

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 Office of Environmental Information is (202) 566-1752. An electronic version of the public docket is available through EPA's electronic public docket and comment systems, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," and then key in docket identification number OA-2002-0001. You may access this Federal Register document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgrstr>.

**Dates:** The Tribal public hearings addressed by this Federal Register Proposal are scheduled as follows:

1. October 8, 2003, 10:30 a.m. to 3 p.m., Worley, Idaho.
2. October 16, 2003, 3 p.m. to 5 p.m., Albuquerque, New Mexico.
3. November 18, 2003, 9 a.m. to 12 p.m., East Syracuse, New York.
4. December 9, 2003, 9 a.m. to 5 p.m., Atlanta, Georgia.
5. January 14, 2004, 9 a.m. to 5 p.m., Chicago, Illinois.

**Addresses:** The Tribal public hearings will be held at the following locations:

1. EPA Region X Tribal Leader's Summit, Coeur d'Alene Casino Resort Hotel, 27068 South Highway 95, Worley, Idaho 83876.
2. EPA Region VI Tribal Environmental Summit, Albuquerque Marriott Hotel, 2101 Louisiana Boulevard, NE., Albuquerque, New Mexico 87110.
3. EPA Region II Indian Nation Leaders Meeting, Embassy Suites Hotel Syracuse, 6646 Old Collamer Road, East Syracuse, New York 13057.
4. Sam Nunn Atlanta Federal Center, 61 Forsyth Street, Atlanta, Georgia 30303.
5. Metcalfe Federal Building, Room 331, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Dated: October 2, 2003.

**Thomas J. Gibson,**  
Chief of Staff.

[FR Doc. 03-25400 Filed 10-6-03; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

[FRL-7566-7]

**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:** Notice of proposed rulemaking.

**SUMMARY:** EPA proposes to allow the use of certain alternative analytical test methods for measuring sulfur in gasoline and butane under the Federal reformulated gasoline (RFG) and anti-dumping program and the Federal gasoline sulfur control program. We also propose to allow refineries to 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 would have to be used. The purpose of today's proposal 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:** Comments or a request for a public hearing must be received by November 6, 2003.

**ADDRESSES:** For more information or 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](mailto:pastorkovich.anne-marie@epa.gov). No confidential business information (CBI) should be submitted by e-mail.

EPA has established a public docket for this proposed 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 proposed 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 change, 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 proposed 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](mailto: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 <sup>a</sup>	SIC codes <sup>b</sup>	Examples of potentially regulated parties
Industry .....	324110	2911	Petroleum refiners.

Category	NAICs codes <sup>a</sup>	SIC codes <sup>b</sup>	Examples of potentially regulated parties
Industry .....	422710 422720	5171 5172	Gasoline Marketers and Distributors.

<sup>a</sup>North American Industry Classification System (NAICS).

<sup>b</sup>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 Proposed Rule

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,<sup>1</sup> and these regulations became effective in January 1995.

In 2000, EPA issued regulations establishing lower sulfur content requirements for all gasoline<sup>2</sup> 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 many 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,<sup>3</sup> 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<sup>e1</sup> as an alternative test method refiners and importers could use to comply with the requirement to test gasoline for sulfur content, provided the test result is correlated with ASTM D 2622-98. In today's action, EPA is proposing to revise 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 proposing to revise 40 CFR 80.46(a) to allow the use of ASTM D 5453-00<sup>e1</sup>, 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)<sup>e1</sup>, 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

<sup>1</sup> "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.

<sup>2</sup> "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.

<sup>3</sup> See "Notice of Proposed Settlement Agreement; Request for Public Comment," 68 FR 26604 (May 16, 2003).

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<sup>e1</sup> 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 notice of proposed rulemaking also proposes to permit 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 would have to 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 determine the sulfur content of butane.

We believe that this proposed 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 proposed 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 51735; 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 proposed rule is not a significant regulatory action within the meaning of the Executive Order. It would 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 proposed rule does not raise issues of consistency with the actions taken or planned by other agencies, would 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 proposed 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 proposed 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

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed 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 proposed rule on small entities, I certify that this action would 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 proposed 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 would be granted greater flexibility in performing compliance testing. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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 proposed 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 proposed rule would impose 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 proposed rule does not have federalism implications. It would 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 proposed rule is limited to permitting flexibility in the choice of test methods. Thus, Executive Order 13132 does not apply to this proposed 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 proposed 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 Executive Order 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 Executive Order 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 proposed rule is not subject to Executive Order 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 proposed 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 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 proposed rule advances the goals of the NTTAA by adopting test methods developed by voluntary consensus standards bodies.

*J. Statutory Provisions and Legal Authority*

Statutory authority for today's proposed 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 proposed 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.*

[FR Doc. 03-25134 Filed 10-6-03; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 239 and 258**

**[FRL-7570-1]**

**Virginia: Approval of Financial Assurance Regulations for the Commonwealth's Municipal Solid Waste Landfill Permitting Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Virginia has applied to EPA for final approval of its financial assurance regulations for Municipal Solid Waste landfills under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final approval to Virginia. In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the changes by an Immediate Final Rule. EPA did not make a proposal prior to the Immediate Final Rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this approval in the preamble to the Immediate Final Rule. Unless we receive written comments which oppose this approval during the comment period, the Immediate Final Rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the Immediate Final Rule, and it will not take effect. We will then respond to public comments in a later Final Rule based on this proposal. You will not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

**DATES:** Send your written comments by November 6, 2003.

**ADDRESSES:** Written comments should be sent to Mike Giuranna, RCRA State Programs Branch, Waste & Chemicals Management Division (3WC21), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, telephone: (215) 814-3298. Comments may also be submitted electronically through the Internet to:

*giuranna.mike@epa.gov* or by facsimile at (215) 814-3163. You may examine copies of the materials submitted by Virginia during normal business hours at EPA, Region III or at the offices of the Virginia Department of Environmental Quality at 629 East Main Street, Richmond, Virginia 23219-0009, Phone Number (804) 698-4238, attn: Melissa Porterfield.

**FOR FURTHER INFORMATION CONTACT:**

Mike Giuranna, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone Number: (215) 814-3298, e-mail: *giuranna.mike@epa.gov*.

**SUPPLEMENTARY INFORMATION:** For additional information, please see the Immediate Final Rule published in the "Rules and Regulations" section of today's **Federal Register**.

**James W. Newsom,**

*Acting Regional Administrator, Region III.*

[FR Doc. 03-25399 Filed 10-6-03; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**[FRL-7565-3]**

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent for partial deletion of the Rocky Mountain Arsenal National Priorities List Site from the National Priorities List; second extension of public comment periods.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 8 announced its intent to delete the Selected Perimeter Area (SPA, 68 FR 44259) and the Surface Deletion Area (SDA, 68 FR 44265) of the Rocky Mountain Arsenal National Priorities List Site (RMA/NPL Site) On-Post Operable Unit (OU) from the National Priorities List (NPL) on July 28, 2003. In response to a written request, EPA extended both public comment periods for an additional 30 days concluding on September 25, 2003 (68 FR 51221). EPA has received a request to further extend these public comment periods. In response, EPA is extending both public comment periods for an additional 30 days concluding on October 27, 2003.

The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA