EPA-HQ-2018-006551

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2003–0216; EPA–HQ–OAR–2005–0149; FRL–8178–5]

RIN 2060–AM27 and RIN 2060–AM88

Regulation of Fuel and Fuel Additives: Refiner and Importer Quality Assurance Requirements for Downstream Oxygenate Blending and Requirements for Pipeline Interface

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This direct final rule amends the reformulated gasoline (RFG) regulations to allow refiners and importers of reformulated gasoline blendstock for oxygenate blending, or RBOB, the option to use an alternative method of fulfilling a regulatory requirement to conduct quality assurance sampling and testing at downstream oxygenate blending facilities. This alternative method consists of a comprehensive program of quality assurance sampling and testing that would cover all terminals that blend oxygenate with RBOB in a specified reformulated gasoline covered area. The program would be carried out by an independent surveyor funded by industry. The program would be conducted pursuant to a survey plan, approved by EPA, that is calculated to achieve the same objectives as the current regulatory quality assurance requirement.

This direct final rule also largely codifies existing guidance for compliance by parties that handle pipeline interface with requirements for gasoline content standards, recordkeeping, sampling and testing. The rule also contains new provisions which provide additional flexibility for these regulated parties. It also establishes gasoline sulfur standards for transmix processors and blenders that are consistent with the sulfur standards for other entities, such as pipelines and terminals, that are downstream of refineries in the gasoline distribution system, and clarifies the requirements for transmix processors under the Mobile Source Air Toxics program.

DATES: This direct final rule is effective on August 1, 2006, without further notice unless we receive adverse comment by July 3, 2006. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications in this rule is approved by the Director of the Office of the Federal Register as of August 1, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR–2003–0216 for comments on the transmix provisions, and Docket ID No. EPA-HQ-OAR–2005–0149 for comments on the RBOB provisions, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *a-and-r-docket@epa.gov.*
- Fax: (202) 566–1741, Attention Docket ID No. EPA-HQ-OAR–2003–0216 or EPA-HQ-OAR–2005–0149, as appropriate.
- Mail: Air and Radiation Docket, Docket ID No. EPA-HQ-OAR–2003–0216 or EPA-HQ-OAR–2005–0149, as appropriate, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: EPA Docket Center, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Air Docket ID No. EPA-HQ-OAR–2003–0216 or EPA-HQ-OAR–2005–0149, as appropriate. Such deliveries are accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR–2003–0216 or EPA-HQ-OAR–2005–0149, as appropriate. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov*. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*. For additional instructions on submitting comments, go to Section I.B. of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Chris McKenna, mailcode 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–343–9037; fax number: 202–343–2802; e-mail address: *mckenna.chris@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA is publishing this rule without prior proposal because we view this action to be non-controversial and anticipate no adverse comment. However, in the "Proposed Rules" section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to adopt the provisions in this Direct Final Rule if adverse comments are filed. This rule is effective on August 1, 2006, without further notice unless we receive adverse comment by July 3, 2006. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the amendment, paragraph or section of the rule on which adverse comment was received will not take effect. We will address all public

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comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Any distinct amendment, paragraph, or section of this rule for which we do not receive adverse comment will become effective on the date set out above, notwithstanding any adverse comment on any other distinct amendment, paragraph, or section of this rule.

General Information

A. Does This Action Apply to Me?

Entities potentially affected by this action include those involved with the production and importation of gasoline motor fuel. Regulated categories and entities affected by this action include:

Category	NAICS codes [a]	SIC codes [b]	Examples of potentially regulated entities
Industry	324110	2911	Petroleum Refiners.
Industry	422710	5171	Gasoline Marketers and Distributors.
	422720	5172	
Industry	484220	4212	Gasoline Carriers.
	484230	4213	

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

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria of Part 80, subparts D, E and F of title 40 of the Code of Federal Regulations. If you have any question regarding applicability of this action to a particular entity, consult the person in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

A. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

B. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

C. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

D. Describe any assumptions and provide any technical information and/or data that you used.

E. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

F. Provide specific examples to illustrate your concerns, and suggest alternatives.

G. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

H. Make sure to submit your comments by the comment period deadline identified.

3. *Docket Copying Costs.* You may be charged a reasonable fee for photocopying docket materials, as provided by 40 CFR part 2.

Outline of This Preamble

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I. Refiner and Importer Quality Assurance Requirements for Downstream Oxygenate Blending

A. Background

The RFG regulations currently require RFG to contain a minimum of 2.0 weight percent oxygen. 40 CFR 80.41. To fulfill this requirement, oxygenate is added either at the refinery before the gasoline is certified by the refiner as meeting RFG requirements, or it is added downstream from the refinery at an oxygenate blending facility. As discussed in more detail below, refiners often wish to require that more than the minimum amount of oxygenate be added downstream in order to include the additional oxygenate in their emissions performance compliance calculations. Although Congress recently removed the oxygen requirement for RFG in the Clean Air Act,[1] we believe many refiners and importers may wish to continue to include oxygenate added downstream in their emissions compliance calculations. Under the current

[1] Energy Policy Act of 2005, Public Law 109–58 (HR6), section 1504(a), 119 STAT 594, 1076–1077 (2005). In accordance with the Energy Policy Act, EPA has issued a rule amending the RFG regulations for California to remove the 2.0 weight percent oxygen standard (71 FR 8965 (February 22, 2006)), and has proposed a similar rule that would be applicable in the rest of the country (71 FR 9070 (February 22, 2006)).

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regulations, refiners must conduct a program of quality assurance testing at the downstream oxygenate blending facility in order to include the oxygenate in their compliance calculations. This rule provides an alternative QA requirement for these refiners and importers.

Under the current regulations, when oxygenate is to be added to produce RFG at a downstream oxygenate blending facility, refiners produce a product called reformulated gasoline blendstock for oxygenate blending, or RBOB. RBOB is certified by the refiner, or by an importer who imports RBOB, as complying with all of the RFG requirements except the minimum 2.0 weight percent oxygen requirement. The oxygenate blender is responsible for complying with the oxygen requirement when the oxygenate is added to the RBOB to produce RFG at the oxygenate blending facility.

Various oxygenates may be used to fulfill the oxygen requirement. Some oxygenates, such as methyl tertiary butyl ether, or MTBE, typically are added at the refinery. However, some oxygenates, such as ethanol, have a propensity to attract water, and, as a result, cannot be added at the refinery, particularly where the finished gasoline will be traveling through a pipeline on its way to terminals and retail gasoline stations. As a result, RFG containing ethanol is typically produced by blending the ethanol with RBOB at a blending facility downstream from the refinery that produced the RBOB.

Refiners and importers of RBOB are required to calculate compliance with the RFG emissions performance standards for VOC, NO_X and toxics by sampling and testing a hand blended mixture of the RBOB and the type and amount of oxygenate that the refiner or importer of the RBOB designates must be added downstream. The type and amount of oxygenate to be added downstream must be indicated on the product transfer documents that accompany the gasoline when it is transferred to the downstream oxygenate blender. The oxygenate blender is required to add the type and amount of oxygenate designated on the product transfer documents.

Under the current regulations, RBOB refiners and importers can designate either a specific type and specific amount of oxygenate to be added downstream, or they can designate one of two generic categories of RBOB: ''any-oxygenate'' RBOB or ''ether-only'' RBOB. 40 CFR 80.69(a)(8). Where the RBOB is designated as any-oxygenate RBOB, the refiner or importer must assume for purposes of its handblend that 2.0 weight percent ethanol will be added downstream. The downstream oxygenate blender may add any type of legal [2] oxygenate, to any-oxygenate RBOB in an amount sufficient to meet the minimum 2.0 weight percent requirement. Where the RBOB is designated as ether-only RBOB, the refiner or importer must assume for purposes of its handblend that 2.0 weight percent MTBE will be added downstream. The oxygenate blender may add any legal ether oxygenate to ether-only RBOB in an amount sufficient to meet the minimum 2.0 weight percent requirement.

Where a specific type and amount of oxygenate is designated for the RBOB rather than one of the two generic designations, the regulations require the refiner or importer to conduct downstream oversight quality assurance (QA) sampling and testing of the downstream oxygenate blending facility. 40 CFR 80.69(a)(7). This is to ensure that the specific type and amount of oxygenate that is designated, which typically is greater than the 2.0 weight percent requirement, in fact is added to the RBOB by the oxygenate blender. In addition, the refiner or importer must have a contract with the oxygenate blender which requires the blender to comply with the blending procedures specified by the RBOB refiner or importer and allows the refiner or importer to conduct the required QA sampling and testing. 40 CFR 80.69(a)(6). If the refiner or importer does not meet the contractual and quality assurance requirements and does not designate its RBOB as ether-only or any-oxygenate, the refiner or importer must assume for purposes of its handblend that 4.0 volume percent ethanol will be added to the RBOB downstream.

B. Need for Action

Recently, the states of New York and Connecticut promulgated state laws banning the use of MTBE in gasoline sold in these states. As a result, many refiners and importers that historically produced or imported RFG containing MTBE for the NY/CT RFG area currently produce or import RBOB for ethanol blending. Refiners in this area have indicated that, due to the complex gasoline marketplace in New York and Connecticut, it is extremely difficult, if not impossible, to track RBOB from the refinery where it is produced to the terminal where it is blended with ethanol in order the fulfill the downstream QA sampling and testing requirement. As a result, under the current regulations, refiners in the NY/CT RFG area are effectively precluded from producing an RBOB which requires a specific type and amount of oxygenate, such as 10 volume percent ethanol, and instead must produce a generic any-oxygenate RBOB, which does not require the refiner to conduct downstream QA testing at the ethanol blender facility.

As discussed above, for purposes of calculating compliance with RFG emissions performance standards, these refiners may then only include in their handblends ethanol in an amount which would result in gasoline having 2.0 weight percent ethanol (approximately 5.7 volume percent ethanol.) Some refiners have indicated that they will need to produce RBOB requiring 10 volume percent ethanol, which would allow them to include 10 volume percent ethanol for purposes of compliance calculations, in order to meet emissions performance standards. As a result, these refiners have asked EPA to allow use of an alternative method of meeting the downstream QA sampling and testing requirement.

For the reasons discussed below, we believe it is appropriate to provide refiners and importers who produce or import RBOB for the NY/CT RFG area with an alternative means of meeting the QA sampling and testing requirement. We also believe it is appropriate to provide this alternative to refiners and importers who produce or import gasoline RBOB for other RFG areas. As a result, this rule amends the RFG regulations to provide an alternative QA sampling and testing option which will be available to any RBOB refiner or importer in any RFG covered area. As indicated above, we believe that providing this alternative QA requirement will be appropriate even after the 2.0 weight percent minimum oxygen standard is removed.

