Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves the state rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 5, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 13, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(297) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(297) New and amended regulations for the following APCDs were submitted on March 15, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Ventura County Air Pollution Control District.

(*1*) Rule 74.6, adopted on January 8, 2002.

* * * * *

[FR Doc. 02–13798 Filed 6–3–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7222–5]

RIN 2060–AK07

Regulation of Fuels and Fuel Additives: Modifications to Reformulated Gasoline Covered Area Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In today's final action, EPA is making several minor modifications to its reformulated gasoline (RFG) regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. These changes include: Deleting the seven southern counties in Maine from the RFG covered areas list, reflecting their opt-out of the RFG program as of March 10, 1999; adding the Sacramento Metro and San Joaquin Valley nonattainment areas to the list of RFG covered areas, reflecting the Sacramento Metro Area's inclusion in the RFG program as of June 1, 1996 and the San Joaquin Valley Area's inclusion in the RFG program on December 10, 2002; and deleting the text which extended the RFG opt-in provisions to all ozone nonattainment areas including previously designated ozone nonattainment areas, reflecting a court decision in January, 2000, which invalidated this language. This direct final action also makes certain other minor changes in the provisions listing the RFG covered areas for purposes of clarification.

DATES: This direct final rule is effective on August 5, 2002, without further notice, unless EPA receives substantive adverse comments by July 5, 2002. If substantive adverse comments are received, EPA will publish a timely

withdrawal of the direct final rule in the **Federal Register** and inform the public that this direct final rule will not take effect.

ADDRESSES: Comments should be mailed (in duplicate if possible) to John Brophy, Office of Transportation and Air Quality (mail code 6406J), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC, 20460, and to the following docket address: Docket A–2001–32, Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M–1500 Waterside Mall. Materials relevant to today's rulemaking have been placed in the Docket A–2001–32 at the docket address \saves\rules.xmllisted above, and may be inspected on business days from 8 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Materials relevant to today's rulemaking regarding the removal of the seven Maine counties from the federal RFG program are also available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA–New England, One Congress Street, 11th floor, Boston, MA and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333. For further information, contact Robert C. Judge at (617) 918–1045.

Materials relevant to today's rulemaking regarding the self-executing change in status of the Sacramento Metro and San Joaquin Valley nonattainment areas are also available for inspection during normal business hours in the Air Docket, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. This rule and the Technical Support Documents for the proposed actions are also available in the air programs section of EPA Region 9's website, *http://www.epa.gov/region09/air.* Interested persons may make an appointment with Ms. Virginia Peterson at (415) 744–1265, to inspect the docket between 9 a.m. and 4 p.m. A reasonable fee may be charged for copying docket material.

There are several other dockets that may also contain related materials of interest to the public:

Materials relevant to EPA's approval of a State Implementation Plan (SIP) revision submitted by the State of Maine are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room M–1500, 401 M Street, (Mail Code 6102), SW., Washington, DC; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333. For further information, contact Robert C. Judge at (617) 918–1045.

Materials regarding the reclassification of the Sacramento Metro Area as a ''Severe'' ozone nonattainment area are in Docket A–94–09. 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 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Materials regarding the reclassification of the San Joaquin Valley Area as a ''Severe'' ozone nonattainment area are available for inspection during normal business hours in the Air Docket, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. This rule and the Technical Support Documents for the proposed actions are also available in the air programs section of EPA Region 9's website, *http://www.epa.gov/region09/air.* Interested persons may make an appointment with Ms. Virginia Peterson at (415) 744–1265, to inspect the docket between 9 a.m. and 4 p.m. A reasonable fee may be charged for copying docket material.

