

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****43 CFR Parts 3200 and 3280**

[WO-310-06-1310-GEOT]

RIN 1004-AD86

Minerals Management Service**30 CFR Parts 202, 206, 210, 217, and 218**

[WO-310-06-1310-GEOT]

RIN 1010-AD32

Implementation of the Geothermal Sections of the Energy Policy Act of 2005; Public Meeting

AGENCY: Bureau of Land Management and Minerals Management Service, Interior.

ACTION: Notice of public meeting.

SUMMARY: A public meeting is being held by the Bureau of Land Management and the Minerals Management Service to receive comments from the public and industry related to the two sets of draft rules that were written in response to the Energy Policy Act of 2005, which mandated comprehensive changes to leasing and royalty policies to encourage geothermal energy use without imposing additional administrative burdens on industry or governmental agencies.

DATES: The meeting date is scheduled as follows: August 31, 2006; 1-4 p.m., Reno, Nevada.

ADDRESSES: The meeting will be held at the following location: Reno Hilton Hotel, 2500 East 2nd Street, Reno, Nevada 89595.

FOR FURTHER INFORMATION CONTACT: Kermit Witherbee, National Geothermal Program Lead for the BLM at (202) 452-0385 or Herb Black, Geologist, Solid Minerals and Geothermal Compliance and Asset Management, for MMS at (303) 231-3769.

SUPPLEMENTARY INFORMATION: The meeting will begin with an overview of the revisions proposed by BLM (71 FR 41542, July 21, 2006) and MMS (71 FR 41516, July 21, 2006) to their respective geothermal rules as mandated by the Energy Policy Act. Participants who request to speak will be given a set

amount of time to address the proposed rules.

Philip Allard,

Acting Assistant Director, Minerals, Realty and Resource Protection.

Lonnie Kimball,

Acting Associate Director for Mineral Revenue, Minerals Management Service.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R05-OAR-2006-0547; FRL-8210-1]

Approval and Promulgation of Air Quality Implementation Plans; Michigan; Control of Gasoline Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Michigan on May 26, 2006 and July 14, 2006, establishing a lower Reid Vapor Pressure (RVP) fuel requirement for gasoline distributed in the Southeast Michigan area which includes Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties. Michigan has developed these fuel requirements to reduce emissions of volatile organic compounds (VOC) in accordance with the requirements of the Clean Air Act (CAA). EPA is proposing to approve Michigan's fuel requirements into the Michigan SIP because EPA has found that the requirements are necessary for Southeast Michigan to achieve the 8-hr ozone national ambient air quality standard (NAAQS). This action is being taken under section 110 of the CAA.

DATES: Comments must be received on or before September 14, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0547, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* mooney.john@epa.gov.
- *Fax:* (312)886-5824.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, (AR-18)), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, (AR-18)), U.S. Environmental Protection

Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R05-OAR-2006-0547. 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> or e-mail. 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 <http://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 instructions on submitting comments, go to Section I 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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77

West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding legal holidays. We recommend that you telephone Francisco J. Acevedo, Environmental Protection Specialist, at (312) 886-6061 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Francisco J. Acevedo, Environmental Protection Specialist, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061, acevedo.francisco@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider as I Prepare My Comments for EPA?
- II. Description of the SIP Revision and EPA’s Action
 - A. What Is the Background for This Action?
 - B. What Is Reid Vapor Pressure?
 - C. What Are the Relevant Clean Air Act Requirements?
 - D. How Has the State Met the Test Under Section 211(c)(4)(C)?
 - E. What Are the Relevant Energy Policy Act Requirements?
 - F. How Has the State Met the Relevant Energy Policy Act Requirements?
 - G. Why Is EPA Taking This Action?
- III. Proposed Action
- IV. Statutory and Executive Order Reviews

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

A. Submitting CBI

Do not submit this information to EPA through 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.