C. This Action

This action provides RBOB refiners and importers the option to comply with an alternative QA requirement which consists of a program of sampling and testing designed to provide oversight of all terminals that blend ethanol with RBOB for use in a specified RFG covered area. Under this option, a refiner or importer must either arrange to have an independent surveyor conduct a program of compliance surveys, or participate in the funding of an organization which arranges to have independent surveyor conduct a program of compliance surveys. In either event, compliance

[2] Oxygenates that are allowed under EPA's ''substantially similar'' rule and any section 211(f) waiver that may apply.

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surveys must be carried out by an independent surveyor pursuant to a survey plan calculated to achieve the same QA objectives as the current regulatory requirement. A detailed survey plan must be submitted to EPA for approval by September 1st of the year preceding the annual averaging period in which the alternative QA sampling and testing program would be implemented. The survey plan must include a methodology for determining when the survey samples will be collected, the location of the retail outlets where the samples will be collected, the number of samples to be included in the survey, and any other elements that EPA determines are necessary to achieve the same level of quality assurance as the current QA requirement.

Under this alternative QA option, the independent surveyor is required to obtain samples at retail stations in the RFG covered area in accordance with the survey plan and have the samples tested for type and amount of oxygenate. The sampling and testing conducted under this alternative QA option must be done in accordance with the provisions in §§ 80.8 and 80.46. The surveyor obtains from the retail outlet the product transfer documents associated with the gasoline, which will provide the surveyor with information regarding the type and amount of oxygenate that the gasoline is supposed to contain, and the terminal that conducted the oxygenate blending. The surveyor must notify EPA of any instance where the product transfer documents do not contain such information. If the test results show that the gasoline does not contain the type and/or the minimum amount of oxygenate indicated on the product transfer documents, the surveyor will ask the terminal determined to have supplied the gasoline to produce documentation of the blending instructions from the refiner or importer of the RBOB. The surveyor is required to notify EPA of any instances where the refiner's or importer's blending instructions indicate that the oxygenate blender did not add the type or minimum amount of oxygenate designated for the RBOB by the refinery or importer. The surveyor is required to submit to EPA a report which includes the information and data collected during the survey, and to maintain records associated with the surveys for five years.

This rule requires each refiner and importer who chooses to comply with the alternative QA requirement to take all reasonable steps to ensure that parties downstream from the refiner or importer cooperate with the program by allowing the independent surveyor to collect samples, and by providing to the independent surveyor copies of product transfer documents and other information regarding the source of any gasoline received, the destination of any gasoline distributed, the oxygenate blending instructions for RBOB, and the rate the oxygenate was blended. In partial satisfaction of the "reasonable steps" requirement, the rule requires the refiner or importer to include such a requirement in contractual agreements with its branded downstream facilities.

In addition, this rule requires parties downstream from a refiner or importer that complies with the alternative QA requirement to include on product transfer documents the type and amount of oxygenate contained in the gasoline and identification of the oxygenate blending terminal that blended the gasoline. This rule requires that the survey plan include a process for notifying all oxygenate blending terminals and other downstream parties in the affected area of the product transfer documentation requirement. Where a downstream party fails to receive notice of the product transfer requirement, the party must begin complying with the product transfer requirement upon notification by EPA.

We believe that use of this QA compliance alternative will result in oversight sampling and testing that is equivalent to the current regulatory QA requirement, and, in fact, may result in significantly superior QA oversight since the sampling and testing will be conducted by an independent surveyor in accordance with a comprehensive plan approved by EPA, rather than by individual refiners and importers. This rule will not have any adverse environmental impact, and will provide refiners and importers with additional flexibility in complying with the regulations. As a result, while this rulemaking was initiated in response to the compliance issues raised by refiners in the NY/CT area, we believe it is appropriate to provide this compliance alternative to refiners and importers supplying any RFG covered area. The rule, therefore, provides this QA compliance alternative to any RBOB refiner or importer in any RFG area who either arranges to have an independent surveyor conduct a program of compliance surveys, or who participates in the funding of an organization that arranges to have an independent surveyor conduct a program of compliance surveys, in accordance with the provisions in this rule.

Compliance with this QA alternative is optional. Refiners and importers may choose to comply with the existing QA requirement and not participate in a survey program. Refiners and importers who supply more than one RFG area may choose to participate in the survey program for one RFG area and comply with the existing QA requirement for another RFG area.

This rule adds a new paragraph (a)(11) to 40 CFR 80.69, which contains the provisions for the alternative QA requirement. This rule also amends § 80.77 to require parties to include on product transfer documents the information required under § 80.69(a)(11) as described above.

II. Requirements for Pipeline Interface

A. Background

Refined petroleum products that are transported by pipeline normally are pumped sequentially, as a continuous flow through the pipeline. As a result, some amount of mixing of adjacent product types normally occurs. The product in a pipeline between two adjacent volumes of petroleum product consists of a mixture of the two adjacent volumes and is called "interface." Generally, interface is blended into the two adjoining products that created the interface. For example, half of the interface between premium and regular gasoline is blended into the premium gasoline and half into the regular gasoline (called a "fifty percent cut" or a "mid-point cut.") However, certain product types, such as jet fuel, are not mixed with any other product type, and all of the interface that contains jet fuel is blended into the other product (called a "clean cut.")

Where interface consists of a mixture of finished fuels that cannot be cut with adjoining product so as to produce a product that meets the specifications for a fuel that can be used or sold without further processing, the interface is called "transmix". Transmix is not blended into either of the two adjacent products transported by the pipeline, but is diverted by the pipeline as a distinct product into a separate storage tank. Transmix is generally transported via tank truck, pipeline or barge to a facility designed to separate the transmix into its fuel components. For example, where the transmix consists of gasoline and distillate fuel, the transmix may be transported to a "transmix processing" facility where the gasoline portion is separated from the distillate fuel. At locations where it is either relatively expensive or inconvenient to transport transmix to a transmix processing facility for separation, the transmix is sometimes blended into gasoline in very small amounts,

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typically around 0.25 volume percent of the gasoline.

The reformulated gasoline (RFG) and anti-dumping requirements apply at any facility where gasoline is produced. *See* 40 CFR 80.2(h) and (i), 80.65(a), and 80.101. Gasoline most commonly is produced by processing crude oil at refineries, but it is also produced by other processes, such as combining blendstocks or adding blendstocks to finished gasoline. Gasoline is also produced when transmix is blended into gasoline, or when transmix is separated into gasoline and distillate fuel. Transmix blending is similar to adding blendstock to gasoline where the addition of the transmix, like blendstock, may change the properties of the gasoline. Similarly, the process of separating gasoline and distillate fuel may result in gasoline with different properties than the gasoline as originally certified by the refinery. Transmix processors and transmix blenders are refiners under the RFG/anti-dumping regulations, but EPA has historically provided transmix processors and transmix blenders flexibility in complying with the refiner requirements. This rule codifies some of the existing practices into EPA regulations, and also includes modifications reflecting EPA experience.

B. 1997 Notice of Proposed Rulemaking

On July 11, 1997, EPA proposed to add a new § 80.84 to the RFG/anti-dumping regulations at 40 CFR part 80 to clarify the manner in which interface, including transmix, would be treated under the RFG/anti-dumping regulations. The NPRM proposed requirements for designating different combinations of gasoline in interface. The NPRM also proposed requirements for transmix processors and transmix blenders that produce either RFG or conventional gasoline.

The NPRM proposed to allow parties to blend transmix into conventional gasoline provided that the transmix resulted from normal pipeline operations, and either there was no means of transporting the transmix to a transmix processor via pipeline or water, or there was an historical practice of blending transmix at the facility before 1995. The rate of transmix blending was limited to the greater of 0.25 volume percent or the demonstrated blending rate in 1994. The NPRM proposed to allow transmix to be blended into RFG provided that the transmix resulted from normal pipeline operations, there was no means of transporting the transmix to a transmix processing facility via pipeline or water, and the party was unable to blend the transmix into conventional gasoline. The rate of transmix blending into RFG was limited to a maximum of 0.25 volume percent. The NPRM also proposed requiring transmix blenders to carry out a program of periodically sampling and testing of the RFG subsequent to transmix blending to ensure that the downstream standards were met.

The NPRM proposed to require transmix processors who designate the gasoline produced from the transmix (such gasoline is one type of transmix gasoline product, or TGP) as conventional gasoline to exclude the TGP from anti-dumping compliance calculations for the transmix processing facility, but to include any blendstocks added to the TGP since such blendstocks would not previously have been included in any refinery's compliance calculations. The NPRM proposed to require transmix processors who designate the gasoline produced from transmix as RFG to include the TGP, as well as any blendstocks used, in the RFG compliance calculations for the transmix processing facility to ensure that the gasoline produced using the transmix meets all RFG standards.

Parties have been processing and blending transmix in accordance with EPA guidance which describes similar treatment of interface and transmix as that outlined in the July 11, 1997 NPRM. (*See Reformulated Gasoline and Anti-dumping Questions and Answers* (November 12, 1996)). Our experience since the guidance was issued indicates that the approach taken in the guidance is mostly appropriate, but that some revisions are warranted. EPA is also aware, from recent discussions with several pipeline operators, that volumes of transmix may increase as pipelines begin transporting ultra-low sulfur diesel fuel. EPA had anticipated that transporting ultra-low sulfur diesel would require greater volumes of diesel to be cut as interface into other higher-sulfur distillate fuels such as heating oil and jet fuel. However, some pipelines have indicated they intend to change their product sequencing by transporting volumes of ultra-low sulfur diesel between volumes of gasoline, in order to minimize sulfur contamination of the ultra-low sulfur diesel. This change increases the number of gasoline/diesel interfaces cut to transmix, and increase the overall volume of transmix. Pipeline operators have also indicated that transporting ultra-low sulfur diesel fuel will cause them to generate transmix at locations where they have not historically generated transmix.

In this rule, we are including the provisions in § 80.84, which were previously proposed in the July 11, 1997 NPRM, with certain changes made in response to the comments we received on the NPRM, as discussed below. We believe it is appropriate to include in this rule the provisions in § 80.84 given the length of time since they were originally proposed, and to include changes made in response to prior comments. We have also added several new provisions in this rule clarifying, and in some instances expanding, the flexibilities available to transmix processors and transmix blenders for complying with the RFG/antidumping regulations. This rule also includes modest recordkeeping requirements in §§ 80.74 and 80.104 which would require parties that handle interface and transmix to keep records verifying that the requirements of § 80.84 were met. In addition, this rule includes provisions for transmix processors and transmix blenders related to gasoline sulfur and air toxics. This rule only addresses gasoline produced by transmix processors and transmix blenders. Distillate fuel produced by transmix processors and transmix blenders is addressed in the diesel sulfur regulations under 40 CFR part 80, subpart I.

