the United States Code, gives copyright owners of sound recordings an exclusive right to perform their copyrighted works publicly by means of a digital audio transmission. This right is limited by section 114(d), which allows certain noninteractive digital audio services to make digital transmissions of a sound recording under a compulsory license, provided that the services pay a reasonable royalty fee and comply with the terms of the statutory license. Moreover, these services may make any necessary ephemeral reproductions to facilitate the digital transmission of the sound recording under a second license set forth in section 112(e) of the Copyright Act.

On June 18, 2003, the Copyright Office published final regulations effectuating an agreement on the terms that would govern SoundExchange [1] when it functions as the designated agent for the purpose of receiving royalty payments and statements of account from nonexempt subscription digital transmission services for transmissions of sound recordings made under a statutory license prior to January 1, 2002. 68 FR 36469 (June 18, 2003). Pursuant to the agreement, the Office amended § 260.7 by removing the word ''fees'' and replacing it with the word ''payments.'' 68 FR at 36470.

On July 3, 2003, the Copyright Office published final regulations implementing an agreement to adjust the royalty rates and terms for the section 114 license for the use of sound recordings by preexisting subscription services for the current license period—January 1, 2002, through December 31, 2007. 68 FR 39837 (July 3, 2003). Pursuant to the second agreement, the Office amended § 260.7 once again; however, the amendatory language did not reflect the aforementioned amendment made on June 18. As a result, the intended amendment to the final clause of § 260.7 could not be effectuated. The technical amendment published today rectifies this oversight, correctly identifying the language being amended.

List of Subjects in 37 CFR Part 260

Copyright, Digital audio transmissions, Performance right, Sound recordings.

Final Regulation

■ In consideration of the foregoing, the Copyright Office amends part 260 of 37 CFR as follows:

[1] SoundExchange is an unincorporated division of the Recording Industry Association of America, Inc. that administers statutory licenses.

PART 260—RATES AND TERMS FOR PREEXISTING SUBSCRIPTION SERVICES' DIGITAL TRANSMISSIONS OF SOUND RECORDINGS AND THE MAKING OF EPHEMERAL PHONORECORDS

■ 1. The authority citation for part 260 continues to read as follows:

Authority: 17 U.S.C. 114, 801(b)(1).

§ 260.7 [Amended]

■ 2. Section 260.7 is amended by removing ''the cost of the administration of the collection and distribution of the royalty payments'' and adding ''any costs deductible under 17 U.S.C. 114(g)(3)'' in its place.

Dated: September 5, 2003.

Marybeth Peters,

Register of Copyrights.

James H. Billington,

The Librarian of Congress.

[FR Doc. 03–25381 Filed 10–6–03; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7566–6]

Use of Alternative Analytical Test Methods in the Reformulated Gasoline, Anti-Dumping, and Tier 2 Gasoline Sulfur Control Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This direct final rule allows the use of certain alternative analytical test methods for measuring sulfur in gasoline and butane to be used in the Federal reformulated gasoline (RFG) and anti-dumping program and the Federal gasoline sulfur control program. This direct final rule also establishes that a refinery may use any reasonable test method designed for measuring the sulfur content of butane until January 1, 2004. After that date, either the designated analytical test method or an allowed alternative analytical test method must be used. The purpose of today's rule is to grant temporary flexibility until we issue a comprehensive performance-based analytical test methods rule and to fulfill the terms of a recent settlement agreement related to gasoline sulfur test methods.

DATES: This direct final rule is effective December 8, 2003, unless we receive adverse comments or a request for a public hearing by November 6, 2003. If the Agency receives adverse comments or a request for public hearing, we will withdraw this direct final rule by publishing a timely withdrawal in the **Federal Register**.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of December 8, 2003.

ADDRESSES: To request a public hearing, please contact Anne Pastorkovich, Attorney/Advisor, Transportation & Regional Programs Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., (6406J), Washington, DC 20460 or by e-mail to *pastorkovich.anne-marie@epa.gov.* No confidential business information (CBI) should be submitted by e-mail.