B. Tips for Preparing Your Comments

When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. Description of the SIP Revision and EPA’s Action

A. What Is the Background for This Action?

On April 1995, the Detroit-Ann Arbor consolidated metropolitan statistical area (CMSA) made up of Wayne, Oakland, Macomb, Washtenaw, Livingston, St. Clair, and Monroe counties was redesignated as an attainment area for the 1-hour ozone NAAQS. At the time the area was redesignated to attainment, EPA approved, as a revision to the Michigan SIP, contingency measures including a 7.8 psi low-RVP fuels program. During the summer of 1995 monitors in the Detroit-Ann Arbor CMSA recorded violations of the 1-hour ozone NAAQS.

On January 6, 1996, Michigan Governor John Engler sent a letter to EPA selecting the 7.8 psi low-RVP fuels program as one of the contingency measures to be implemented in the Detroit area to address the recent NAAQS violation. On May 16, 1996, the State submitted the low-RVP portion of their fuels program to EPA for approval. The program required gasoline sold in the Detroit-Ann Arbor CMSA meet a standard of 7.8 psi from June 1 to September 15.

On May 5, 1997, EPA approved the State’s SIP revision to establish a low-RVP program in the Detroit-Ann Arbor CMSA. As detailed in the final approval at 62 FR 24341, EPA found the State’s demonstration sufficient to satisfy the necessity requirement of Section 211(c)(4)(C) of the CAA. Additionally, EPA found that the State’s description of the program and associated enforcement procedures were sufficient for approval.

On June 15, 2004, the EPA designated eight counties in Southeast Michigan as nonattainment for the 8-hour ozone standard (Detroit-Ann Arbor CMSA—Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties). These counties were initially classified under the CAA as Moderate, but EPA later reclassified them as Marginal on September 22, 2004. See 69 FR 56697 (September 22, 2004) for further details. As part of this reclassification, the Michigan Department of Environmental Quality (MDEQ) and the Southeast Michigan Council of Governments (SEMCOG) committed to a schedule to identify and implement controls that will help the area attain by the Marginal attainment date of June 15, 2007.

To bring this area into attainment, the State is adopting and implementing a broad range of ozone control measures including control of emissions from cement manufacturing, control of emissions from the use of consumer/commercial products, and the implementation of a 7.0 psi low-RVP fuels program.

The State’s legislative amendments changed the RVP of a compliant fuel and became effective on April 6, 2006. The legislative authority, as amended, requires that, beginning June 1, 2007 through September 15, 2007, and for that period of time each subsequent year, no gasoline may be sold with an RVP greater than 7.0 psi in Wayne, Macomb, Washtenaw, Livingston, Monroe, Oakland, St. Clair and Lenawee counties. The State’s low-RVP requirements can be found in the Motor Fuels Quality Act (1984 PA 44) as amended by 2006 PA 104 (Act 104) on April 2, 2006.

The MDEQ submitted this amended low-RVP legislation to EPA as a revision to the SIP on May 26, 2006. MDEQ also submitted a letter dated July 14, 2006 requesting that two provisions of the amended Motor Fuels Quality Act, Sections 9(k) and 9(l), not be incorporated into the Michigan SIP. In addition, Michigan submitted additional technical support for the SIP revision, including materials supporting the State’s request to waive the CAA preemption of State fuel controls pursuant to section 211(c)(4) of the CAA. By this low-RVP legislation, Michigan is ensuring that these emission reductions are critical to Michigan’s attainment of the 8-hour ozone standard in the Southeast Michigan area.

B. What Is Reid Vapor Pressure?

Reid Vapor Pressure, or RVP, is a measure of a gasoline’s volatility at a

certain temperature and is a measurement of the rate at which gasoline evaporates and emits VOCs; the lower the RVP, the lower the rate of evaporation. The RVP of gasoline can be lowered by reducing the amount of its more volatile components, such as butane. Lowering RVP in the summer months can offset the effect of high summer temperatures upon the volatility of gasoline, which, in turn, lowers emissions of VOC. Because VOC is a necessary component in the production of ground level ozone in hot summer months, reduction of RVP will help areas achieve the NAAQS for ozone and thereby produce benefits for human health and the environment.

The primary emission reduction benefits from low-RVP gasoline used in motor vehicles comes from reductions in VOC evaporative emissions; exhaust emission reductions are much smaller. Because oxides of nitrogen (NO_x) are a product of combustion from motor vehicles, they will not be found in evaporative emissions, and low-RVP gasoline will have little or no effect on NO_x.