EPA believes the flexibilities available in this rule are appropriate given the unique roles that transmix processors and transmix blenders fill in the petroleum products distribution system. Although transmix processors and transmix blenders are refiners under EPA's regulations, almost all of the gasoline and distillate fuel they produce is derived from fuel which has already been produced and certified by an upstream refinery. Thus, this rule allows transmix processors the flexibility to exclude from their antidumping compliance calculations conventional gasoline that they recover directly from transmix, since the conventional gasoline has already been accounted for in the compliance calculations of an upstream refinery. Similarly, this rule allows transmix processors to only have to meet the downstream sulfur standards for gasoline they recover directly from transmix, since the gasoline has already been accounted for in the compliance calculations of an upstream refinery. However, transmix processors must comply with all refiner standards at each of their transmix processing facilities for any blendstocks they add to gasoline. Lastly, this rule allows transmix blenders to blend transmix into gasoline without restriction on

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location or rate, provided the endpoint of the transmix-blended gasoline does not exceed 437 degrees Fahrenheit, and that the gasoline meets all applicable downstream standards.

C. Pipelines

This rule includes designations for pipeline interface that are consistent with the designations in EPA's current guidance and the 1997 NPRM. The designations for pipeline interface are primarily intended to ensure that pipelines cut their interfaces in a manner that maintains the quality of any RFG or VOC-controlled gasoline transported by a pipeline. For example, interfaces between volumes of RFG and conventional gasoline should be cut into the conventional gasoline to maintain the quality of the RFG. Regardless of gasoline product designation, all gasoline containing interface must meet all downstream standards, including but not limited to any standards and requirements that apply downstream of the refinery in 40 CFR part 80 and the Clean Air Act.

D. Transmix Processors

1. Comments on the 1997 Notice of Proposed Rulemaking

EPA received a number of comments on the 1997 NPRM regarding transmix processors. One commenter said that the definition of transmix should be changed since transmix processors and transmix blenders sometimes process or blend mixtures of fuels that were unintentionally combined in tanks. Although such mixtures are similar in composition to transmix, they do not fit the definition of transmix proposed in the 1997 NPRM, which specified that transmix must be generated in a pipeline. EPA agrees that a product that in composition is similar to transmix, and that is produced by unintentionally mixing gasoline and distillate fuel in tanks, should be afforded the same treatment as transmix product generated in a pipeline. EPA also understands that transmix may include mixtures of gasoline and distillate fuel produced through normal operational activities at pipelines and terminals, such as draining tanks, or draining piping and hoses used to transfer gasoline or distillate fuel to tanks or trucks, or from a safety relief valve discharging to protect equipment from overpressuring. As a result, § 80.84(e) in this rule specifically allows such products to be covered under the transmix provisions.

EPA is aware that some transmix processors and transmix blenders may also be adding feedstocks to their transmix that were not produced from normal pipeline interface, or from inadvertently mixing gasoline and distillate fuel in tanks, or through normal operational activities at pipelines and terminals. Mixing other feedstocks in transmix prior to processing may cause these other feedstocks to be inappropriately accounted for under the antidumping regulations and gasoline sulfur regulations, as discussed later. The flexibility provided in this rule extends only to transmix composed of pipeline interface, mixtures of gasoline and distillate fuel that were unintentionally combined in a tank, and mixtures of gasoline and distillate fuel produced through normal operational activities at pipelines and terminals. A transmix processor or transmix blender who adds feedstocks derived from any other sources to their transmix must comply with all the standards applicable to a refiner under EPA's regulations for all the gasoline they produce during a compliance period, including but not limited to any standards and requirements in 40 CFR part 80 and the Clean Air Act. Transmix processors that add feedstocks from any other sources should also take extra care to be sure that they are complying with Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6921–6939(e), and any state provision authorized pursuant to section 3006 of RCRA, 42 U.S.C. 6926.

One commenter said that the 1997 NPRM should clarify that the transmix processing requirements do not apply to transmix processed by a crude oil refinery where the transmix is received into a crude or other feedstock stream and is not separated before it is added to other feedstocks. EPA believes that the regulations in this rule are clear in this regard, since they specifically apply to persons who separate transmix at a transmix processing facility. The term "transmix processing facility" is defined as excluding refineries that "produce gasoline by processing crude oil". Such refineries must comply with all existing refiner requirements, and would not be eligible to take advantage of the flexibilities available in this rule.

Some commenters said that they do not know the source of the transmix and, therefore, would not know the original designation of the gasoline portion of the transmix (*e.g.*, RFG, conventional gasoline, blendstocks). The commenters said that the transmix processor should not be required to track and segregate transmix generated from different types of gasoline or blendstocks. This rule does not require a transmix processor to track and segregate transmix. However, § 80.65 requires the transmix processor to designate the gasoline portion (*i.e.*, conventional gasoline, RFG, or RBOB) that is separated from the distillate fuel.

One commenter said that, under previous guidance, EPA provided for the exclusion of the transmix-based portion of conventional gasoline from anti-dumping compliance calculations as an option, whereas in the 1997 NPRM, the exclusion is mandatory. The commenter believes the exclusion should be optional. Another commenter believes that transmix processing improves the quality of the gasoline separated from transmix by removing more heavy aromatics and sulfur compounds and improving E300 distillation point, and therefore, TGP should be included in compliance calculations for conventional gasoline to give credit for the improvements. EPA agrees with the commenters, and this rule modifies the 1997 NPRM to allow the exclusion of the TGP from anti-dumping compliance calculations to be optional, provided the TGP meets all of the downstream standards for conventional gasoline. However, in order to prevent transmix processors from selectively including only high quality TPG batches in their compliance calculations, while excluding those of low quality, transmix processors must consistently include or exclude TGP in their compliance calculations during each annual compliance period, with one exception.

The exception occurs if transmix contains gasoline blendstocks that are derived from pipeline interface. EPA understands that some pipelines transport gasoline blendstocks, and that these pipelines may cut interfaces containing gasoline blendstock to a transmix tank. If a transmix processor produces conventional gasoline from transmix containing gasoline blendstocks and was allowed to exclude the TGP from their anti-dumping compliance calculations, the finished conventional gasoline would not be included in any refiner's anti-dumping compliance calculations. Thus, if a transmix processor produces conventional gasoline at a transmix processing facility from transmix containing gasoline blendstocks derived from pipeline interface, the transmix processor must consistently include all TGP produced during a compliance period in their antidumping compliance calculations for that transmix processing facility. As discussed previously, if transmix processors add any feedstocks to their transmix that were not produced from normal pipeline interface, or from inadvertently mixing gasoline and distillate fuel in tanks, or through

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normal operational activities at pipelines and terminals, they must comply with all standards applicable to refiners under EPA's regulations for all the gasoline they produce during a compliance period. This rule also requires any RFG or RBOB produced by a transmix processor to be included in the RFG compliance calculations for the transmix processing facility.

This rule also modifies the 1997 NPRM by treating TGP as a blendstock when the transmix processor mixes the TGP with other blendstock(s) to produce conventional gasoline. In this situation, the TGP would be included in compliance calculations for the resulting conventional gasoline. We believe it is appropriate to treat TGP as a blendstock rather than as a previously certified gasoline in this situation, since the TGP is likely to have undergone changes as a result of having been interfaced with another product and separated through transmix processing. For example, one transmix processor indicated that their TGP could not be directly sold as gasoline because it does not meet standards for octane or Reid vapor pressure. This approach is consistent with the approach taken in both the 1997 NPRM and the Question and Answer guidance with regard to RFG, where TGP is required to be included in compliance calculations when it is mixed with blendstock to produce RFG.

Where TGP is sold as a blendstock, the transmix processor must exclude the TGP from compliance calculations, with one exception. The exception is when the transmix processor sells the TGP to an oxygenate blender as a blendstock which becomes conventional gasoline solely upon the addition of an oxygenate, such as ethanol or MTBE. In this circumstance, the transmix processor must include the TGP in compliance calculations. This exception does not apply if the TGP is combined with any other non-oxygenated blendstocks to produce conventional gasoline. Thus, in order for a transmix processor to properly account for any TGP sold as a blendstock in compliance calculations for a transmix processing facility, the transmix processor must clearly state on the TGP product transfer documents whether or not the TGP may only be combined with an oxygenate to produce conventional gasoline. This approach is consistent with the anti-dumping regulations at § 80.101(d)(3), which require blendstocks that become conventional gasoline solely upon the addition of an oxygenate to be included in anti-dumping compliance calculations for the refiner that produced the blendstock.

Transmix processors also sometimes blend sub-octane TGP with previously certified premium gasoline (PCG) to produce regular gasoline. Transmix processors which blend sub-octane TGP with premium PCG to produce conventional gasoline must include the TGP in compliance calculations for the transmix processing facility, but may meet the sampling and testing requirements in one of three ways. First, the transmix processor may directly measure the properties of the TGP and treat each volume of TGP blended with PCG as a separate batch for purposes of compliance calculations. As a second alternative, the transmix processor may measure the volume and properties of the PCG prior to blending with the TGP, then measure the volume and properties of the gasoline subsequent to blending with the TGP, and calculate the volume and properties of the TGP by subtracting the volume and properties of the PCG from the volume and properties of the gasoline subsequent to blending. As a third alternative, the transmix processor may demonstrate compliance using the procedures in § 80.101(g)(9). Where TGP is mixed with previously certified gasoline to produce RFG or RBOB, the transmix processor must demonstrate compliance using the procedures in § 80.65(i).

One commenter said that EPA should allow transmix processors to blend oxygenates and other blendstocks into transmix-based conventional gasoline to produce RFG. This rule addresses this comment by allowing transmix processors to treat their TGP as a blendstock, and combine the TGP with other blendstocks to produce either conventional or reformulated gasoline. In this situation, the transmix processor must fulfill all the requirements and standards for RFG that apply to a refiner.

2. Issues Not Addressed in the 1997 NPRM

a. Gasoline Sulfur

In the preamble to the gasoline sulfur regulations, EPA indicated that the Agency would establish requirements for transmix processors in a future rulemaking (65 FR 6800, February 10, 2000). Therefore, as part of this rulemaking, EPA is also including requirements for transmix processors and transmix blenders under the gasoline sulfur regulations at 40 CFR part 80, subpart H.

As under the RFG/anti-dumping rule, transmix processors and transmix blenders are refiners under the gasoline sulfur regulations. As a result, transmix processors and transmix blenders are subject to the refinery sulfur standards under § 80.195 of the gasoline sulfur regulations. However, for reasons discussed below, we believe it is appropriate that such parties be held to the gasoline sulfur standards applicable to downstream parties under §§ 80.210 and 80.220 of the gasoline sulfur regulations, and not be held to the more stringent refinery standards in § 80.195.

