Section 211(m) of the Clean Air Act, 42 U.S.C.7401 *et seq.* (the Act) requires that states with carbon monoxide nonattainment areas with design values of 9.5 parts per million (ppm) or more, based on data for the two year period of 1988 and 1989 or any two year period after 1989, submit revisions to their State Implementation Plan (SIP) which establish oxygenated gasoline programs. These programs were to begin no later than November 1, 1992.

The oxygenated gasoline programs must require gasoline in the specified control areas to contain not less than 2.7% oxygen by weight (known as a per-gallon program), except that states may adopt an averaging program employing marketable oxygen credits. Where an averaging program is adopted, gasoline containing oxygen above 2.7% by weight may offset the sale of gasoline with an oxygen content below 2.7% by weight.

The minimum 2.7% standard shall apply during that portion of the year in which the areas are prone to high ambient concentrations of CO. The Act requires that the oxygenated gasoline program apply to all gasoline sold or dispensed in the larger of the Consolidated Metropolitan Statistical Area (CMSA) or the Metropolitan Statistical Area (MSA) in which the nonattainment area is located.

II. Background

EPA determined that the 1988 and 1989 data for the Metropolitan Washington area was invalid because of poor data quality and therefore inadequate to properly characterize the ambient concentrations of CO. Therefore, data from 1987 and 1988 was used and the Metropolitan Washington area was designated as a CO nonattainment area with a design value of 11.4 ppm. The county of Arlington and the city of Alexandria are both part of the Metropolitan Washington CO nonattainment area. Consequently, as per the requirements of section 211(m) of the Act, an oxygenated gasoline program was required to be implemented in the Virginia portion of the Washington, DC MSA. The Virginia portion of the Washington, DC MSA includes the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford, and the cities of Alexandria,

Fairfax, Falls Church, Manassas, and Manassas Park.

On November 20, 1992 the Virginia Department of Environmental Quality (VADEQ) officially submitted to EPA a revision to the Virginia SIP for an oxygenated gasoline program in the Northern Virginia portion of the Washington, DC MSA. Virginia's oxygenated gasoline regulations, which was adopted by the Virginia Department of Agricultural and Consumer Services (Board of) at VR 115-04-28, required the implementation of a per-gallon program. We approved these revisions to the SIP on April 15, 1994 (59 FR 17942).

On October 4, 1995 the Commonwealth of Virginia submitted to EPA a redesignation request and maintenance plan for the Northern Virginia portion of the Metropolitan Washington CO nonattainment area. In its demonstration of maintenance, the Commonwealth showed that oxygenated gasoline in the Northern Virginia portion of the Washington, DC MSA was not necessary for continued maintenance of the CO national ambient air quality standards (NAAQS). The oxygenated gasoline program was relegated to a contingency measure in the maintenance plan. If the redesignated area violates the CO standard then the oxygenated gasoline program would be reinstated at the beginning of the next oxygenated gasoline control period. We approved the redesignation request and maintenance plan on January 30, 1996 (61 FR 2931). By September 1, 1997, Virginia committed to adopt and submit to EPA a revision to its oxygenated gasoline regulation which required the implementation of the program at the beginning of the next control period after two or more exceedances of the CO NAAQS had occurred in a single calendar year.

On October 2, 1996, Virginia revised its oxygenated gasoline regulations to reflect the requirements of the federally approved CO maintenance plan for Northern Virginia. The regulation revision requires the implementation of the oxygenated gasoline program in the Northern Virginia area only in the event that there are two or more exceedances of the CO NAAQS in a calendar year.

On April 30, 1997, the Commonwealth of Virginia submitted the October 2, 1996 oxygenated gasoline regulation amendments as a formal revision to its SIP. The Virginia oxygenated gasoline regulation is found at 2 VAC 5 Chapter 480—Regulation Governing the Oxygenation of Gasoline (formerly VR 115-04-28). The submittal consisted of a copy of the final

oxygenated gasoline regulation amendments found at 2 VAC 5 Chapter 480, section 20, Applicability, comment and response documents and proof that public notice and hearing was given on the proposed regulation. These regulatory revisions were adopted by the Commonwealth on October 2, 1996 and became effective on November 1, 1996. The April 30, 1997 SIP submittal is the subject of this action. EPA summarizes its analysis of the state submittal below. A more detailed analysis of the state submittal is contained in a Technical Support Document (TSD) which is available from the Region III office listed in the **ADDRESSES** section of this document.

III. EPA's Analysis of Virginia's Amendment to Their Oxygenated Gasoline Regulation

The revision to 2 VAC 5 Chapter 480, section 20, relegates the oxygenated gasoline program to a contingency measure, only to be implemented if there are two or more exceedances of the CO NAAQS in a calendar year in the Northern Virginia area. The regulation requires the commencement of the oxygenated gasoline program at least 180 days after notice has been given in the *Virginia Register*. This regulation change conforms to the Northern Virginia CO maintenance plan which was approved by the EPA on January 30, 1996 (61 FR 2931). The oxygenated gasoline regulation which was federally approved on April 15, 1994 (59 FR 17942) remains the same except for the above stated implementation change.

IV. Final Action

EPA is approving the amendments to 2 VAC 5 Chapter 480, section 20 as a revision to the Virginia SIP.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on April 3, 2000 without further notice unless we receive adverse comment by March 20, 2000. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and

ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 17, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the 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 approving a revision to Virginia's oxygenated gasoline regulation may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference.

Dated: January 31, 2000.

Bradley M. Campbell,
Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraphs (c)(136) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *
(136) Revisions to the Virginia Regulations, to relegate the oxygenated gasoline program to a carbon monoxide contingency measure, submitted on April 30, 1997 by the Virginia Department of Environmental Quality:

(I) Incorporation by reference.

(A) Letter of April 30, 1997 from the Virginia Department of Environmental Quality transmitting the oxygenated gasoline regulation amendments as a SIP revision.

(B) Revisions to 2 VAC 5 Chapter 480, Section 20, Applicability. These revisions became effective November 1, 1996.

(ii) Additional Material.—Remainder of April 30, 1997 submittal

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC-84-9936(a), NC-88-9937(a); FRL-6520-4]

Approval and Promulgation of Air Quality Implementation Plans; North Carolina; Miscellaneous Revisions to the Forsyth County Local Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On January 17, 1997, and November 6, 1998, on behalf of the Forsyth County Environmental Affairs Department, the North Carolina Division of Air Quality submitted miscellaneous revisions to the Forsyth County Local Implementation Plan (LIP). These revisions adopt federally approved regulations, previously adopted into the North Carolina State Implementation Plan, into the LIP. These revisions include but are not limited to the adoption of Exclusionary Rules and the amending of multiple Volatile Organic Compounds (VOC) rules. EPA is