EPA has established a public docket for this direct final rule under Docket ID No. OAR–2003–0050, which is available for public viewing at the Air and Radiation Docket and Information Center (EPA/DC) in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listings of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to the direct final rule should be submitted to EPA within 30 days of this notice, and according to the following detailed instructions: Submit your comments to EPA online using EDOCKET (our preferred method) or by mail to EPA Docket Center, Environmental Protection Agency (6102T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

EPA's policy is the public comments, whether submitted electronically or in paper format, will be made available for public viewing in EDOCKET as EPA receives them and without charge, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public

viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

FOR FURTHER INFORMATION CONTACT: If you would like further information about this rule or to request a hearing, contact Anne Pastorkovich, Attorney/Advisor, Transportation & Regional Programs Division, (202) 564–8987 or by e-mail at *pastorkovich.anne-marie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

Entities potentially regulated by the action are those that use analytical test methods to comply with the RFG, anti-dumping, and gasoline sulfur control program. Regulated categories and entities include:

Category	NAICSs Codes [a]	SIC Codes [b]	Examples of potentially regulated parties
Industry	324110	2911	Petroleum refiners.
Industry	422710 422720	5171 5172	Gasoline Marketers and Distributors.

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

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 all entities that we are now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated by this action. To determine whether your business is regulated by this action, you should carefully examine the applicability criteria in part 80 of Title 40 of the Code of Federal Regulations. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section of this document.

II. Background and Summary of Today's Action

Section 211(k) of the Clean Air Act (CAA) directs EPA to establish standards requiring the greatest reduction in emissions of ozone forming volatile organic compounds (VOCs) and toxic air emissions achievable through the reformulation of conventional gasoline, considering cost, other health and environmental factors and energy requirements. The Act requires that RFG meet certain content standards for oxygen, benzene, and heavy metals. RFG must be used in certain ozone nonattainment areas, called ''covered areas.'' The CAA also requires EPA to establish anti-dumping standards applicable to conventional gasoline used in the rest of the country. The Administrator signed the final RFG and anti-dumping regulations on December 15, 1993[1] and these regulations became effective in January 1995.

In 2000, EPA issued regulations establishing lower sulfur content requirements for all gasoline[2] and establishing stricter tailpipe emissions standards for all passenger vehicles, including sport utility vehicles (SUVs), minivans, vans and pick-up trucks. The gasoline sulfur control program begins phasing-in in 2004, and, in general, refiners must meet a refinery average sulfur standard of 30 ppm beginning in 2005 and a per gallon cap standard of 80 ppm beginning in 2006 (with the exception of challenged refiners, and gasoline sold in certain western states subject to geographic phase-in).

Under the RFG, anti-dumping and gasoline sulfur program, refiners, importers, and oxygenate blenders are required to test RFG and conventional gasoline for certain parameters, including sulfur levels, aromatic content, benzene content, and oxygen content. Test methods for determining these parameters are specified in the regulation. For the sulfur content of gasoline, 40 CFR 80.46(a)(1) specifies American Society for Testing and Materials (ASTM) standard method D–2622–98, entitled, ''Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry'' as the designated test method. In addition, the gasoline sulfur rulemaking required a test method for determining the sulfur content of butane blended into gasoline—ASTM standard method D 3246–96, entitled ''Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry.''

In the gasoline sulfur control rulemaking, we specifically requested comments on the designated test method. We also requested comments on other ASTM methods. After considering comments received from the regulated industry during the gasoline sulfur rulemaking process, including comments supportive of ASTM D 2622–98 as the designated method, we decided to require the use of ASTM D 2622–98 for measuring sulfur content. We did not name any alternative analytical test methods because we anticipated that a comprehensive performance-based analytical test method approach rule would be issued in the near future. A comprehensive performance based test methods approach would allow anyone to qualify additional analytical test methods for use in demonstrating compliance with program requirements. We now know that a comprehensive performance based test methods rulemaking will take more time to complete than originally anticipated. We feel that permitting specific ASTM test methods to be used as alternative analytical test methods now provides a bridge to a more comprehensive performance based test methods approach in the future and grants refiners, importers and blenders significant flexibility and potential cost savings in meeting their testing requirements.

As discussed in a May 16, 2003 **Federal Register** notice,[3] Antek Instruments, which manufactures testing equipment, filed a petition challenging the final gasoline sulfur control rule. EPA and Antek entered into negotiations and reached a proposed settlement agreement. The proposed settlement agreement outlined a proposed rule which would identify ASTM D 5453–00^{e1} as an alternative test method refiners and importers could use to comply with the requirement to test gasoline for sulfur content, provided

[1] ''Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline—Final Rule,'' 59 FR 7812 (February 16, 1994). See 40 CFR part 80 subparts D, E, and F.

[2] ''Control of Air Pollution from New Motor Vehicles: Tier 2 Motor Vehicles Emissions Standards and Gasoline Sulfur Control Requirements—Final Rule,'' 65 FR 6698 (February 10, 2000). See also 40 CFR part 80 subpart H for regulations applicable to gasoline sulfur.

