

transit for towing operations are imposed by this amendment. This regulation may also affect fleet operators by requiring that chemical barges be moored in a protected position within the fleet. The regulation also requires that, if chemical barges are to be shifted in a fleeting area, when possible they be shifted during the day. These requirements are consistent with accepted industry practice, impose minimal financial burdens, and are consistent with the actions of prudent operators under the circumstances. This rule is deemed to not have a substantial economic impact.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that under paragraph 2.B.2.(g)(5) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (waters), Reporting and recordkeeping requirements, Safety measures, and Waterways.

Temporary Regulations

For the reasons set out in the preamble the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 46 CFR 1.46.

2. In Section 165.T08–001 paragraph (b)(8) is revised; paragraphs (b)(9), (b)(10), (b)(11), (b)(12), (b)(13), (b)(14), and (b)(15) are added; and paragraph (c) is revised to read as follows:

§ 165.T08–001 Regulated Navigation Area; Lower Mississippi River.

* * * * *

(b) * * *
(8) For purposes of this section, "chemical barges" are defined as barges authorized to carry cargoes listed under 46 CFR part 151 (Subchapter O).

(9) Chemical barges maintained in a fleeting area shall be placed in a protected position within the fleet.

(10) Whenever possible, shifting of chemical barges within a fleeting area shall be limited to daylight hours.

(11) Upbound and downbound tows containing chemical barges shall place them in the most protected position within the tow configuration.

(12) For purposes of this section, "chemical ships" are defined as U.S. flagged or foreign-flagged vessels subject to the requirements of 46 CFR part 153 (Subchapter O).

(13) For purposes of this section, "gas ships" are defined as U.S. flagged or foreign-flagged vessels subject to the requirements of 46 CFR part 154 (Subchapter O).

(14) Downbound chemical or gas ships operating on the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 78 above Head of Passes shall only transit during daylight hours.

(15) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) *Effective dates.* This section is effective at 12:00 p.m. on March 29, 1997 and terminates at 12 p.m. on April 10, 1997.

Dated: March 28, 1997.

Timothy W. Josiah,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 97–8777 Filed 4–2–97; 2:44 pm]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5807–3]

Regulations of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the Phoenix, Arizona Moderate Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Under section 211(k)(6) of the Clean Air Act, as amended (Act), the

Administrator of EPA shall require the sale of reformulated gasoline in an ozone nonattainment area classified as Marginal, Moderate, Serious, or Severe upon the application of the governor of the state in which the nonattainment area is located. On February 18, 1997, EPA issued a direct final rule (62 FR 7164) setting an effective date for the Phoenix ozone nonattainment area to be a covered area in the federal reformulated gasoline (RFG) program. In this action EPA is withdrawing the direct final rule because subsequent to publication, EPA received several requests for a hearing.

DATES: This action will be effective March 31, 1997.

ADDRESSES: Materials relevant to the direct final rule have been placed in Docket A–97–02. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M–1500 Waterside Mall.

Documents may be inspected on business days from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material. An identical docket is also located in EPA's Region IX office in Docket A–AZ–97. The docket is located at 75 Hawthorne Street, AIR–2, 17th Floor, San Francisco, California 94105. Documents may be inspected from 9:00 a.m. to noon and from 1:00–4:00 p.m. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Janice Raburn at U.S. Environmental Protection Agency Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460, (202) 233–9000.

SUPPLEMENTARY INFORMATION: The preamble, regulatory language and regulatory support document are also available electronically from the EPA internet Web site and via dial-up modem on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. Both services are free of charge, except for your existing cost of internet connectivity or the cost of the phone call to TTN. Users are able to access and download files on their first call using a personal computer per the following information. The official **Federal Register** version is made available on the day of publication on the primary internet sites listed below. The EPA Office of Mobile Sources also publishes these notices on the secondary Web site listed below and on the TTN BBS.

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Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

Regulated entities. Entities potentially regulated by this action are those which produce, supply or distribute motor gasoline. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Petroleum refiners, motor gasoline distributors and retailers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by

this action. Other types of entities not listed in the table could also be regulated. To determine whether your business would have been regulated by this action, you should carefully examine the list of areas covered by the reformulated gasoline program in § 80.70 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Background

As part of the Clean Air Act Amendments of 1990, Congress added a new subsection (k) to section 211 of the Act. Subsection (k) prohibits the sale of gasoline that EPA has not certified as reformulated ("conventional gasoline") in the nine worst ozone nonattainment areas beginning January 1, 1995. Section 211(k)(10)(D) defines the areas covered by the reformulated gasoline (RFG) program as the nine ozone nonattainment areas having a 1980 population in excess of 250,000 and having the highest ozone design values during the period 1987 through 1989.¹ Under section 211(k)(10)(D), any area reclassified as a severe ozone nonattainment area under section 181(b) is also to be included in the RFG program. EPA published final regulations for the RFG program on February 16, 1994. See 59 FR 7716.

Any other ozone nonattainment area classified as Marginal, Moderate, Serious, or Severe may be included in the program at the request of the Governor of the state in which the area is located. Section 211(k)(6)(A) provides that upon the application of a Governor, EPA shall apply the prohibition against selling conventional gasoline in any area requested by the Governor which has been classified under subpart 2 of Part D of Title I of the act as a Marginal, Moderate, Serious or Severe ozone nonattainment area. Subparagraph 211(k)(6)(A) further provides that EPA is to apply the prohibition as of the date the Administrator "deems appropriate, not later than January 1, 1995, or 1 year after such application is received, whichever is later." In some cases the effective date may be extended for such an area as provided in section 211(k)(6)(B) based on a determination by EPA that there is "insufficient domestic capacity to produce" RFG. Finally, EPA is to publish a governor's application in the **Federal Register**.

