

and another phase of reductions by 2003.

As a signatory state of the MOU, RI adopted its NO_x budget and allowance trading regulation, Regulation No. 38, on June 10, 1997. Regulation No. 38 contained a NO_x emissions budget and allowance trading system for the ozone seasons of 1999 through 2002, the period known as "OTC Phase II." RI's phase II budget is 626 tons per ozone season. EPA approved RI's phase II OTC NO_x budget regulation on June 2, 1999. See 64 FR 29567. Regulation No. 41 contains a new NO_x emissions budget and allowance trading program for the ozone seasons of 2003 and thereafter, in order to control NO_x emissions during the period described in the OTC program as "OTC phase III."

J. What Issues Are Associated With Rhode Island's NO_x SIP Call Submittal?

On March 3, 2000, the D.C. Circuit ruled on *Michigan v. EPA*, affirming many aspects of the NO_x SIP Call and remanding certain other portions to the Agency (e.g., the definition of an EGU and the control assumptions for internal combustion engines). Due to the Court's remanding of the EGU definition and IC engine control assumptions, EPA must now recalculate the final 2007 baseline, 2007 budget, and compliance supplement allocation for each state subject to the NO_x SIP Call, including RI. Those recalculated budgets are expected to be published in the next few months. However, this means that RI may be required to revisit its NO_x SIP Call program due to potential forthcoming changes to the NO_x SIP Call requirements. At such time as EPA publishes new emission budget requirements, RI and other NO_x SIP Call subject states will be informed as to what, if any, changes are needed.

Additionally, as described above, the March 2, 2000 technical corrections changed the 2007 baselines and budgets for the highway and non-EGU sub-inventories in CT, MA, and RI. Therefore, when those states make the changes needed due to the remanded portions of the NO_x SIP Call, they will need to adopt changes to the highway and non-EGU 2007 baselines and budgets as well.

III. Proposed Action

EPA has reviewed RI's October 1, 1999, SIP submittal using the NO_x SIP Call rulemaking notices and checklist. EPA has reviewed RI's control measures and projected reductions and finds them approvable. Therefore, EPA is proposing to approve Regulation No. 41 and RI's NO_x SIP Call narrative into the RI SIP at this time.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this action.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative 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 Regional 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 (Public Law 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: June 21, 2000.

Mindy S. Lubber,

Regional Administrator, EPA-New England.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MN65-01-7290b; FRL-6712-8]

Approval and Promulgation of State Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action approves a State Implementation Plan (SIP) revision for the State of Minnesota which was

submitted on December 7, 1999. This SIP revision is to remove an Administrative Order and replace it with a federally enforceable State operating permit for Commercial Asphalt's facility located on Red Rock Road in the city of St. Paul. In the final rules section of this **Federal Register**, we are conditionally approving the SIP revision as a direct final rule without prior proposal, because we view this as a noncontroversial revision amendment and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated in relation to this proposed rule. If we receive adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rules based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received by August 11, 2000.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulations Development Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section (AR-18J), Air Programs Branch, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final document which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address.

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

Dated: May 24, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL-6732-2]

RIN 2060-A189

Regulation of Fuel and Fuel Additives: Reformulated Gasoline Adjustment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes an adjustment to the VOC performance standard under Phase II of the reformulated federal gasoline (RFG) program for ethanol RFG blends that contain 3.5 weight percent oxygen. For such blends, the proposed adjustment would reduce by 1 percentage point (from a 27.4 to a 26.4 percent reduction in the north, and from a 29 to a 28 percent reduction in the south) the VOC performance standard. We believe that air quality benefits will continue to be similar to the current RFG standards. EPA also solicits comment on adjustment or elimination of the minimum oxygen requirement of 1.5 weight percent.

This action implements the National Research Council (NRC) recommendation that the contribution of CO to ozone formation be recognized in assessments of RFG air quality benefits.

This action also implements recommendations of the Blue Ribbon Panel on Oxygenate Use. One of the panel's recommendations was that EPA take steps to reduce the amount of MTBE used in gasoline. The action proposed today would increase the flexibility available to refiners to formulate RFG without MTBE while still realizing ozone benefits that are similar to those of the current Phase II program.

DATES: All public comments must be received on or before September 11, 2000.

ADDRESSES: Any person wishing to submit comments should send them (in duplicate, if possible) to the docket address listed below and to Barry Garelick (6406J), Environmental Protection Specialist, U.S. Environmental Protection Agency, Office of Transportation and Air Quality, Transportation and Regional Programs, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Materials relevant to this have been placed in docket [A-99-32] located at U.S. Environmental Protection Agency, Air Docket Section, Room M-1500, 401 M

Street, SW., 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 services. To request a public hearing, contact Barry Garelick, (202) 564-9028.

FOR FURTHER INFORMATION CONTACT: For further information about this proposed rule, contact Barry Garelick, Environmental Protection Specialist, Office of Transportation and Air Quality, Transportation and Regional Programs Division, at (202) 564-9028. To notify EPA of a public hearing request, contact Barry Garelick, (202) 564-9028.

SUPPLEMENTARY INFORMATION: The remainder of this proposed rule is organized as follows:

I. Adjusted VOC Standard Under Phase II of the RFG Program

- A. Regulated Entities
- B. Background
- C. Need for Action
 - 1. Concerns relating to use of MTBE
 - 2. Summary of today's action
 - 3. Per gallon oxygen minimum
- D. Volatility associated with ethanol RFG blends
- E. VOC standard adjustment
- F. Evaluation of air quality impacts of the proposed rule
- G. Ozone reduction benefit in areas that currently use ethanol
- H. Impact of proposed approach on SIPs
- I. Oxygen and performance standard averaging
- J. Downstream sampling
- K. Oxygen Crediting
- L. Product Transfer Documentation
- M. Future vehicles

II. Elimination of Oxygen Minimum Requirement

- A. Background
- B. Potential modifications
- C. Elimination of RFG oxygen content per-gallon minimum
- D. Modification of method for calculation of oxygen survey series average
- E. Modification to provision for effect of oxygen survey series failure
- F. Modification to the commingling prohibition
- G. Effect on air toxics
- H. Effect on VOC

III. Administrative Requirements

- A. Executive Order 12866: Federalism
- B. Executive Order 13132 (Federalism)
- C. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments
- D. Regulatory Flexibility
- E. Paperwork Reduction Act
- F. Unfunded Mandates Reform Act
- G. Executive Order 13045: Children's Health Protection
- H. National Technology Transfer and Advancement Act of 1995 (NTTAA)