

shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(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 July 3, 1995. 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, Lead.

Dated: April 3, 1995.

**David A. Ullrich,**

*Acting Regional Administrator.*

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. 7401-7671q.

#### Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(95) to read as follows:

##### § 52.770 Identification of plan.

(c) \* \* \*

(95) On May 22, 1994, the Indiana Department of Environmental Management submitted a request to revise the Indiana State Implementation Plan by adding a lead plan for Marion County which consists of a source specific revision to Title 326 of the Indiana Administrative Code (326 IAC) for Refined Metals.

(i) *Incorporation by reference.*

(A) Amendments to 326 IAC 15-1-2 Source-specific provisions. Filed with the Secretary of State March 25, 1994. Effective April 24, 1994. Published at Indiana Register, Volume 17, Number 8, May 1, 1994.

[FR Doc. 95-10810 Filed 5-2-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 70

[AD-FRL-5200-7]

#### Clean Air Act Final Interim Approval of Operating Permits Program for Nineteen California Air Pollution Control Districts

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

**ACTION:** Final interim approval.

**SUMMARY:** The EPA is promulgating interim approval of the Operating Permits Program submitted by the California Air Resources Board on behalf of Amador County Air Pollution Control District (APCD), Butte County APCD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River Air Quality Management District (AQMD), Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lassen County APCD, Mendocino County APCD, Modoc County APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Siskiyou County APCD, Tuolumne County APCD, and Yolo-Solano AQMD, California (districts) for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

**EFFECTIVE DATE:** June 2, 1995.

**ADDRESSES:** Copies of the nineteen districts' submittals and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Operating Permits Section, A-5-2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

**FOR FURTHER INFORMATION CONTACT:** For information, please contact: Sara Bartholomew, Operating Permits Section, A-5-2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-1170.

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Purpose

###### A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act (the Act)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On December 8, 1994, EPA proposed interim approval of the operating permits programs for Amador County APCD, Butte County APCD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lassen County APCD, Mendocino County APCD, Modoc County APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Siskiyou County APCD, Tuolumne County APCD, and Yolo-Solano AQMD, California. See 54 FR 63289. The EPA received public comment on the proposal, and is responding to those comments in this document and in a separate "Response to Comments" document that is

available in the docket. The EPA also compiled a Technical Support Document (TSD) for each of the nineteen districts, which describes each operating permits program in greater detail.

In this notice EPA is taking final action to promulgate interim approval of the operating permits program for Amador County APCD, Butte County APCD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lassen County APCD, Mendocino County APCD, Modoc County APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Siskiyou County APCD, Tuolumne County APCD, and Yolo-Solano AQMD, California.

## II. Final Action and Implications

### A. Analysis of State Submission

EPA received two comment letters on the proposed rulemaking for the districts, one from the National Environmental Development Associations Clean Air Regulatory Project ("NEDA/CARP"), and one from the American Forest & Paper Association ("AF&PA"), both dated January 9, 1995. The issues discussed in the December 8, 1994 proposal were not changed as a result of public comment with the exception of the implementation of section 112(g) from the effective date of the title V program. EPA's final action is being revised from the proposed notice with respect to this issue. This change is discussed below along with other issues raised during the public comment period.

#### 1. 112(g) Implementation

NEDA/CARP and AF&PA both submitted comments regarding EPA's proposed approval of the nineteen California districts' preconstruction permitting programs for the purpose of implementing section 112(g) during the transition period between title V approval and adoption of a District rule implementing EPA's section 112(g) regulations. In opposition to the proposed action, the commenters argued that the nineteen districts should not, and cannot, implement section 112(g) until: (1) EPA has promulgated a section 112(g) regulation; and (2) the District has a section 112(g) program in place.

EPA received many comments nationally on this issue, and agrees that it is not reasonable to expect the states and districts to implement section 112(g) before a rule is issued. EPA has therefore published an interpretive

notice in the **Federal Register** regarding section 112(g) of the Act: 60 FR 8333 (February 14, 1995). This notice outlines EPA's revised interpretation of 112(g) applicability prior to EPA's issuing the final 112(g) rule. The notice states that major source modifications, constructions, and reconstructions will not be subject to 112(g) requirements until the final rule is promulgated. EPA expects to issue the 112(g) final rule in September 1995.

The notice further explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow States and Districts time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), the nineteen districts must be able to implement section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing District regulations.

For this reason, EPA is proposing to approve the nineteen districts' preconstruction review programs as a mechanism to implement section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption by the nineteen districts of rules specifically designed to implement section 112(g). However, since approval is intended solely to confirm that the districts have mechanisms to implement section 112(g) during the transition period, the approval itself will be without effect if EPA decides in the final section 112(g) rule that there will be no transition period. The EPA is limiting the duration of its approval of the use of preconstruction programs to implement 112(g) to 12 months following promulgation by EPA of the section 112(g) rule.

#### 2. Insignificant Activities

NEDA/CARP and AF&PA both assert that EPA lacks the legal footing to reject the districts' present "insignificant levels," and that EPA has no authority to hold out "suggested" emission levels as a threshold for receiving full approval.

EPA disagrees that it lacks authority to reject inappropriate or unsupported insignificance levels, or to articulate on a program-by-program basis levels that it definitely would accept. Part 70 allows States to deem certain activities or emission levels insignificant if they are listed in the program submitted to EPA and approved by EPA, but does not grant States authority to create new

exemptions without EPA approval. Section 70.4(b)(2) requires the submittal of criteria used to determine insignificant activities, and § 70.5(c) does not allow States to create an insignificant activities permit exemption if the exemption will interfere with the imposition of applicable requirements or the collection of fees. In addition, part 70 explicitly authorizes EPA to approve insignificant activities based on emission levels (§ 70.5(c)). EPA has the legal authority to reject district provisions which contravene these part 70 requirements.

As stated in the proposal, most of the nineteen programs provided EPA with no criteria or information on the level of emissions of activities on the districts' exemption lists. In addition, the specific insignificant activities provisions submitted by the districts have raised concerns with EPA regarding the districts' ability to ensure that applicable requirements are included in permits. None of the nineteen districts provided EPA with a demonstration to the contrary. For these reasons, the nineteen districts' lists of insignificant activities are not acceptable.

In the proposed rulemaking EPA suggested insignificance levels that the Agency would find acceptable even without a further demonstration. Neither of the commenters specifically addressed these suggested insignificance levels. EPA would like to note that the nineteen districts have the flexibility to modify their regulations and submit criteria for EPA approval of new exemptions, as long as each district demonstrates, or EPA is otherwise satisfied, that such alternative emission levels are insignificant compared to the level of emissions and types of units that are permitted or subject to applicable requirements.

#### 3. Public Petitions to EPA

NEDA/CARP and AF&PA both registered their concern regarding the public petition requirements, notification and other procedural requirements, stating that they believe these requirements will thwart efforts in California to develop market incentive approaches to emissions reductions.

Provisions for public participation, notification and public petitions are required under title V of the Clean Air Act (CAA 502(b)(6) for public participation, and CAA 505(b)(2) for public petitions), and are therefore included in part 70, the regulations that implement title V. EPA believes public participation does not preclude a district from developing market based incentive programs.

#### 4. Compliance Certification

NEDA/CARP and AF&PA both contend that EPA has misread its own rule in requiring that the full text of the responsible official's certification be included in both the application content and permit content. They argue that the provision of § 70.5(d) sets out the terms and conditions for any certification of an application form, report or compliance made pursuant to the rules, but does not establish a signatory statement that must be attested to by the responsible official to the exclusion of all other statements (emphasis in comment letters).

EPA disagrees with the above comment. Section 70.5 requires that: "This certification \* \* \* shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete" (emphasis added). This indicates that it is not sufficient merely for the responsible official to sign the certification; the certificate must state that he or she considered the issue carefully. The statement must contain the essential elements of § 70.5(d), and include the words quoted above. EPA does not rule out having a pre-printed statement on the certificate for convenience.

#### 5. Deviation Reporting

NEDA/CARP and AF&PA both contend that it is necessary for EPA to revise several of its earlier interim approval notices, in which the Agency conditioned final approval on including a definition of "prompt" in the state operating permits program, in order to provide a consistent application of the appropriate interpretation of its rules.

In the proposed interim approval notice EPA stated that the nineteen districts' regulations should define the meaning of "prompt" as used in the requirement found at 40 CFR 70.6(a)(3)(iii)(B), which requires "prompt" reporting of deviations from applicable requirements. The Agency indicated that an acceptable alternative to defining in the regulation what constitutes "prompt" is to define "prompt" in each individual permit.

NEDA/CARP and AF&PA both support this approach. EPA has consistently asserted that this is an acceptable alternative to defining "prompt" in the body of the permitting regulations, and sees no need to revisit past interim approval actions to clarify this interpretation of the definition of what constitutes "prompt" reporting of deviations from applicable requirements.

#### 6. Potential to Emit

In the proposed rulemaking, EPA required Amador and Tuolumne counties to revise the definition of "potential to emit" in their rules to clarify that only federally-enforceable limitations may be considered in determining a source's potential to emit. NEDA/CARP and AF&PA both argue that limitations based on state requirements, as well as federally-enforceable limitations, should be considered in determining the potential to emit.

EPA's requirement that Amador and Tuolumne revise their definitions of the term "potential to emit" is based upon the definition of that term found in 40 CFR 70.2. Section 70.2 defines "potential to emit" as the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. The definition further provides, however, that a physical and operational limit on potential to emit is considered to be part of the source's design if it is enforceable by EPA. Since the Amador and Tuolumne rules do not conform to this critical definition, the districts must revise their programs to clarify that only federally enforceable restrictions can provide a legal limitation on a source's potential to emit.

#### B. Final Action

The EPA is promulgating interim approval of the operating permits programs submitted by the California Air Resources Board on behalf of Amador County APCD (complete submittal received on December 27, 1993), Butte County APCD (complete submittal received on December 16, 1993), Calaveras County APCD (complete submittal received on October 31, 1994), Colusa County APCD (complete submittal received on February 24, 1994), El Dorado County APCD (complete submittal received on November 16, 1993), Feather River AQMD (complete submittal received on November 16, 1993), Great Basin Unified APCD (complete submittal received on January 12, 1994), Imperial County APCD (complete submittal received on March 12, 1994), Kern County APCD (complete submittal received on November 16, 1993), Lassen County APCD (complete submittal received on January 12, 1994), Mendocino County APCD (complete submittal received on December 27, 1993), Modoc County APCD (complete submittal received on December 27, 1993), North Coast Unified AQMD (complete submittal received on February 24, 1994), Northern Sierra

AQMD (complete submittal received on June 6, 1994), Northern Sonoma County APCD (complete submittal received on January 12, 1994), Placer County APCD (complete submittal received on December 27, 1993), Siskiyou County APCD (complete submittal received on December 6, 1993), Tuolumne County APCD (complete submittal received on November 16, 1993), and Yolo-Solano AQMD (complete submittal received on October 14, 1994), California.

The nineteen districts must make the changes specified in the proposed rulemaking, under II.C., *District Title V Interim Approval Issues Common to All Nineteen Districts* and Section III., *Individual District Title V Interim Approval Issues*, in order to be granted full approval.

The scope of the nineteen districts' part 70 programs approved in this notice applies to all part 70 sources (as defined in the approved program) within the districts, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815-55818 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." See section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval, which may not be renewed, extends until June 3, 1997. During this interim approval period, the nineteen districts are protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in any of these districts. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If any of the nineteen districts fails to submit a complete corrective program for full approval by December 3, 1996, EPA will start an 18-month clock for mandatory sanctions. If any of the districts then fail to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will apply sanctions to that district as required by section 502(d)(2) of the Act, which will remain in effect until EPA determines that the district has

corrected the deficiency by submitting a complete corrective program.

If EPA disapproves any of the nineteen districts' complete corrective program, EPA will apply sanctions to that district or districts as required by section 502(d)(2) on the date 18 months after the effective date of the disapproval, unless prior to that date the district or districts has submitted a revised program and EPA has determined that the district or districts corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if any of the nineteen districts has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to any of the nineteen districts' programs by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a Federal permits program for those districts lacking full approval, upon interim approval expiration.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State or District's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the nineteen districts' programs for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

### III. Administrative Requirements

#### A. Docket

Copies of the nineteen districts' submittals and other information relied upon for the final interim approval, including two public comments received and reviewed by EPA on the proposal, are contained in docket number CA-NONGR19-94-01-OPS, maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the

location listed under the ADDRESSES section of this document.

#### B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

#### C. Regulatory Flexibility Act

##### List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: April 21, 1995.

John Wise,

Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding the entry for California in alphabetical order to read as follows:

#### Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

\* \* \* \* \*

#### California

The following district programs were submitted by the California Air Resources Board on behalf of:

(a) *Amador County Air Pollution Control District* (APCD) (complete submittal received on September 30, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(b) [Reserved]

(c) *Butte County APCD* (complete submittal received on December 16, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(d) *Calaveras County APCD* (complete submittal received on October 31, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(e) *Colusa County APCD* (complete submittal received on February 24, 1994); interim approval effective on

June 2, 1995; interim approval expires June 3, 1997.