[3] *See* ''Notice of Proposed Settlement Agreement; Request for Public Comment,'' 68 FR 26604 (May 16, 2003).

the test result is correlated with ASTM D 2622–98. In today's action, EPA is revising its regulations to include such a provision. The proposed settlement agreement was available for comment until June 16, 2003. No adverse comments were received.

For the reasons discussed above, we are revising 40 CFR 80.46(a) to allow the use of ASTM D 5453–00^{e1}, entitled ''Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence,'' ASTM D 6428–99, entitled ''Test Method for Total Sulfur in Liquid Aromatic Hydrocarbons and Their Derivatives by Oxidative Combustion and Electrochemical Detection,'' and ASTM D 3120–96 (Reapproved 2002)^{e1}, entitled ''Standard Test Method for Trace Quantities of Sulfur in Light Petroleum Hydrocarbons by Oxidative Microcoulometry.'' Refiners and importers would be able to choose which of these test methods best fits their needs for compliance measurements. We believe that permitting the use of these test methods is desirable from the standpoint of permitting regulated parties more flexibility. A refiner or importer would be able to determine gasoline sulfur content using ASTM D 5453–00^{e1} or any of the specified alternative analytical test methods named in the rule, provided that the refiner or importer result is correlated to ASTM D 2622–98.

In order to ''correlate'' a test result from an alternative test method to the designated test method, a laboratory would have to develop and apply a ''correlation equation'' to the alternative test method result. Because the ''correlation equation'' is designed to provide a prediction of the designated test method result from the use of an alternative test method, the ''correlation equation'' eliminates bias between the designated test method and the alternative test method, so results may be compared between these methods. After applying the correlation equation, the results obtained from an alternative test method should be equivalent to the result you would obtain if you had used the designated test method. Users of a correlation equation should periodically verify its correlation to the designated test method.

This direct final rule also permits the use of ASTM D 4468–85 (Reapproved 2000), ''Standard Test Method for Total Sulfur in Gaseous Fuels by Hydrogenolysis and Rateometric Colorimetry'' as an alternative test method for butane, because it is an ASTM approved method that some refiners may elect to use. If a refiner, importer, or blender chooses to measure butane levels with this alternative analytical test method, the results must be correlated to D 3246–96, ''Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry,'' which is the test method currently designated in the existing rule.

Some refiners and butane suppliers expressed concern that the designated test method is not currently in wide use. When we issued the final gasoline sulfur control regulations, we did not intend to require the use of this method until January 1, 2004. However, the final regulation inadvertently did not specify that date and we are clarifying the effective date by this action. Until January 1, 2004, any test method may be used to test the sulfur content of butane.

We believe that this direct final rule, and our intent to establish a comprehensive performance based test method approach in the future, will advance the purposes of the ''National Technology Transfer and Advancement Act of 1995,'' (NTTAA) section 12(d) of Public Law 104–113, and Office of Management and Budget (OMB) Circular A–119. Both of these documents are designed to encourage the adoption of standards developed by ''voluntary consensus bodies'' and to reduce reliance on government-unique standards where such consensus standards would suffice. This direct final rule would provide for the use of alternative test methods for the measurement of sulfur in gasoline and butane under the RFG, anti-dumping, and gasoline sulfur control programs. Allowing these test methods, which are widely available and approved by ASTM, a ''voluntary consensus body,'' is directly consistent with the goals of the NTTAA and OMB Circular A–119.

Any environmental effects of today's proposed action would be minimal, as it would merely grant limited flexibility to regulated parties in their choice of test method for determining the sulfur content of gasoline and butane. The economic effects of today's proposed action are expected to be positive, since it permits regulated parties the flexibility to choose the test method they will use to comply with existing regulations.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51,735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the 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.''

This direct final rule is not a significant regulatory action within the meaning of the Executive Order. It will not have an annual effect on the economy of $100 million or more and is not expected to have any adverse economic effects as described in the Order. This direct final rule does not raise issues of consistency with the actions taken or planned by other agencies, will not materially alter the cited budgetary impacts, and does not raise any novel legal or policy issues as defined in the Order.

B. Paperwork Reduction Act

This direct final rule would not add any new requirements involving the collection of information as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Today's rule would only permit more flexibility to parties in their choice of analytical test methods. OMB has approved the information collection requirements contained in the final reformulated gasoline (RFG) and anti-dumping rulemaking and gasoline sulfur control rulemaking has assigned OMB control number 2060–0277.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of

information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. For purposes of assessing the impacts of today's direct final rule on small entities, small entity is defined as: (1) A small business that has not more than 1,500 employees (13 CFR 121.201); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

We have therefore concluded that today's direct final rule will relieve regulatory burden for all small entities. By permitting alternative analytical test methods for the measurement of sulfur in gasoline and butane, smaller entities will be granted greater flexibility in performing compliance testing.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local or tribal governments or the private sector. The rule imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

This direct final rule does not have federalism implications. It 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. The direct final rule is limited to permitting flexibility in the choice of test methods. Thus, Executive Order 13132 does not apply to this direct final rule.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This direct final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This proposed rule would apply to parties required to test gasoline and butane for gasoline and butane and does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably

feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This direct final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not an economically ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it does not have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This direct final rule advances the goals of the NTTAA by adopting test methods developed by voluntary consensus standards bodies.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This direct final rule will be effective December 8, 2003.

K. Statutory Provisions and Legal Authority

Statutory authority for today's direct final rule comes from sections 211(c), 211(i) and 211(k) of the CAA (42 U.S.C. 7545(c) and (k)). Section 211(c) and 211(i) allows EPA to regulate fuels that contribute to air pollution which endangers public health or welfare, or which impairs emission control equipment. Section 211(k) prescribes requirements for RFG and conventional gasoline and requires EPA to promulgate regulations establishing these requirements. Additional support for the fuels controls in today's rule comes from sections 114(a) and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Diesel, Imports, Incorporation by reference, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: September 24, 2003.

Marianne Lamont Horinko,

Acting Administrator.

■ For the reasons described in the preamble, part 80 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 80—[AMENDED]

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545, and 7601(a).

* * * * *

■ 2. Section 80.46 is amended by revising paragraphs (a) and (h) to read as follows:

§ 80.46 Measurement of reformulated gasoline fuel parameters.

(a) *Sulfur.* Sulfur content of gasoline and butane must be determined by use of the following methods:

(1) The sulfur content of gasoline must be determined by use of American Society for Testing and Materials (ASTM) standard method D 2622–98, entitled ''Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry'' or by one of the alternative methods specified in paragraph (a)(3) of this section.

(2) Beginning January 1, 2004, the sulfur content of butane must be determined by the use of ASTM standard method D 3246–96, entitled ''Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry'' or by the alternative method specified in paragraph (a)(4) of this section.

(3) Any refiner or importer may use any of the following methods for determining the sulfur content of gasoline; provided the refiner or importer test result is correlated with the method specified in paragraph (a)(1) of this section:

(i) ASTM standard method D 5453–00^{e1}, entitled, ''Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence,'' or

(ii) ASTM standard method D 6428–99, entitled, ''Test Method for Total Sulfur in Liquid Aromatic Hydrocarbons and Their Derivatives by Oxidative Combustion and Electrochemical Detection,'' or

(iii) ASTM standard method D 3120–96 (Reapproved 2002)^{e1}, entitled ''Standard Test Method for Trace Quantities of Sulfur in Light Petroleum Hydrocarbons by Oxidative Microcoulometry.''

(4) Beginning January 1, 2004, any refiner or importer may determine the sulfur content of butane using ASTM standard method D 4468–85 (Reapproved 2000), ''Standard Test Method for Total Sulfur in Gaseous Fuels by Hydrogenolysis and Rateometric Colorimetry, ''provided that the refiner or importer result is correlated with the method specified in paragraph (a)(2) of this section.

* * * * *

(h) *Incorporations by reference.* ASTM standard methods D 3606–99, entitled ''Standard Test Method for Determination of Benzene and Toluene in Finished Motor and Aviation Gasoline by Gas Chromatography;'' D 1319–02a, entitled ''Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption;'' D 4815–99, entitled ''Standard Test Method for Determination of MTBE, ETBE, TAME, DIPE, tertiary-Amyl Alcohol and C_1 to C_4 Alcohols in Gasoline by Gas Chromatography;'' D 2622–98, entitled ''Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry;'' D 3246–96, entitled ''Standard Test

Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry;'' D 5191–01, entitled, ''Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method);'' D 5599–00, entitled, ''Standard Test Method for Determination of Oxygenates in Gasoline by Gas Chromatography and Oxygen Selective Flame Ionization Detection;'' D 5769–98, entitled, ''Standard Test Method for Determination of Benzene, Toluene, and Total Aromatics in Finished Gasolines by Gas Chromatography/Mass Spectrometry,'' D 86–01, entitled, ''Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure;'' D 5453–00^{e1}, entitled, ''Standard Test Method for Determination of Total Sulfur in Light Hydrocarbons, Motor Fuels and Oils by Ultraviolet Fluorescence;'' D 6428–99, entitled, ''Test Method for Total Sulfur in Liquid Aromatic Hydrocarbons and Their Derivatives by Oxidative Combustion and Electrochemical Detection;'' D 3120–96 (Reapproved 2002)^{e1}, entitled ''Standard Test Method for Trace Quantities of Sulfur in Light Petroleum Hydrocarbons by Oxidative Microcoulometry;'' and D 4468–85 (Reapproved 2000), ''Standard Test Method for Total Sulfur in Gaseous Fuels by Hydrogenolysis and Rateometric Colorimetry ''are incorporated by reference in this section. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428–2959. Copies may be inspected at the Air Docket Center, room B–108, U.S. Environmental Protection Agency, Docket Nos. A–97–03, A–2002–15 and OAR–2003–0050, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, or at the Office of the Federal Register, National Archives and Records Administration, 800 North Capitol Street, NW, Suite 700, Washington, DC.

■ 3. Section 80.330 is amended by revising paragraph (c)(1) to read as follows:

§ 80.330 What are the sampling and testing requirements for refiners and importers?

* * * * *

(c) *Test method for measuring sulfur content of gasoline.* (1) For purposes of paragraph (a) of this section, refiners and importers shall use the method provided in § 80.46(a)(1) or one of the alternative test methods listed in § 80.46(a)(3) to measure the sulfur content of gasoline they produce or import.

* * * * *

■ 4. Section 80.340 is amended by revising paragraph (b)(2)(ii) to read as follows:

§ 80.340 What standards and requirements apply to refiners producing gasoline by blending blendstocks into previously certified gasoline (PCG)?

* * * * *

(b) * * *

(2) * * *

(ii) The testing must be performed by the method specified in § 80.46(a)(2) or by the alternative method specified in § 80.46(a)(4).

* * * * *

■ 5. Section 80.350 is amended by revising paragraph (b)(2) to read as follows:

§ 80.350 What alternative sulfur standards and requirements apply to importers who transport gasoline by truck?

* * * * *

(b) * * *

(2) The sampling and testing shall be performed using the methods specified in § 80.330(b) and § 80.46(a)(1) or one of the alternative test methods listed in § 80.46(a)(3), respectively.

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[FR Doc. 03–25133 Filed 10–6–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA087–DESIG; FRL–7568–3]

Clean Air Act Area Designations; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of minor changes in the boundaries between areas in Southern California established under the Clean Air Act for purposes of addressing the national ambient air quality standards (NAAQS) for 1-hour ozone, particulate matter (PM–10), carbon monoxide (CO), nitrogen dioxide (NO2), and sulfur dioxide (SO2), and the prior NAAQS for total suspended particulate matter (TSP).

We are approving these boundary changes under the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: This rule is effective on November 6, 2003.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours by appointment. If you wish to schedule a visit, please contact Dave Jesson, as indicated below. You can inspect copies of the submitted materials by appointment at the following locations:

EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

California Air Resources Board, 1001 ''I'' Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, EPA Region IX, at (415) 972–3957, or *jesson.david@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

I. Proposed Action

On August 15, 2003 (68 FR 48848), we proposed to approve minor revisions to the boundaries of the Los Angeles-South Coast Air Basin Area (''South Coast Air Basin'') and the Southeast Desert Air Basin.[1] These revisions were requested on November 18, 2002, by the California Air Resources Board (CARB) under CAA section 107(d)(3)(D), which authorizes States to submit revised area designations.

The purposes of CARB's request are to:

(1) enlarge the South Coast Air Basin to include the Banning Pass area, thereby excluding the area from the Southeast Desert;

(2) harmonize the boundaries of the Coachella Valley area[2] by changing them to match the PM–10 area boundaries; and

(3) correct the eastern boundary of the South Coast Air Basin with respect to CO.

We proposed to approve these redesignations and apply the boundary changes to all affected pollutants, because the revisions comply with the relevant provisions of CAA section 107(d)(3)(D) and apply equally to other pollutants for which the areas have existing designations. Our proposed action contains more information about the proposed revisions and our evaluation.

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[1] The Los Angeles-South Coast Air Basin Area includes all of Orange County and the more populated portions of Los Angeles, San Bernardino, and Riverside Counties. The Southeast Desert Air Basin includes portions of Los Angeles, San Bernardino, and Riverside Counties. For a description of the current boundaries of the basins and subareas for each pollutant, see 40 CFR 81.305.

[2] The Coachella Valley area is part of the Southeast Desert nonattainment area for ozone and is its own PM–10 nonattainment area.