As indicated above, transmix processors generally do not control their feedstock, but receive mixtures of products from upstream refineries. The gasoline portion of transmix may be relatively high in sulfur if it was originally produced by a small refiner, a refiner producing gasoline for use in the Geographic Phase-in Area (GPA), or a refiner who has been given a temporary hardship extension to produce relatively high sulfur gasoline. As a result, holding transmix processors to the downstream sulfur standards rather than the more stringent refinery standards will provide transmix processors the flexibility to recover gasoline originally produced by small refiners, refiners of GPA gasoline, or temporary hardship refiners. To ensure compliance with the applicable downstream sulfur standards, transmix processors will be required to test any gasoline produced from transmix for sulfur content.

Under this rule, transmix processors who add blendstocks not derived from transmix to their recovered gasoline will be required to meet all of the requirements and standards that apply to refiners under 40 CFR part 80, subpart H, for such blendstocks. Where certain requirements are met, the transmix processor may use sulfur test results from the blendstock supplier for purposes of meeting the sampling and testing requirements under the sulfur rule.

As mentioned previously, EPA has learned that some transmix processors have added feedstocks to their transmix, before the transmix is processed, that are not produced from pipeline interface, or from mixtures of gasoline and distillate fuel unintentionally combined in a tank, or from normal operations at pipelines and terminals. Transmix processors that use these other feedstocks must meet all EPA standards applicable to a refiner for all the gasoline they produce during a compliance period, including the refinery level sulfur standards in 40 CFR 80.195. These transmix processors may not utilize the flexibilities in this rule because they have chosen to use feedstocks that have not been previously accounted for by a refinery in the production of gasoline. When the

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transmix is processed, the previously compliant gasoline present in the transmix and the other feedstocks both distill out of the transmix together as a fungible product, and the transmix processor cannot distinguish exactly which portion of the TGP was derived from previously compliant gasoline and which was derived from other feedstocks. Thus, EPA is limiting the flexibility allowed by this rule to gasoline produced from transmix, only if the transmix was produced from pipeline interface, or from mixtures of gasoline and distillate fuel that were unintentionally combined in a tank, or from mixtures of gasoline and distillate fuel produced from normal operational activities at pipelines and terminals. Transmix processors who add any other material to their transmix must comply with all EPA standards applicable to a refiner for all the gasoline they produce during a compliance period, including the refinery level sulfur standards in 40 CFR 80.195.

This rule does, however, allow transmix processors that produce gasoline from pipeline interface to meet the less stringent downstream gasoline sulfur standards, even if the interface contains small amounts of gasoline blendstocks that are transported via pipeline as a normal part of pipeline operations. EPA believes it is appropriate to allow transmix processors that produce gasoline from these interface mixtures to meet the downstream sulfur standards because they do not have the same level of control over their transmix as the transmix processors that intentionally introduce other feedstocks into the production process. Furthermore, because the volume of gasoline blendstocks in the transmix will be relatively small and since the gasoline will still have to meet downstream standards, EPA believes the environmental consequences of allowing these transmix processors to meet the less stringent downstream sulfur standard should be negligible.

This rule adds a new § 80.213 to the gasoline sulfur regulations. This section contains the additional requirements for demonstrating compliance with the gasoline sulfur rule discussed above for refiners who process or blend transmix in accordance with the provisions in § 80.84. EPA believes that the additional requirements for transmix processors and transmix blenders in § 80.213 are necessary to maintain the flexibility of the current practices regarding transmix, and will not result in any adverse environmental consequences. This rule also adds modest recordkeeping requirements to § 80.365 which require parties to retain records of any sampling and testing required under § 80.213.

b. Air Toxics

The mobile source air toxics (MSAT) rule (66 FR 17230, March 29, 2001) requires the annual average toxics performance of a refinery's or importer's gasoline to be at least as clean as the average of its gasoline during the three-year baseline period 1998–2000. The MSAT requirements apply separately to RFG and to conventional gasoline. MSAT compliance is determined from the same gasoline data used by a refiner to determine its compliance with the RFG or anti-dumping requirements. As a result, only gasoline which would be included in the RFG or anti-dumping compliance determination of a refiner is included in the refiner's MSAT baseline and compliance determinations.

Most, if not all, transmix processors have unique individual MSAT baselines. Under MSAT, those with unique individual MSAT baselines (§ 80.915) are subject to their MSAT baseline up to their associated MSAT baseline volume (§ 80.850). Gasoline production above the MSAT baseline volume is subject to either the RFG toxics performance standard (§ 80.41) or to the refiner's anti-dumping standard (§ 80.91). Because these standards are equal to or less stringent than the refiner's MSAT baseline, they offer some flexibility to the refiner's overall compliance with its MSAT standard. Because gasoline demand is increasing, EPA expects that this provision will provide most refiners with some degree of MSAT compliance flexibility. The MSAT rules also provide for limited credit and deficit carryover, allowing refiners to weather slightly off years with better toxics performance in an adjacent year (§ 80.815). Finally, because all refiners are subject to MSAT standards which are typically more stringent than the RFG toxics performance standard or their individual anti-dumping standard, it is likely that the gasoline portion of the transmix is also cleaner with respect to toxics performance than it was during the baseline period 1998–2000, thus providing some immediate flexibility to transmix processors and transmix blenders.

This action clarifies that any gasoline or blendstock a transmix processor includes in their RFG or anti-dumping compliance determination is also included in their MSAT compliance calculations. Also, EPA has recently proposed to replace the existing MSAT regulations with a standard that would limit the benzene content of gasoline to an annual average of 0.62 percent by volume for most refiners, beginning in 2011. See 71 FR 15803 (March 29, 2006). The proposed toxics regulations exempt transmix processors from the new benzene standard for any gasoline they recover from transmix, but require transmix processors to meet the standard for any blendstocks they add to transmix.

E. Transmix Blenders

1. Comments on the 1997 Notice of Proposed Rulemaking

One commenter was concerned that the sampling and testing procedures in the 1997 NPRM for blends of transmix and RFG, which would be performed after blending the transmix, may not prevent the release of noncompliant RFG in the distribution system. For reasons discussed below, however, EPA believes that commercial standards limit transmix blending to such small percentages, that blending transmix in RFG will cause essentially no change in the emissions performance of the RFG. This rule will specifically require that all gasoline produced by transmix blenders have an endpoint less than 437 degrees Fahrenheit. As described below, as a practical matter, EPA believes that this endpoint standard will effectively prevent the blending of transmix into gasoline from causing any appreciable changes in gasoline emissions performance.

One commenter said that the 1996 Question and Answer guidance regarding transmix blended into conventional gasoline requires that the transmix be blended at a rate no greater than the historical rate that was used by the pipeline, whereas the NPRM provided that the transmix be blended at a rate no greater than the historical rate at the terminal or 0.25 volume percent, whichever is greater. The commenter said the NPRM did not cover a situation where, historically, transmix was moved through a pipeline to a terminal that is no longer used for blending transmix, and the transmix is currently moved through the same pipeline but blended at an intermediate terminal which historically had not been used for blending transmix. The commenter recommended that the language in the Q&A guidance, which covers this situation by allowing blending at the historical rate used by the pipeline rather than by the terminal, be adopted in the regulations.

We believe the Q&A guidance is consistent with the 1997 NPRM in stating that if a pipeline stops blending transmix at a terminal, that the pipeline may not begin blending transmix at a second terminal at a rate equal to the

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first terminal's blending rate. The Q&A guidance states: "* * * the transmix must be present in a terminal from which there is no out-bound pipeline or water transportation by which the transmix could be transported to a transmix processor, or the pipeline's historical practice *at the terminal* [emphasis added] (the practice beginning at least before January, 1994) has been to blend all transmix into conventional gasoline without further processing." This language indicates that the criteria regarding historical practice applies to the terminal in which the transmix was blended by the pipeline. Where a pipeline blends transmix at more than one terminal, the historical practice criterion would apply separately to each of the pipeline's terminals at which transmix is blended. However, as described below, this rule would change this approach.

2. These Requirements

This rule eliminates the historical practice criterion for determining amounts of transmix to be blended into conventional gasoline and the locations where this may occur, and also eliminates the 0.25 volume percent limit for blending transmix in reformulated gasoline. This rule instead allows transmix to be blended into conventional or reformulated gasoline in any location and in any amount, provided the endpoint of the transmix-blended gasoline does not exceed 437 degrees Fahrenheit,[3] and meets all other applicable downstream standards. As EPA's diesel sulfur regulations begin phasing in, transmix will be generated at new locations. EPA believes it is appropriate to allow the flexibility to blend transmix into gasoline at locations which have not historically blended transmix, provided the endpoint of the transmix-blended gasoline does not exceed 437 degrees Fahrenheit, and the gasoline meets all other applicable downstream standards. In addition, EPA believes it is appropriate to use gasoline endpoint to regulate transmix blending because it takes into account the quality of the transmix-blended gasoline. The historical practice criterion for conventional gasoline and the 0.25 volume percent limit for RFG were crude approaches that did not account for the variability of transmix and its effect on the gasoline into which it was blended.

EPA believes that blending small percentages of transmix in gasoline should be allowed at any facility, provided the facility takes appropriate steps to ensure that the endpoint of the transmix-blended gasoline does not exceed 437 degrees Fahrenheit. Transmix typically contains significant percentages of distillate fuels such as diesel fuel or heating oil, and distillate fuels have higher boiling points and much lower octane ratings than gasoline. EPA's existing guidance regarding transmix blending reflected a concern that blending excessive amounts of transmix in gasoline could have an appreciable effect on emissions. However, EPA believes that where transmix is blended at sufficiently low percentages, such that the endpoint of the transmix-blended gasoline does not exceed 437 degrees Fahrenheit, the emissions effect of blending transmix in gasoline will be negligible.

In addition to affecting gasoline endpoint and octane, blending transmix in gasoline also affects parameters in EPA's complex model, the model used to ensure that imported or produced gasoline complies with EPA standards. Although the complex model does not use gasoline endpoint or octane to predict gasoline emissions, the complex model does use several other gasoline parameters to predict gasoline emissions. These parameters include sulfur content, benzene content, aromatics content, olefin content, oxygen content, Reid vapor pressure (RVP), and two distillation points (E200 and E300). Compared to gasoline, the distillate fuel portion of transmix contains much less benzene, olefins, and oxygen (typically zero for all three parameters), has a much lower RVP, may contain a moderately greater percentage of aromatics, has significantly lower (typically zero) E200 and E300 distillation points, and may contain more sulfur.

EPA is primarily concerned with the effect of transmix blending on average gasoline sulfur content. Beginning in 2006, EPA's gasoline sulfur regulations specify that all gasoline produced by most refineries or imported by each importer must contain an annual average sulfur content of 30 ppm or less, in order to help significantly reduce emissions from gasoline-powered vehicles.[4] Transmix may contain significant percentages of high sulfur distillate fuel such as heating oil, nonroad diesel or jet fuel, and blending transmix containing high sulfur distillate fuels into gasoline could cause an increase in the sulfur content of the gasoline.

EPA believes, for two reasons, that the potential increase in gasoline sulfur due to blending transmix into gasoline would be so small, that the effect on emissions from gasoline engines would be negligible. The first reason is that the percentage of transmix that can be blended into gasoline is significantly limited by the amount of distillate fuel in the transmix. Distillate fuels have much higher boiling points than gasoline, so transmix blenders must limit the addition of transmix so that the endpoint of the transmix-blended gasoline does not exceed 437 degrees Fahrenheit. Refiners already have to meet the ASTM endpoint standard under the "substantially similar" requirements for gasoline (56 FR 5352, February 11, 1991). Consequently, transmix which contains relatively high percentages of distillate fuel must be blended into gasoline at relatively low percentages so that the endpoint of the transmix-blended gasoline does not exceed 437 degrees Fahrenheit.

The second reason is that EPA anticipates that the distillate fuel portion of transmix will contain significantly less sulfur beginning June, 2006, when the sulfur standard for highway diesel fuel drops sharply from 500 to 15 parts per million (ppm). Beginning in June, 2006, EPA estimates that the national average sulfur content of transmix will drop from approximately 800 ppm to 141 ppm, using product sulfur levels and pipeline product sequencing arrangements from Chapter 7 of the Regulatory Support Document (RSD) for the nonroad diesel sulfur regulations. Blending 0.25 volume percent transmix containing 141 ppm sulfur into gasoline raises the sulfur level of the gasoline by only approximately 0.3 ppm. Although the percentage of gasoline that is blended with transmix is anticipated to increase under this rule, EPA anticipates that transmix will be blended at no more than 0.25 volume percent on average nationwide, and that the overall average increase in gasoline sulfur from transmix blending will have a negligible

[3] 437 degrees Fahrenheit is the maximum allowable endpoint for gasoline specified in ASTM's standard for automotive spark-ignition engine fuel, D 4814–88. Gasoline endpoint is measured using ASTM D86–01. ASTM D86–01 measures the percentage of a gasoline sample that evaporates, as a function of temperature, as the sample is heated up under controlled conditions. Endpoint is the temperature at which all the volatile portion of a gasoline sample is evaporated. ASTM D4814–88 specifies a maximum allowable endpoint of 437 degrees Fahrenheit in order to limit the amount of higher-boiling point compounds that can be present in the gasoline.

[4] Gasoline produced by most refineries or imported by each importer must also contain no more than 80 ppm sulfur per gallon beginning in 2006. However, EPA has allowed flexibility for some refiners to be able to produce gasoline that is higher on both an average basis and a per gallon basis through December 31, 2010.

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impact on emissions from gasoline engines. Using EPA's model for calculating emissions from vehicle fleets for a given year (MOBILE 6.2.03), EPA estimates that blending 0.25 volume percent transmix in gasoline would change emissions of various pollutants by only −0.2 to 0.3 percent.

EPA believes that the effect of blending transmix in gasoline at relatively low percentages will have a similarly small effect on other complex model parameters, such that the consequent effect on gasoline emissions will also be negligible. Since gasoline toxics emissions are primarily affected by benzene, and the distillate fuel portion of transmix typically contains no benzene, transmix-blended gasoline is not expected to produce any more toxics than gasoline which does not contain transmix. Similarly, since evaporative emissions are primarily affected by RVP, and the distillate fuel portion of transmix has a much lower RVP than gasoline, volatile emissions from transmix-blended gasoline are not expected to be any greater than volatile emissions from gasoline which does not contain transmix.

EPA is aware that the physical properties of gasoline and transmix can vary due to a variety of factors, which affect the percentage of transmix that can be blended into gasoline, without causing the endpoint of the transmix-blended gasoline to exceed 437 degrees Fahrenheit. For example, gasoline that is produced for use during colder winter months often has an endpoint which is lower than the endpoint of gasoline produced during warmer summer months. Similarly, reformulated gasoline often has an endpoint which is lower than the endpoint of conventional gasoline produced during the same time of the year. Gasoline which has a relatively low endpoint compared to the ASTM standard can be blended with a greater percentage of distillate fuel without causing the endpoint of the transmix-blended gasoline to exceed 437 degrees Fahrenheit. Additionally, the properties of the transmix itself can vary widely due to the practices of the pipeline or terminal that produced the transmix. If transmix contains a relatively high percentage of gasoline, a relatively greater percentage of transmix can be blended into gasoline without causing the endpoint of the transmix-blended gasoline to exceed 437 degrees Fahrenheit, since the transmix itself is already mostly composed of gasoline. Alternatively, if transmix contains a relatively high percentage of distillate fuel, the percentage of transmix that can be blended into gasoline without causing the endpoint of the transmix-blended gasoline to exceed 437 degrees Fahrenheit is relatively low. EPA is not including any requirements in this rule to list additional information on product transfer documents identifying gasoline or transmix properties. However, as described below, EPA is requiring transmix blenders to maintain a quality assurance program.

EPA also understands that distillate fuel can potentially be blended more than once into the same volume of gasoline through transmix blending and other normal pipeline operations. Blending transmix multiple times into the same volume of gasoline can cause an excessive cumulative percentage of transmix to be blended into the gasoline, and cause the endpoint of the transmix-blended gasoline to exceed 437 degrees Fahrenheit. For example, a pipeline or terminal may blend transmix into gasoline, then send the gasoline to another pipeline or terminal which may blend transmix into the gasoline a second time. Similarly, as part of normal pipeline operation, pipeline operators may cut an interface between adjacent volumes of gasoline and distillate fuel directly into the gasoline volume. Cutting distillate fuel directly into gasoline has an effect on gasoline properties similar to the effect of blending transmix directly into the gasoline (gasoline endpoint increases and octane decreases). A downstream pipeline or terminal could then subsequently blend transmix into the same volume of gasoline which already contains distillate fuel from the interface cut. EPA is not including any requirements in this rule to list any additional information on product transfer documents identifying whether gasoline has been blended with transmix or any distillate fuel. EPA believes that the requirement that gasoline produced by transmix blenders meet the 437 degree Fahrenheit endpoint standard will prevent any potentially deleterious effects from successive transmix blending. However, as described below, EPA is proposing that transmix blenders maintain a quality assurance program designed to ensure compliance with the endpoint standard.

This rule requires transmix blenders to maintain a quality assurance program that will ensure that the endpoint of transmix-blended gasoline does not exceed 437 degrees Fahrenheit, and that the transmix-blended gasoline will comply with the downstream standards for conventional or reformulated gasoline. As a part of this quality assurance program, transmix blenders must either sample and test transmix-blended gasoline at certain frequencies to determine the end-point of the gasoline, or submit a petition to EPA documenting how their quality assurance program ensures that the endpoint of their transmix-blended gasoline will not exceed 437 degrees Fahrenheit, and that the transmix-blended gasoline meets all EPA downstream standards for conventional or reformulated gasoline.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this direct final rule does not satisfy the criteria stated above. As a result, this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review. It would not have an annual effect on the economy of $100 million or more and is not expected to have any adverse economic effects as described in the Order. This direct final rule does not raise issues of consistency with the actions taken or planned by other agencies, would not materially alter the cited budgetary impacts, and does not raise any novel legal or policy issues as defined in the Order.

B. Paperwork Reduction Act

The modifications to the RFG information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The information collection requirements

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are not enforceable until OMB approves them.

This rule addresses certain adverse impacts on refiners and importers of RBOB under the current rule and provides these refiners and importers with additional flexibility to comply with the regulations. The flexibility afforded under this rule is optional. Modest information collection requirements in the form gasoline surveys of oxygenate blending facilities are required for those parties who avail themselves of the flexibility provided in this rule. It is estimated that refiners and importers who choose this option will save, at a minimum, half of the cost they would incur if they complied with the existing QA requirements.

The estimated total hourly burden per respondent for the gasoline surveys is 20 hours. The estimated total hourly burden for all respondents is 700 hours (35 respondents maximum). The hourly cost is estimated to be $71 per hour. The total estimated cost per respondent for the gasoline surveys is $1,420. The total estimated cost for all respondents is $49,700. In addition, the gasoline survey requirement is estimated to require purchase of services costs to industry of approximately $220,000, assuming that refiners and importers in all potentially affected RFG areas choose the compliance option under this rule.

This rule provides flexibility for transmix processors and transmix blenders to produce gasoline under certain circumstances without having to meet all of EPA's standards for refiners. Transmix processors are allowed to recover gasoline from transmix that does not need to be included in their compliance calculations, under certain circumstances. Transmix blenders are provided with the additional flexibility to blend transmix at any rate and at any location, provided the endpoint of their transmix-blended gasoline does not exceed 437 degrees Fahrenheit. However, in order to ensure the endpoint of the transmix-blended gasoline does not exceed 437 degrees, transmix blenders will be required to either test every batch of transmix-blended gasoline or submit a petition to EPA documenting that they maintain an oversight program that will prevent the endpoint of transmix-blended gasoline from exceeding 437 degrees. These requirements codify existing practices designed to ensure that products transported by pipelines meet existing downstream standards.

EPA estimates that approximately 25 transmix blenders will submit one-time petitions for approval of their quality testing programs. One transmix blender estimated that they would need 1–2 person-weeks to prepare a petition for EPA approval. For calculating the burden and cost of this rule, EPA has estimated that the average labor cost will be $71/hour, and that each petition will take 2 person-weeks (80 hours) to prepare. Multiplying the average labor cost by the total time required to prepare each petition (80 hours) by the total number of petitions (25) results in a total respondent cost of $142,000.

The information under this rule will be collected by EPA's Transportation and Regional Programs Division, Office of Transportation and Air Quality, Office of Air and Radiation (OAR), and by EPA's Air Enforcement Division, Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance (OECA). The information collected will be used by EPA to evaluate compliance with the requirements under the RFG and antidumping programs, and gasoline sulfur program. This oversight by EPA is necessary to ensure attainment of the air quality goals of the RFG and antidumping programs, and gasoline sulfur program.