Materials regarding the extension of the RFG opt-in provisions to all ozone nonattainment areas including previously designated ozone nonattainment areas, and the January, 2000, court decision, are in Docket A–96–30. 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 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Materials relevant to the removal of the Phoenix area from the federal RFG program are in Docket A–98–23. 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 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: John Brophy, U.S. Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Ave., NW (Mail Code 6406J), Washington, DC 20460, (202) 564–9068, e-mail address: *brophy.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Availability on the Internet

Copies of this final rule are available electronically from the EPA Internet Web site. This service is free of charge, except for your existing cost of Internet connectivity. An electronic version is made available on the day of publication on the primary Internet site listed below. The EPA Office of Transportation and Air Quality will also publish this final rule on the secondary Web site listed below.

http://www.epa.gov/docs/fedrgstr/EPA-AIR/ (either select desired date or use Search feature),

http://www.epa.gov/otaq/ (look in What's New or under the specific rulemaking topic).

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, import, supply or distribute gasoline. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Refiners, importers, oxygenate blenders, terminal operators, distributors, retail gasoline stations.

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 (CFR). 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. Opt-Out of Maine Nonattainment Areas

EPA's reformulated gasoline (RFG) regulations include a list of geographic areas that are covered areas for purposes of the RFG program. 40 CFR 80.70. Section 80.70(j) identifies the nonattainment areas that opted into the RFG program at the beginning of the program. Seven Maine counties opted into the RFG program at that time and are listed in § 80.70(j)(5). Section 80.70(l) provides that, upon the effective date for removal under § 80.72(a), a geographic area that has opted out of the RFG program shall no longer be considered a covered area.

On March 5, 1999, EPA approved an opt-out petition submitted by the Governor of Maine, and the seven Maine counties of Androscoggin; Cumberland; Kennebec; Knox; Lincoln; Sagadahoc; and York were removed from the RFG program effective March 10, 1999.[1] With today's direct final rule, EPA is amending § 80.70(j)(5) of EPA's RFG regulations by removing the seven listed Maine counties to reflect that they are no longer covered areas in the federal RFG program.

II. Inclusion of Sacramento and San Joaquin Valley as Covered Areas

Under Clean Air Act section 211(k)(10)(D), any ozone nonattainment area that is reclassified as a Severe ozone nonattainment area becomes an RFG covered area effective one year after its reclassification. 42 U.S.C. 7545(k)(10)(D).

Effective June 1, 1995, the Sacramento, California, ozone nonattainment area was reclassified from a Serious to a Severe ozone nonattainment area. 60 FR 20237 (April 25, 1995). The Sacramento ozone nonattainment area, therefore, became an RFG covered area as of June 1, 1996.

Effective December 10, 2001, the San Joaquin Valley, California, ozone nonattainment area was reclassified from a Serious to a Severe ozone nonattainment area.[2] The San Joaquin Valley ozone nonattainment area, therefore, will become an RFG covered area as of December 10, 2002.

In today's direct final rule, EPA is amending § 80.70 to reflect that the Sacramento nonattainment area became a covered area in the federal RFG program by operation of law on June 1, 1996 and that the San Joaquin Valley nonattainment area will become a covered area in the federal RFG program by operation of law on December 10, 2002.[3] These amendments, in combination with the amendment described in Section I above, will bring the regulations into conformity with the existing status of ''covered areas'' in the RFG program.

III. Deletion of Opt-In Language

Section 80.70(k) of the RFG rule as originally promulgated provided that any area classified as a Marginal, Moderate, Serious, or Severe ozone nonattainment area may be included as an RFG covered area (i.e, ''opt-in'') upon petition of the governor of the state in which the area is located.[4] EPA subsequently modified this language to provide that any area ''currently or previously designated as a nonattainment area for ozone'' may be included as an RFG covered area. 63 FR 52094 (September 29, 1998). This modification was subsequently challenged in the United States Court of Appeals for the District of Columbia Circuit, which found that EPA lacked authority to promulgate this modification. *American Petroleum Institute* v. *EPA.*, 198 F.3d 275 (D.C. Cir. 2000). Therefore, with today's direct final rule, EPA is amending § 80.70 to remove the text which extended the opt-in provisions and reinstate the language of this section as originally promulgated.

IV. Additional Changes to § 80.70

Today's rule revises the introductory text of § 80.70(j) to distinguish the nonattainment areas that have opted into the RFG program from those that are required to be in the program under the Clean Air Act. In addition, today's rule revises the text of sections 80.70(l) and (n) to make these provisions clearer. These minor revisions are strictly organizational and do not change the substance or intent of these provisions in any way. Today's rule also removes the current provisions of § 80.70(m) relating to Phoenix as an opt-in covered area, since the Phoenix area is no longer a covered area as of June 10, 1998.[5] The provisions for the Sacramento and San Joaquin Valley covered areas, described above, are included in a new § 80.70(m).

V. Public Participation

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This rule will be effective August 5, 2002, without further notice unless the Agency receives adverse comments by July 5, 2002. If EPA receives substantive adverse comments on this action, we will publish in the **Federal Register** a timely withdrawal of the direct final rule informing the public that this direct final rule will not take effect. EPA considers each element of today's direct final rule to be independent and severable, therefore, if we receive adverse comment we will withdraw only those elements (an amendment, section or paragraph) of this action that are addressed by such comments.

EPA is publishing separately, in the ''Proposed Rules'' section of today's **Federal Register**, a notice of proposed rulemaking that incorporates each of the regulatory amendments included in this direct final rule. In the event that EPA receives adverse comment on all or part of this direct final rule, we will proceed according to ordinary notice and comment rulemaking procedures. We will address all adverse public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time.

Today's amendments to the CFR reflect changes that have occurred in separate actions in accordance with EPA's regulations and the CAA. This rule is not itself an approval of Maine's or Arizona's opt-out request—Agency

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[1] Published elsewhere in the Notice section of today's Federal Register EPA announces and describes its approval of Maine's opt-out petition according to the procedures set forth in 40 CFR 80.72. These regulatory provisions were established pursuant to authority under sections 211(c) and (k) and 301(a) of the Clean Air Act to provide criteria and general procedures for a state to opt-out of the RFG program where the state had previously voluntarily opted into the program. See 61 FR 35673 (July 8, 1996); 62 FR 54552 (October 20, 1997).

[2] In a final rulemaking, EPA took action to change the boundary for the San Joaquin Valley serious ozone nonattainment area by separating out the eastern portion of Kern County into its own nonattainment area. *See* 66 FR 56483 (November 8, 2001). EPA extended the attainment deadline for the new East Kern County serious ozone nonattainment area from November 15, 1999 to November 15, 2001.

[3] In a Notice of Proposed Rulemaking published on July 11, 1997, EPA proposed to update the list of RFG covered areas in § 80.70 to include the Sacramento nonattainment area. *See* 62 FR 37338. In that notice EPA proposed regulatory text describing the Sacramento covered area by its geographic boundaries, however, in today's final rule we are instead describing the Sacramento covered area by reference to the geographic description of its nonattainment area boundaries as specified in 40 CFR part 81, subpart C. We note also that the Sacramento and San Joaquin Valley areas currently receive gasoline that complies with California's State reformulated gasoline (CaRFG) program, and that such gasoline is generally covered by EPA enforcement exemptions. *See* 64 FR 49992 (Sept. 15, 1999); 40 CFR 80.81.

[4] 59 FR. 7716 (February 16, 1994).

[5] Published on August 11, 1998, in the **Federal Register** (at 63 FR 43044) is a public announcement of EPA's approval of the Arizona Governor's petition and the effective date of the Phoenix opt-out. The opt-out effective date for the Phoenix area was June 10, 1998.

action approving those petitions occurred earlier in separate administrative proceedings. Similarly, neither the reclassification of the Sacramento and San Joaquin Valley nonattainment areas, nor the self-executing change in status of these areas to RFG ''covered areas,'' are dependent on today's action. EPA is simply modifying the list of covered areas in the RFG regulations, 40 CFR 80.70, so the list will reflect EPA's earlier approval of the Maine and Arizona opt-out requests, and the self-executing change in the status of the Sacramento and San Joaquin Valley nonattainment areas. Thus, the various elements of today's direct final rule involve little or no exercise of agency discretion. Rather today's actions essentially are ministerial regulatory amendments.