¹ Applying these criteria, EPA has determined the nine covered areas to be the metropolitan areas including Los Angeles, Houston, New York City, Baltimore, Chicago, San Diego, Philadelphia, Hartford and Milwaukee.

By letter dated January 17, 1997, the Governor of the State of Arizona applied to EPA to include the Phoenix moderate ozone nonattainment area in the federal RFG program. The Governor requested an implementation date of June 1, 1997. The direct final rule published by EPA on February 18, 1997 (62 FR 7164) extended the RFG program to the Phoenix moderate ozone nonattainment area by setting two implementation dates. EPA set an effective date of June 1, 1997 for refiners, importers, and distributors, and July 1, 1997 for retailers and wholesale purchaser-consumers.

Also on February 18, 1997 EPA published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) (62 FR 7197), in which EPA proposed to apply the prohibitions of subsection 211(k)(5) to the Phoenix, Arizona nonattainment area. The Agency published both a proposed rulemaking and a direct final rule because it viewed setting the effective date for the addition of the Phoenix ozone nonattainment area to the federal RFG program as non-controversial and anticipated no adverse or critical comments.

II. Withdrawal of the Phoenix, Arizona Opt-In Direct Final Rule

After publication of the direct final rule and the proposed rule in the **Federal Register**, EPA received several requests for a hearing. A copy of these comments can be found in Air Docket A-97-02. (See **ADDRESSES**) Since EPA received a request for a hearing, as stipulated in the direct final rule, the final rule adding the Phoenix ozone nonattainment area to the RFG program is being withdrawn by today's action effective immediately. Today's withdrawal affects the amendment of section 80.70, paragraph (m) appearing at 62 FR 7167 (February 18, 1997), which would have become effective April 4, 1997, had no adverse or critical comments been received.

EPA is withdrawing this revision to the regulations without providing prior notice and an opportunity to comment because it finds there is good cause within the meaning of 5 U.S.C. 553(b) to do so. Today's withdrawal must be effective before the date on which the direct final rule would have been effective, April 4, 1997. This would not be possible were EPA to provide an opportunity for public comment on this withdrawal. For the same reasons, EPA finds it has good cause under 5 U.S.C. 553(d) to make this withdrawal immediately effective.

III. Statutory Authority

The Statutory authority for the action proposed today is granted to EPA by sections 211 (c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7545 (c) and (k) and 7601.

IV. Environmental Impact

The federal RFG program provides reductions in ozone-forming VOC emissions, oxides of nitrogen (NO_x), and air toxics. Reductions in VOCs are environmentally significant because of the associated reductions in ozone formation and in secondary formation of particulate matter, with the associated improvements in human health and welfare. Exposure to ground-level ozone (or smog) can cause respiratory problems, chest pain, and coughing and may worsen bronchitis, emphysema, and asthma. Animal studies suggest that long-term exposure (months to years) to ozone can damage lung tissue and may lead to chronic respiratory illness. Reductions in emissions of toxic air pollutants are environmentally important because they carry significant benefits for human health and welfare primarily by reducing the number of cancer cases each year.

The Arizona Governor's Task Force estimated that if federal RFG were required to be sold in Phoenix, VOC emissions would be cut by more than nine tons/day. In addition, all vehicles would have improved emissions and the area would also get reductions in toxic emissions. Today's action means that the Governor of Arizona's request to include the Phoenix ozone nonattainment area in the federal RFG program will not be effective beginning June 1, 1997. Thus, the Phoenix nonattainment area will forego the air quality benefits that would have resulted from a June 1, 1997 implementation date of the RFG program.

V. Regulatory Flexibility

In the direct final rule, EPA explained why it had determined that it was not necessary to prepare a regulatory flexibility analysis in connection with that action. EPA also determined that the direct final rule would not have a significant economic impact on a substantial number of small entities. Today's action withdraws the direct final rule, an action that would have revised federal regulations. Thus, it was not necessary to prepare a regulatory flexibility analysis. Likewise, the withdrawal will not have a significant economic impact on a substantial number of small entities, because it does

not alter any currently existing federal requirements.

VI. Executive Order 12866

Under Executive Order 12866,² the Agency must determine whether a regulation 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 of 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 this Executive Order.³

It has been determined that this action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

VII. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("UMRA"), Pub. L. 104-4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a Federal mandate which may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. Under Section 205, for any rule subject to Section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under Section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that today's action does not trigger the requirements of UMRA. The action does not include a Federal mandate that may result in

estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of \$100 million or more, and it does not establish regulatory requirements that may significantly or uniquely affect small governments.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, and Motor vehicle pollution.

Dated: March 31, 1997.

Carol M. Browner,

Administrator.

40 CFR part 80 is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

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

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545 and 7601(a)).

§ 80.70 [Amended]

2. In § 80.70, paragraph (m) is removed.

[FR Doc. 97-8670 Filed 4-3-97; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7662]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date,

² See 58 FR 51735 (October 4, 1993).

³ *Id.* at section 3(f)(1)-(4).