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 in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this direct final rule.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this rule.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

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

This direct final rule will not have any adverse economic impact on small entities. This direct final rule codifies existing guidance for the RFG and antidumping regulations, and establishes provisions in the gasoline sulfur regulations (65 FR 6698, February 10, 2000) that allow transmix processors and transmix blenders more flexibility for compliance. The direct final rule establishes gasoline sulfur standards for transmix processors and blenders that are consistent with the sulfur standards for other entities, such as pipelines and terminals, that are downstream of refineries in the gasoline distribution system, and clarifies the requirements for transmix processors under the Mobile Source Air Toxics program. These requirements codify existing practices designed to ensure that products transported by pipelines meet existing downstream standards. This direct final rule also provides refiners and importers with an alternative compliance option for fulfilling a requirement to conduct downstream sampling and testing at oxygenate blender facilities. We have therefore concluded that this direct final rule will

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relieve regulatory burden for all small entities subject to the RFG regulations.

D. Unfunded Mandates Reform Act

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

This direct final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector that would result in expenditures of $100 million or more. This rule provides refiners and importers of gasoline with additional flexibility in complying with regulatory requirements. As a result, this rule will have the overall effect of reducing the burden of the RFG regulations on these regulated parties. These requirements also codify existing practices designed to ensure that products transported by pipelines meet existing downstream standards. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This direct final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule provides refiners and importers of gasoline with additional flexibility in complying with regulatory requirements. These requirements also codify existing practices designed to ensure that products transported by pipelines meet existing downstream standards. The requirements of the rule will be enforced by the Federal government at the national level. Thus, Executive Order 13132 does not apply to this rule.

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

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

This direct final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This rule applies to gasoline refiners and importers of gasoline. This action contains certain modifications to the federal requirements for RFG, and will not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

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

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under the Order has the potential to influence the regulation. This direct final rule is not subject to Executive Order 13045 because it is not economically significant and does not establish an environmental standard intended to mitigate health or safety risks.

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

This direct final rule is not an economically ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it does not have a significant adverse effect on the supply, distribution, or use of energy. This direct final rule provides refiners and importers of gasoline with additional flexibility in complying with regulatory requirements. These requirements also codify existing practices designed to ensure that products transported by pipelines meet existing downstream standards. As a result, this rule may have a positive effect on gasoline supplies.

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I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104–113, 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 direct final rule does not establish new technical standards within the meaning of the NTTAA. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

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).

K. Clean Air Act Section 307(d)

This rule is subject to section 307(d) of the CAA. Section 307(d)(7)(B) provides that "[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review." This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, "[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule." Any person seeking to make such a demonstration to the EPA should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Director of the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20004.

IV. Statutory Provisions and Legal Authority

Statutory authority for the fuel controls set in this direct final rule comes from sections 211 and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, imports, Incorporation by reference, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 25, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

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

Authority: 42 U.S.C. 7414, 7545, 7542, and 7601(a).

■ 2. Section 80.69 is amended by adding paragraph (a)(11) to read as follows:

§ 80.69 Requirements for downstream oxygenate blending.

* * * * *

(a) * * *

(11) Any refiner or importer who produces or imports RBOB may comply with the following alternative quality assurance requirement instead of the contract and quality assurance sampling and testing requirements in paragraphs (a)(6) and (a)(7) of this section:

(i) To comply with the alternative quality assurance requirement under this paragraph (a)(11), a refiner or importer must either arrange to have an independent surveyor conduct a comprehensive program of annual compliance surveys, or participate in the funding of an organization which arranges to have an independent surveyor conduct a comprehensive program of annual compliance surveys, to be carried out in accordance with a survey plan which has been approved by EPA.

(ii) The annual compliance surveys under this paragraph (a)(11) shall be:

(A) Planned and conducted by an independent surveyor that meets the requirements in § 80.68(c)(13)(i);

(B) Conducted at retail gasoline outlets in a specified reformulated gasoline covered area;

(C) Representative of all reformulated gasoline being dispensed in the specified reformulated gasoline covered area; and

(D) Designed to achieve at least the same level of quality assurance required under paragraph (a)(7) of this section.

(iii) The compliance survey program shall require the independent surveyor conducting the surveys to:

(A) Obtain gasoline samples in accordance with the survey plan approved under this paragraph (a)(11), or immediately notify EPA of any refusal of retail outlets to allow samples to be taken;

(B) Test or arrange for the samples to be tested for type and amount of oxygenate;

(C)(*1*) Obtain the product transfer documents associated with the gasoline sample from the retail outlet; or immediately notify EPA of any refusal of any party to provide product transfer documents that should be within their possession; and

(*2*) Immediately notify EPA of any case where the product transfer documents obtained from the retail outlet do not contain the information required in paragraph (a)(11)(vii)(A) of this section, or any case where the gasoline does not contain the type and/or minimum amount of oxygenate stated on the product transfer documents;

(D) Where the test results indicate that the gasoline does not contain the type and/or minimum amount of oxygenate stated on the product transfer documents:

(*1*) Determine the oxygenate blending facility that supplied the gasoline; and

(*2*) Obtain from the oxygenate blender documentation of the refiner's or importer's oxygenate blending instructions for the gasoline;

(E) Immediately notify EPA of any case where the test results obtained by the independent surveyor indicate that the gasoline does not contain the type and/or minimum amount of oxygenate designated for the RBOB in the refiner's or importer's blending instructions;

(F) Immediately notify EPA of any instances where a refiner, importer, terminal, distributor, carrier or retail

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outlet fails to cooperate in the manner described in paragraph (a)(11)(vi) of this section.

(G) Submit to EPA a report of each survey, within thirty days following completion of the survey, such report to include the following information:

(*1*) The identification of the person who conducted the survey;

(*2*) An attestation by an officer of the surveyor company that the survey was conducted in accordance with the survey plan and that the survey results are accurate;

(*3*) Identification of the party(ies) for whom the survey was conducted;

(*4*) The identification of the covered area surveyed;

(*5*) The dates on which the survey was conducted;

(*6*) The address of each facility at which a gasoline sample was collected and the date of collection;

(*7*) The results of the analyses of the samples for type and amount of oxygenate;

(*8*) The name and address of each laboratory where the gasoline samples were analyzed;

(*9*) A description of the methodology utilized to select the locations for sample collection and the number of samples collected; and

(*10*) For any samples excluded from the survey, a justification for such exclusion.

(H) Maintain all records relating to the surveys conducted under this paragraph (a)(11) for a period of at least 5 years; and

(I) At any time permit any representative of EPA to monitor the conduct of the surveys, including sample collection, transportation, storage, and analysis.

(iv) A survey plan under this paragraph (a)(11) must include:

(A) Identification of the party(ies) for whom the survey is to be conducted;

(B) Identification of the independent surveyor;

(C) A methodology for determining:

(*1*) When the samples will be collected;

(*2*) The sample collection locations; and

(*3*) The number of samples to be collected during the annual compliance period;

(D) A process for notifying oxygenate blenders and other downstream parties in the affected RFG area of the product transfer documentation requirements in paragraph (a)(11)(vii)(A) of this section; and

(E) Any other elements determined by EPA to be necessary to achieve the level of quality assurance required under paragraph (a)(11)(ii)(D) of this section.

(v) Any sampling and testing pursuant to a survey plan under this paragraph (a)(11) must be conducted in a manner consistent with the applicable provisions of §§ 80.8 and 80.46.

(vi)(A) Each refiner and importer who participates in the alternative quality assurance program under this paragraph (a)(11) must take all reasonable steps to ensure that each oxygenate blender, distributor, carrier and retail outlet cooperates in this program by allowing the independent surveyor to collect samples and by providing to the independent surveyor and/or EPA, upon request, copies of product transfer documents and other records or information regarding the source of any gasoline received, the destination of any gasoline distributed, the oxygenate blending instructions for the RBOB, and the rate (volume %) that oxygenate was blended into the gasoline.

(B) Reasonable steps under paragraph (a)(11)(vii) of this section must include, but typically should not be limited to, contractual agreements with any branded facilities of the refiner or importer, including any terminals, distributors, carriers and retail outlets, which require the branded facility to cooperate with the independent surveyor and/or EPA in the manner described in paragraph (a)(11)(vii)(A) of this section.

(vii)(A) Any terminal that blends oxygenate with RBOB which is produced or imported by any refiner or importer that complies with the alternative quality assurance requirement under this paragraph (a)(11), and any parties downstream from such oxygenate blending terminal, must include on product transfer documents information regarding the type and amount of oxygenate contained in the gasoline and identification of the oxygenate blending facility that blended the gasoline.

(B) If a party downstream from a refiner or importer that complies with the alternative quality assurance requirement under this paragraph (a)(11) fails to receive notice of the requirements in paragraph (a)(11)(vii)(A) of this section, upon notification from EPA, the party must thereafter comply with the requirements in paragraph (a)(11)(vii)(A) of this section.

(viii) The procedure for obtaining EPA approval of a survey plan under this paragraph (a)(11), and for revocation of any such approval, are as follows:

(A) A detailed survey plan which complies with the requirements of this paragraph (a)(11) must be submitted to EPA, no later than September 1 of the year preceding the calendar year in which the surveys will be conducted;

(B) The survey plan must be signed by a responsible corporate officer of the refiner or importer, or responsible officer of the organization which arranges to have an independent surveyor conduct a program of compliance surveys, as applicable; and

(C) The survey plan must be sent to the following address: Director, Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (6406J), Washington, DC 20460;

(D) EPA will send a letter to the party submitting a survey plan under this section, either approving or disapproving the survey plan;

(E) EPA may revoke any approval of a survey plan under this section for cause, including an EPA determination that the approved survey plan has proved to be inadequate in practice or that it was not diligently implemented;

(F) The approving official for an alternative quality assurance program under this section is the Director of the Transportation and Regional Programs Division, Office of Transportation and Air Quality.

(G) Any notifications required under this paragraph (a)(11) must be directed to the official designated in paragraph (a)(11)(viii)(F) of this section.

(ix)(A) No later than December 1 of the year preceding the year in which the surveys will be conducted, the contract with the independent surveyor shall be in effect, and an amount of money necessary to carry out the entire survey plan shall be paid to the independent surveyor or placed into an escrow account with instructions to the escrow agent to pay the money to the independent surveyor during the course of the conduct of the survey plan;

(B) No later than December 15 of the year preceding the year in which the surveys will be conducted, EPA must receive a copy of the contract with the independent surveyor, proof that the money necessary to carry out the survey plan has either been paid to the independent surveyor or placed into an escrow account, and, if placed into an escrow account, a copy of the escrow agreement, to be sent to the official designated in paragraph (a)(11)(viii)(F) of this section.

(x) A failure of any refiner or importer to fulfill or cause to be fulfilled any of the requirements of this paragraph (a)(11) will cause the option to use the alternative quality assurance requirements under this paragraph (a)(11) to be void *ab initio.*

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■ 3. Section 80.74 is amended by adding paragraph (b)(10) to read as follows:

§ 80.74 Recordkeeping requirements.

* * * * *

(b)* * *

(10) In the case of any interface or transmix used to produce reformulated gasoline or RBOB under § 80.84, records that reflect the results of any sampling and testing of RFG or RBOB required under § 80.84.