VI. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (Oct. 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 entitlement, 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.

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

B. Paperwork Reduction Act

This action does not impose any new information collection burden. Today's rule merely amends EPA's regulations to reflect the current status of covered areas within the RFG program. These various changes in status are not dependant on today's rulemaking, but have occurred (or will occur) as the result of separate agency action and self-executing statutory provisions. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing [*RFG*] regulations [CFR citation—*40 CFR part 80, Subparts D, E an F,*] under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0277 (EPA ICR No. 1591.13).

Copies of the ICR document(s) may be obtained from Sandy Farmer, by mail at the Office of Environmental Information, Collection Strategies Division; U.S. Environmental Protection Agency (2822); 1200 Pennsylvania Ave., NW, Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at *http://www.epa.gov/icr.* Include the ICR and / or OMB number in any correspondence.

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. 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 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.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, Apr. 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 final rule is not subject to Executive Order 13045 because it does

not establish an environmental standard intended to mitigate health or safety risks.

E. Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, Aug. 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 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. This final rule simply makes several minor modifications in the regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. Thus, Executive Order 13132 does not apply to this rule.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub L. No. 104–113, section 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 action does not involve technical standards. This final rule simply makes several minor modifications in the regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. Therefore, EPA did not consider the use of any voluntary consensus standards.

G. Congressional Review

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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(a).

H. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule on small entities, small entities are defined as: (1) A firm having no more than 1,500 employees and no more than 75,000 barrels per day capacity of petroleum-based inputs, including crude oil or bona fide feedstocks; [6] according to Small Business Administration (SBA) size standards established under the North American Industry Classification System (NAICS); (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. This final rule will not impose any requirements on small entities. Today's rule revises the introductory text of § 80.70(j) to distinguish the nonattainment areas that have opted into the RFG program from those that are required to be in the program under the Clean Air Act. In addition, today's rule revises the text of § 80.70(l) and (n) to make these provisions clearer. These minor revisions are strictly organizational and do not change the substance or intent of these provisions in any way. Today's rule also removes the current provisions of § 80.70(m) relating to Phoenix as an opt-in covered area, since the Phoenix area is no longer a covered area as of June 10, 1998. Published on August 11, 1998, in the **Federal Register** (at 63 FR 43044) is a public announcement of EPA's approval of the Arizona Governor's petition and the effective date of the Phoenix opt-out. The opt-out effective date for the Phoenix area was June 10, 1998. The provisions for the Sacramento and San Joaquin Valley covered areas, described above, are included in a new § 80.70(m).

Today's amendments to the CFR reflect changes that have occurred in separate actions in accordance with EPA's regulations and the CAA. This rule is not itself an approval of Maine's or Arizona's opt-out request—Agency action approving those petitions occurred earlier in separate administrative proceedings. Similarly, neither the reclassification of the Sacramento and San Joaquin Valley nonattainment areas, nor the self-executing change in status of these areas to RFG ''covered areas,'' are dependent on today's action. EPA is simply modifying the list of covered areas in the RFG regulations, 40 CFR 80.70, so the list will reflect EPA's earlier approval of the Maine and Arizona opt-out requests, and the self-executing change in the status of the Sacramento and San Joaquin Valley nonattainment areas. Thus, the various elements of today's direct final rule involve little or no exercise of agency discretion. Rather today's actions essentially are ministerial regulatory amendments.

I. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, Nov. 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

[6] Capacity includes owned or leased facilities as well as facilities under a processing agreement or an agreement such as an exchange agreement or a throughput. The total product to be delivered under the contract must be at least 90 percent refined by the successful bidder form either crude oil or bona fide feedstocks.

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.''

Today's rule does not have tribal implications and 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 final rule simply makes several minor modifications in the regulations to reflect changes in the covered areas for the federal RFG program, and to delete obsolete language and clarify existing language in the provisions listing the federal RFG covered areas. Thus, Executive Order 13175 does not apply to this rule.

J. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

VII. Statutory Authority

The Statutory authority for the action today is granted to EPA by sections 211(c) and (k), 301, and 307 of the Clean Air Act, as amended; 42 U.S.C. 7545(c) and (k), 7601, 7607; and 5 U.S.C. 553(b).

VIII. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 5, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

Christine Todd Whitman,

Administrator.

40 CFR part 80 is amended as follows:

PART 80—[AMENDED]

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)).

2. Section 80.70 is amended by revising the paragraph (j) introductory text, removing and reserving paragraph (j)(5), revising paragraphs (k), (l), and (m) and removing paragraph (n) to read as follows:

§ 80.70 Covered areas.

* * * * *

(j) Any other area classified under 40 CFR part 81, subpart C as a marginal, moderate, serious, or severe ozone nonattainment area may be included as a covered area on petition of the Governor of the State in which the area is located. The ozone nonattainment areas listed in this paragraph (j) opted into the reformulated gasoline program prior to the start of the reformulated gasoline program. These areas are covered areas for purposes of subparts D, E, and F of this part. The geographic extent of each covered area listed in this paragraph (j) shall be the nonattainment area boundaries as specified in 40 CFR part 81, subpart C.

* * * * *

(k) The ozone nonattainment areas included in this paragraph (k) have opted into the reformulated gasoline program since the beginning of the program, and are covered areas for purposes of subparts D, E, and F of this part. The geographic extent of each covered area listed in this paragraph (k) shall be the nonattainment area boundaries as specified in 40 CFR part 81, subpart C.

(1) The St. Louis, Missouri, ozone nonattainment area is a covered area beginning June 1, 1999. The prohibitions of section 211(k)(5) of the Clean Air Act apply to all persons in the St. Louis, Missouri, covered area, other than retailers and wholesale purchaser-consumers, beginning May 1, 1999. The prohibitions of section 211(k)(5) of the Clean Air Act apply to retailers and wholesale purchase-consumers in the St. Louis, Missouri, area beginning June 1, 1999.

(2) [Reserved]

(l) Upon the effective date for removal of any opt-in area or portion of an opt-in area included in an approved petition under § 80.72(a), the geographic area covered by such approval shall no longer be considered a covered area for purposes of subparts D, E, and F of this part.

(m) Effective one year after an area has been reclassified as a Severe ozone nonattainment area under section 181(b) of the Clean Air Act, such Severe area shall also be a covered area under the reformulated gasoline program. The ozone nonattainment areas included in this paragraph (m) were reclassified as Severe ozone nonattainment areas, and are covered areas for purposes of subparts D, E, and F of this part. The geographic extent of each covered area listed in this paragraph (m) shall be the nonattainment area boundaries as specified in 40 CFR part 81, subpart C.

(1) The Sacramento, California, ozone nonattainment area, was redesignated as a Severe ozone nonattainment area effective June 1, 1995, and is a covered area for purposes of subparts D, E, and F of this part beginning on June 1, 1996.

(2) The San Joaquin Valley, California, ozone nonattainment area was redesignated as a Severe ozone nonattainment area effective December 10, 2001, and is a covered area for purposes of subparts D, E, and F of this part beginning on December 10, 2002.

[FR Doc. 02–13976 Filed 6–3–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 144 and 146

[FRL–7221–1]

Notice of Final Decision on Motor Vehicle Waste Disposal Wells in EPA Region 8; Underground Injection Control (UIC) Class V Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final decision.

SUMMARY: Today the Environmental Protection Agency's Region 8 Office in Denver, Colorado, is announcing a decision under which each motor vehicle waste disposal well in Colorado, Montana, or South Dakota (regardless of whether it is in Indian country) or in Indian country in North Dakota, Utah, or Wyoming must either be closed or covered by a Class V Underground Injection Control (UIC) permit application no later than January 1, 2007. The term ''Indian country'' as used in this document is defined in 18 United States Code Section 1151.

DATES: This decision is effective June 4, 2002.