(f) *El Dorado County APCD* (complete submittal received on November 16, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(g) *Feather River Air Quality Management District* (AQMD) (complete submittal received on December 27, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(h) [Reserved]

(i) *Great Basin Unified APCD* (complete submittal received on January 12, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(j) *Imperial County APCD* (complete submittal received on March 24, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(k) *Kern County APCD* (complete submittal received on November 16, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(l) [Reserved]

(m) *Lassen County APCD* (complete submittal received on January 12, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(n) [Reserved]

(o) *Mendocino County APCD* (complete submittal received on December 27, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(p) *Modoc County APCD* (complete submittal received on December 27, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(q) [Reserved]

(r) [Reserved]

(s) *North Coast Unified AQMD* (complete submittal received on February 24, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(t) *Northern Sierra AQMD* (complete submittal received on June 6, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(u) *Northern Sonoma County APCD* (complete submittal received on January 12, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(v) *Placer County APCD* (complete submittal received on December 27, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(w) [Reserved]

- (x) [Reserved]
- (y) [Reserved]
- (z) [Reserved]
- (aa) [Reserved]
- (bb) [Reserved]
- (cc) *Siskiyou County APCD* (complete submittal received on December 6, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.
- (dd) [Reserved]
- (ee) [Reserved]
- (ff) *Tuolumne County APCD* (complete submittal received on November 16, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.
- (gg) [Reserved]
- (hh) *Yolo-Solano AQMD* (complete submittal received on October 14, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

\* \* \* \* \*

[FR Doc. 95-10825 Filed 5-2-95; 8:45 am]  
 BILLING CODE 6560-50-P

**40 CFR Part 80**

[AMS-FRL-5201-4]

**Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline Withdrawal of Reformulated Gasoline Program Extension in Wisconsin**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Withdrawal of final rule.

**SUMMARY:** The Clean Air Act, as amended, directs the Administrator of EPA to apply the prohibition against the sale of conventional gasoline under EPA's reformulated gasoline (RFG) regulations in an ozone nonattainment area upon the application of the governor of the state in which the nonattainment area is located. On December 29, 1994, EPA issued a direct final rule (DFRM) extending the prohibition set forth in section 211(k)(5) of the Act to three moderate ozone nonattainment areas in Wisconsin, including those counties in the federal RFG program. EPA is withdrawing the direct final rule, because the governor has withdrawn the three counties from the federal RFG program.

**EFFECTIVE DATE:** This action is effective April 25, 1995.

**ADDRESSES:** Materials directly relevant to the direct final rule are contained in Public Docket No. A-94-46, located at Room M-1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW, Washington,

D.C. 20460. Other materials relevant to the reformulated gasoline final rule are contained in Public Dockets A-91-02 and A-92-12. The docket may be inspected from 8:00 a.m. until 4:00 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Joann Jackson Stephens, U.S. EPA (RDS-12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668-4507. To Request Copies of This Notice Contact: Delores Frank, U.S. EPA (RDS-12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668-4295.

**SUPPLEMENTARY INFORMATION:** A copy of this action is available on the EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTNBBS). The service is free of charge, except for the cost of the phone call. The TTNBBS can be accessed with a dial-in phone line and a high-speed modem per the following information: TTN BBS: 919-541-5742 (1200-14400 bps, no parity, 8 data bits, 1 stop bit) Voice Help-line: 919-541-5384 Accessible via Internet: TELNETtnbbs.rtpnc.epa.gov Off-line: Mondays from 8:00 AM to 12:00 Noon ET

When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

- <T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
- <M> OMS
- <K> Rulemaking and Reporting
- <3> Fuels
- <9> Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the RFG rulemaking process. To download any file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp Selection or <CR> to exit: D filename.zip

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving

compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command. 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.

**I. Background**

As part of the Clean Air Act Amendments of 1990, Congress added a new subsection (k) to section 211 of the Clean Air Act. Subsection (k) prohibits the sale of gasoline that EPA has not certified as reformulated in the nine worst ozone nonattainment areas beginning January 1, 1995. EPA published final regulations for the RFG program on February 16, 1994 and on August 2, 1994. See 59 FR 7716 and 59 FR 39258. Corrections and clarifications to the final RFG regulations were published July 20, 1994. See 59 FR 36944.

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. Any other ozone nonattainment area classified under subpart 2 of Part D of Title I of the Act as a 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 the sale of conventional gasoline (gasoline EPA has not certified as reformulated) in any area classified as an ozone nonattainment area classified as an ozone nonattainment area<sup>1</sup> and EPA is to publish a governor's application in the **Federal Register**. To date, EPA has received and published applications from the Mayor of the District of Columbia and the Governors of the following states with ozone nonattainment areas: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Texas, and Kentucky. Since submitting opt-in applications, some states (Pennsylvania, Maine, and New York) have recently requested to opt-out of the RFG program for various reasons.

<sup>1</sup> EPA promulgated such designations pursuant to Section 107(d)(4) of the Act (56 FR 56694; November 6, 1991).