(i) Pipelines must keep records showing that interface was designated in the proper manner, according to the designations listed in § 80.84(b)(1);

(ii) Transmix processors and transmix blenders must keep records showing that their transmix meets the definition in § 80.84(a)(2), or contains gasoline and distillate fuel only from the sources listed in § 80.84(e);

(iii) Transmix processors must keep records showing the volumes of reformulated gasoline or RBOB recovered from transmix and the type and amount of any blendstock added, if applicable; and

(iv) Transmix blenders must keep records showing compliance with the quality assurance program and/or sampling and testing requirements in § 80.84(d)(2) or (d)(3), and for each batch of reformulated gasoline or RBOB with which transmix is blended, the volume of the batch, and the volume of transmix blended into the batch;

* * * * *

■ 4. Section 80.77 is amended by revising paragraphs (g)(2)(iv)(B) and (g)(3), and adding paragraph (g)(4) to read as follows:

§ 80.77 Product transfer documentation.

* * * * *

(g) * * *

(2) * * *

(iv) * * *

(B) Beginning on January 1, 1998, for VOC-controlled gasoline, the VOC emissions performance minimum.

(3) Identification of VOC-controlled reformulated gasoline or RBOB as gasoline or RBOB which contains ethanol, or which does not contain any ethanol; and

(4) For transfers of custody of gasoline subject to the provisions of § 80.69(a)(11), the information required to be included on product transfer documents under § 80.69(a)(11)(vii)(A).

* * * * *

■ 5. Section 80.84 is added to subpart D to read as follows:

§ 80.84 Treatment of interface and transmix.

(a) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Interface* means a volume of petroleum product generated in a pipeline between two adjacent volumes of non-identical petroleum product that consists of a mixture of the two adjacent products.

(2) *Transmix* means an interface that does not meet the specifications for a fuel that can be used or sold, and that is composed solely of any combination of:

(i) Previously certified gasoline (including previously certified gasoline blendstocks that become gasoline solely upon the addition of an oxygenate);

(ii) Distillate fuel; or

(iii) Gasoline blendstocks that are suitable for use as a blendstock without further processing.

(3) *Transmix gasoline product,* or *TGP,* means the gasoline or gasoline blendstock that is produced when transmix is separated into distillate fuel and either gasoline or gasoline blendstock. Gasoline blendstock here includes blendstock that becomes gasoline solely upon the addition of an oxygenate (such as RBOB).

(4) *Transmix processing facility* means any refinery that produces TGP from transmix by distillation or other refining processes, but does not produce gasoline by processing crude oil.

(5) *Transmix processor* means any person who owns, leases, operates, controls or supervises a transmix processing facility.

(6) *Transmix blending facility* means any facility which produces gasoline by blending transmix into gasoline.

(7) *Transmix blender* means any person who owns, leases, operates, controls or supervises a transmix blending facility.

(b) *Designation of gasoline interface by pipeline operators.* (1) Gasoline interface mixtures containing the products below shall be designated by pipeline operators in the following manner:

(i) Interface mixtures of reformulated gasoline or RBOB, and conventional gasoline shall be designated as conventional gasoline;

(ii) Interface mixtures of VOC-controlled reformulated gasoline and non-VOC-controlled reformulated gasoline shall be designated as non-VOC-controlled RFG;

(iii) Interface mixtures of RBOB and reformulated gasoline shall be designated as RBOB; and

(iv) Interface mixtures of reformulated gasoline or RBOB, and blendstock shall be designated as blendstock.

(2) Regardless of gasoline product designation, all gasoline containing interface must meet all downstream standards, including but not limited to any standards and requirements that apply downstream of the refinery in this part and the Clean Air Act.

(c) *Transmix processing*—(1) *TGP sold without further mixing with blendstocks or previously certified gasoline.* (i) Where the TGP meets all standards and requirements that apply to conventional gasoline downstream from the refinery, including but not limited to any standards and requirements in this part and the Clean Air Act, and the TGP is designated and sold as conventional gasoline, the transmix processor may exclude the TGP from compliance calculations for the transmix processing facility under this part Subpart E of this part. Except as required in paragraph (c)(4) of this section, the transmix processor must either include every batch or exclude every batch of this TGP from their compliance calculations for each compliance period;

(ii) Where the TGP is sold as a blendstock, the transmix processor must exclude the TGP from compliance calculations. Pursuant to § 80.101(d)(3), however, TGP which becomes gasoline solely upon the addition of an oxygenate must be included in the compliance calculations for the transmix processing facility under subpart E of this part.

(iii) Where the TGP is designated and sold as reformulated gasoline or RBOB, the transmix processor must fulfill all requirements and standards that apply to a refiner under subpart D of this part and must include the reformulated gasoline or RBOB produced from the transmix in compliance calculations for the transmix processing facility under subpart D of this part.

(2) *TGP blended with blendstocks.* Where the transmix processor mixes the TGP with blendstock(s) to produce reformulated or conventional gasoline or RBOB, the TGP is treated as a blendstock and the transmix processor must fulfill all requirements and standards that apply to a refiner under subpart D or E of this part, as appropriate, and include the gasoline produced in compliance calculations for the transmix processing facility under subpart D or E of this part, as appropriate.

(3) *TGP blended with previously certified gasoline.* (i) Where the TGP meets all the standards and requirements that apply to conventional gasoline downstream from the refinery, including but not limited to any standards and requirements of this part and the Clean Air Act, and the transmix processor mixes the TGP with any previously certified gasoline to produce conventional gasoline, the TGP may be

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excluded from compliance calculations for the transmix processing facility under subpart E of this part. Except as required in paragraph (c)(4) of this section, the transmix processor must either include every batch or exclude every batch of this TGP from compliance calculations for the transmix processing facility for each compliance period.

(ii) Where the TGP does not meet all standards that apply to conventional gasoline downstream from the refinery, including but not limited to any standards and requirements of this part and the Clean Air Act, and the transmix processor mixes the TGP with any previously certified gasoline to produce conventional gasoline, the TGP is treated as a blendstock and the transmix processor must fulfill all requirements and standards for a refiner under subpart E of this part, for the TGP, and include the TGP in the compliance calculations for the transmix processing facility under subpart E of this part.

(iii) The sampling and testing required under paragraph (c)(3)(ii) of this section may be met using one of the following methods:

(A) Sample and test the TGP prior to blending with previously certified gasoline to determine the volume and properties of the TGP and include each volume of TGP blended with previously certified gasoline as a separate batch in compliance calculations for the transmix processing facility; or

(B) Determine the volume and properties of the previously certified gasoline prior to blending with the TGP and measure the volume and properties of the gasoline subsequent to blending with the TGP. Calculate the volume and properties of the TGP by subtracting the volume and properties of the previously certified gasoline from the volume and properties of the gasoline subsequent to blending, and include each volume of TGP blended with previously certified gasoline as a separate batch in compliance calculations for the transmix processing facility; or

(C) Comply with the requirements in § 80.101(g)(9).

(iv) Where the transmix processor mixes the TGP with any previously certified gasoline to produce reformulated gasoline or RBOB, the TGP is treated as a blendstock and the transmix processor must fulfill all requirements and standards for a refiner under subpart D of this part, for the TGP, and include the TGP in the compliance calculations for the transmix processing facility under subpart D of this part, using the procedures in § 80.65(i).

(4) *Additional requirements for conventional gasoline produced with transmix containing blendstocks.* Notwithstanding paragraphs (c)(1)(i) and (c)(3)(i) of this section, if gasoline is produced at a transmix processing facility from any transmix containing gasoline blendstocks, the transmix processor must include every batch of gasoline produced from transmix in compliance calculations for the transmix processing facility under subpart E of this part for the entire compliance period.

(d) *Transmix blending.* Transmix blenders which fulfill all of the requirements in this paragraph (d) are exempt from the requirements and standards that apply to a refiner under subparts D and E of this part.

(1) Transmix may be blended into any previously certified gasoline, provided that:

(i) The endpoint of the final transmix-blended gasoline does not exceed 437 degrees Fahrenheit as measured by ASTM standard method D 86–01^{e1}, entitled "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure", which is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428–2959. Copies may be inspected at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.htm.*;

(ii) The final transmix-blended gasoline meets all applicable downstream standards; and

(iii) The transmix blender complies with the requirements in §§ 80.74(b)(10), 80.104(b) and 80.213.

(2) The transmix blender must maintain and follow a written quality assurance program designed to assure that the type and amount of transmix blended into previously certified gasoline will not cause violations of the applicable standards in paragraph (d)(1) of this section. Except as set forth in paragraph (d)(3) of this section, as a part of the quality assurance program, transmix blenders shall collect samples of gasoline subsequent to blending transmix, and test the samples to ensure the end-point temperature of the final transmix-blended gasoline does not exceed 437 degrees Fahrenheit, at one of the following rates:

(i) In the case of transmix that is blended in a tank, following each occasion transmix is blended; or

(ii) In the case of transmix that is blended by a computer controlled in-line blending system, the transmix blender shall collect composite samples of gasoline subsequent to blending transmix at a rate of not less than twice each calendar month during which transmix is blended.

(3) Any transmix blender may petition EPA for approval of a quality assurance program that does not include the minimum sampling and testing requirements in paragraph (d)(2) of this section. In order to seek such an exemption, the transmix blender shall submit a petition to EPA that includes:

(i) A detailed description of the quality assurance procedures to be carried out at each location where transmix is blended into previously certified gasoline, including a description of how the transmix blender proposes to determine the ratio of transmix that can be blended with previously certified gasoline without violating any of the applicable standards in paragraph (d)(1) of this section, and a description of how the transmix blender proposes to determine that the gasoline produced by the transmix blending operation meets the applicable standards.

(ii) If the transmix is blended by a computer controlled in-line blending system, the transmix blender shall also include all of the information required by refiners under § 80.65(f)(4)(i)(A).

(iii) A letter signed by the president, chief operating or chief executive officer of the company, or his/her designee, stating that the information contained in the submission is true to the best of his/her belief must accompany any submission under this paragraph.

(iv) Transmix blenders who seek an exemption under paragraph (d)(3) of this section must comply with any request by EPA for additional information or any other requirements that EPA includes as part of the exemption. However, they may withdraw their exemption petition or approved exemption at any time, upon notice to EPA.

(v) EPA reserves the right to modify the requirements of an exemption under paragraph (d)(3) of this section, in whole or in part, at any time, if EPA determines that the transmix blender's operation does not effectively or adequately control, monitor or document the end-point temperature of the gasoline produced, or if EPA

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determines that any other circumstance exists which merits modification of the requirements of an exemption. If EPA finds that a transmix blender provided false or inaccurate information in any submission required for an exemption under this section, upon notification from EPA, the transmix blender's exemption will be void ab initio.

(4) In the event the test results for any sample collected pursuant to a quality assurance program indicate the gasoline does not comply with any of the applicable standards in paragraph (d)(1) of this section, the transmix blender shall:

(i) Immediately take steps to stop the sale of the gasoline that was sampled;

(ii) Take steps which are reasonably calculated to determine the cause of the noncompliance and to prevent future instances of noncompliance;

(iii) Inform EPA of the noncompliance; and

(iv) If the transmix was blended by a computer controlled in-line blending system, increase the rate of sampling and testing to a rate of not less than once per week and continue the increased frequency of sampling and testing until the results of ten consecutive samples and tests indicate the gasoline complies with applicable standards, at which time the sampling and testing may be conducted at the original frequency;

(5) Any transmix blender who blends transmix into previously certified gasoline and who does not meet the requirements under this paragraph (d) shall meet all requirements and standards that apply to a refiner under subparts D and E of this part, other than this section and §§ 80.74(b)(10), and 80.104(b).

(e) The provisions of paragraphs (c) and (d) of this section also apply to mixtures of gasoline and distillate fuel:

(1) Produced by unintentionally combining gasoline and distillate fuel in a tank.

(2) Produced from normal business operations at terminals or pipelines, such as gasoline or distillate fuel drained from a tank, or drained from piping or hoses used to transfer gasoline or distillate fuel to tanks or trucks, or gasoline or distillate fuel discharged from a safety relief valve.

(f) Any transmix processor or transmix blender who adds a feedstock to their transmix other than gasoline, distillate fuel or gasoline blendstocks from pipeline interface must meet all requirements and standards that apply to a refiner under subparts D and E of this part, other than this section and §§ 80.74(b)(10), and 80.104(b), for all gasoline they produce during a compliance period.

■ 6. Section 80.104 is amended by revising the introductory text, paragraph (a) introductory text and paragraph (b), and adding paragraph (c) to read as follows:

§ 80.104 Recordkeeping requirements

Any parties in the gasoline distribution network shall maintain records containing the information as required by this section.

(a) For any refiner or importer, beginning in 1995, for each averaging period:

* * * * *

(b) For all parties described in this section that produce and distribute gasoline, in the case of any interface or transmix used to produce conventional gasoline under § 80.84, records that reflect the results of any sampling and testing of conventional gasoline under § 80.84.

(1) Pipelines must keep records showing that the interface was designated in the proper manner according to the designations listed in § 80.84(b)(1).

(2) Transmix processors and transmix blenders must keep records showing that their transmix meets the definition in § 80.84(a)(2), or contains gasoline and distillate fuel only from the sources listed in § 80.84(e).

(3) Transmix processors must keep records showing the volumes of conventional gasoline recovered from transmix and the type and amount of any blendstock added, if applicable.

(4) Transmix blenders must keep records showing compliance with the quality assurance program and/or sampling and testing requirements in § 80.84(d)(2) or (d)(3) for each batch of conventional gasoline with which transmix is blended, the volume of the batch, and the volume of transmix blended into the batch.

(c) All parties in the gasoline distribution network shall retain the documents required in this section for a period of five years from the date the conventional gasoline or blendstock is produced or imported, and deliver such documents to the Administrator of EPA upon the Administrator's request.

■ 7. Section 80.213 is added to read as follows:

§ 80.213 What alternative sulfur standards and requirements apply to transmix processors and transmix blenders?

Transmix processors and transmix blenders, as defined in § 80.84(a), may comply with the following requirements instead of the requirements and standards otherwise applicable to a refiner under subpart H of this part.

(a) Any transmix processor who recovers transmix gasoline product (TGP), as defined in § 80.84(a), from transmix through transmix processing under § 80.84(c) must show through sampling and testing, using the methods in § 80.330, that the TGP meets the applicable sulfur standards under § 80.210 or § 80.220, prior to the TGP leaving the transmix processing facility.

(1) The applicable sulfur standard is the standard in § 80.210(b); or

(2) If the TGP sulfur is greater than the standard in § 80.210(b), and the transmix processor has product transfer documents that prove the TGP was originally produced by a small refiner, hardship refiner, or for use in the GPA, the applicable sulfur standard for the TGP is the downstream sulfur standard corresponding to the original gasoline.

(b) The sampling and testing required under paragraph (a) of this section shall be conducted following each occasion TGP is produced.

(c) Any transmix processor who produces gasoline by adding blendstock to TGP must, for such blendstock, comply with all requirements and standards that apply to a refiner under subpart H of this part, and must meet the applicable downstream sulfur standards under § 80.210 or § 80.220 for the gasoline produced by blending blendstock and TGP, prior to the gasoline leaving the transmix processing facility.

(d) Any transmix processor who produces gasoline by blending blendstock into TGP may meet the sampling and testing requirements of subpart H of this part as follows:

(1)(i) Sample and test the blendstock when received at the transmix processing facility, using the methods specified in § 80.330, to determine the volume and sulfur content, and treat each volume of blendstock that is blended into a volume of TGP as a separate batch for purposes of calculating and reporting compliance with the applicable annual average and per-gallon cap sulfur standards in § 80.195 or § 80.216, as applicable; or

(ii) Use sulfur test results of the blendstock supplier provided that the following requirements are met:

(A) Sampling and testing by the blendstock supplier is performed using the methods specified in § 80.330;

(B) Testing for the sulfur content of the blendstock in the supplier's storage tank must be conducted subsequent to the last receipt of blendstock into the supplier's storage tank from which the transmix processor is supplied;

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(C) The transmix processor must obtain a copy of the blendstock supplier's test results, at the time of each transfer of blendstock to the transmix processor, that reflect the sulfur content of each load of blendstock supplied to the transmix processor;

(D) The transmix processor must conduct a quality assurance program of sampling and testing for each blendstock supplier. The frequency of blendstock sampling and testing must be one sample for every 500,000 gallons of blendstock received or one sample every 3 months, whichever results in more frequent sampling; and

(E) If any of the requirements of this paragraph (d)(1)(ii) are not met, in whole or in part, for any blendstock blended into TGP, that blendstock is deemed in violation of the gasoline sulfur standards in § 80.195.

(2) Sample and test each batch of gasoline produced by blending blendstock into TGP, using the methods specified in § 80.330, to determine the sulfur content of the batch.

(3) The sulfur content of each batch of gasoline produced by blending blendstock into TGP must be no greater than the downstream sulfur standard under § 80.210 or § 80.220 applicable to the designation of the TGP; and

(4) Gasoline produced by blending blendstock into TGP must be properly identified on product transfer documents in accordance with the provisions of § 80.210 or § 80.220, as applicable.

(e) Any transmix blender who produces gasoline by blending transmix, or mixtures of gasoline and distillate fuel described in § 80.84(e), into previously certified gasoline under § 80.84(d) must meet the applicable downstream sulfur standards under § 80.210 or § 80.220 for the gasoline produced by blending transmix and previously certified gasoline.

(f) Any transmix processor or transmix blender who adds feedstocks to their transmix other than gasoline, distillate fuel, or gasoline blendstocks from pipeline interface must meet all requirements and standards that apply to a refiner under subpart H of this part, other than § 80.213, for all gasoline they produce during a compliance period.

■ 8. Section 80.365 is amended by adding paragraph (b)(8) to read as follows:

§ 80.365 What records must be kept?

* * * * *

(b) * * *

(8) In the case of parties who process transmix, records of any sampling and testing required under § 80.213.

* * * * *

■ 9. Section 80.840 is added to subpart J to read as follows:

§ 80.840 What requirements apply to transmix processors?

Any transmix processor who produces gasoline or gasoline blendstock from transmix, or recovers gasoline or gasoline blendstock from transmix through transmix processing under § 80.84 (c) shall include such gasoline or gasoline blendstock in the baseline and compliance calculations of this subpart to the same extent such gasoline or gasoline blendstock must be included in compliance calculations under subpart D of this part for reformulated gasoline and RBOB, and under subpart E of this part for conventional gasoline, according to the requirements specified in § 80.84(c).

[FR Doc. 06–5051 Filed 6–1–06; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Parts 1544, 1546, and 1548

[Docket No. TSA–2004–19515; Amendment Nos. 1520–4, 1540–7, 1542–2, 1544–5, 1546–2, and 1548–2]

RIN 1652–AA23

Air Cargo Security Requirements; Correction

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to the final rule published in the **Federal Register** on May 26, 2006. That rule enhances and improves the security of air cargo transportation by requiring airport operators, aircraft operators, foreign air carriers, and indirect air carriers to implement security measures in the air cargo supply chain as directed under the Aviation and Transportation Security Act. The final rule also amends the applicability of the requirement for a "twelve-five" security program for aircraft with a maximum certificated takeoff weight of 12,500 pounds or more to those aircraft with a maximum certificated takeoff weight of more than 12,500 pounds to conform to recent legislation. TSA listed an incorrect compliance date in certain sections of parts 1544, 1546, and 1548 dealing with security threat assessments and a mandatory security program requirement for operators. This document adds the correct compliance date to these sections.

DATES: Effective October 23, 2006.

FOR FURTHER INFORMATION CONTACT: Tamika McCree, Office of Transportation Sector Network Management (TSA–28), Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202; (571–227–2632); *tamika.mccree@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 26, 2006, TSA published a final rule in a separate Part II of the **Federal Register** (71 FR 30478), revising various regulations to enhance and improve the security of air cargo transportation. Although TSA listed the correct compliance dates in the **DATES** section of the final rule preamble, we incorrectly listed the compliance date dealing with security threat assessments in §§ 1544.228(d), 1546.213(d), 1548.5(a), and 1548.16(a), and a mandatory security program requirement in § 1548.15(d) for operators. This document corrects the date in these sections from the incorrect date of November 22, 2006, to the correct date of December 1, 2006.

Correction

In rule FR Doc. 06–4800, published on May 26, 2006 (71 FR 30478), make the following corrections:

§ 1544.228 [Corrected]

■ 1. On page 30511, in the second column, in § 1544.228 Access to Cargo: Security threat assessments for cargo personnel in the United States, at the end of paragraph (d), remove the date "November 22, 2006" and add in its place, the date "December 1, 2006".

§ 1546.213 [Corrected]

■ 2. On page 30512, in the third column, in § 1546.213 Access to Cargo: Security threat assessments for cargo personnel in the United States, at the end of paragraph (d), remove the date "November 22, 2006" and add in its place, the date "December 1, 2006".

§ 1548.5 [Corrected]

■ 3. On page 30513, in the second column, in § 1548.5 Adoption and implementation of the security program, at the end of paragraph (a), remove the date "November 22, 2006" and add in its place, the date "December 1, 2006".

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