C. What Are the Relevant Clean Air Act Requirements?

In determining the approvability of a SIP revision, EPA must evaluate the proposed revision for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

For SIP revisions approving certain state fuel measures, an additional statutory requirement applies. CAA section 211(c)(4)(A) prohibits state regulations respecting a fuel characteristic or component for which EPA has adopted a control or prohibition under section 211(c)(1), unless the state control is identical to the Federal control. Section 211(c)(4)(C) provides an exception to this preemption if EPA approves the state requirements in a SIP. Section 211(c)(4)(C) states that the Administrator may approve an otherwise preempted state fuel standards in a SIP:

only if he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements. The Administrator may find that a State control or prohibition is necessary to achieve that standard if no other measures that would bring about timely attainment exist, or if other measures exist and are technically possible to implement, but are unreasonable or impracticable.

EPA's August, 1997 "Guidance on Use of Opt-in to RFG and Low RVP Requirements in Ozone SIPs" gives further guidance on what EPA is likely to consider in making a finding of necessity. Specifically, the guidance recommends breaking down the necessity demonstration into four steps: (1) Identify the quantity of reductions needed to reach attainment; (2) identify other possible control measures and the quantity of reductions each measure would achieve; (3) explain in detail which of those identified control measures are considered unreasonable or impracticable; and (4) show that, even with the implementation of all reasonable and practicable measures, the state would need additional emission reductions for timely attainment, and that the state fuel measure would supply some or all of such additional reductions.

EPA has evaluated the submitted SIP revision and has determined that it is consistent with the requirements of the CAA, EPA regulations, and conforms to EPA's completeness criteria in 40 CFR part 51, Appendix V. Further, EPA has looked at Michigan's demonstration that the low-RVP fuel control is necessary in accordance with Section 211(c)(4)(C) of the CAA and agrees with the State's conclusion that a fuel measure is needed to achieve the 8-hour ozone NAAQS.

The SIP submittal contains: (1) 7.0 low vapor pressure gasoline waiver request for southeast Michigan; (2) Motor Fuels Quality Act, 1984 PA 44, as amended by the Michigan Legislature and approved by the Governor on April 2, 2006; (3) Southeast Michigan Ozone control measure evaluation matrix; (4) Ozone attainment strategy for southeast Michigan dated June 30, 2005; and (5) the public hearing record dated May 19, 2006.

D. How Has the State Met the Test Under Section 211(c)(4)(C)?

CAA section 211(c)(4)(A) preempts certain state fuel regulations by prohibiting a State from prescribing or attempting to enforce any control or prohibition respecting any characteristic or component of a fuel or fuel additive for the purposes of motor vehicle emission control if the Administrator has prescribed under section 211(c)(1) a control or prohibition applicable to such characteristic or component of the fuel or fuel additive, unless the state prohibition is identical to the prohibition or control prescribed by the Administrator.

EPA has adopted Federal RVP controls under sections 211(c) and 211(h). See 56 FR 64704 (December 12,

1991). These regulations are found in 40 CFR 80.27. The State of Michigan is generally required under the Federal rule to meet a 9.0 psi RVP standard. See 40 CFR 80.27(a)(2). However, EPA approved a SIP revision establishing a 7.8 psi low-RVP program in the Detroit-Ann Arbor CMSA on May 5, 1997. See 62 FR 24341.

As stated previously, a State may prescribe and enforce an otherwise preempted low-RVP requirement only if the EPA approves the control into the State's SIP. In order to approve a preempted state fuel control into a SIP, EPA must find that the state control is necessary to achieve a NAAQS because no other measures that would bring about timely attainment exist or that such measures exist but are either not reasonable or practicable. Thus, to determine whether Michigan's low-RVP rule is necessary to meet the ozone NAAQS, EPA must consider whether there are other reasonable and practicable measures available to produce the emission reductions needed to achieve the 8-hour ozone NAAQS.

Photochemical modeling results submitted by the State in the document titled "Ozone Attainment Strategy for Southeast Michigan" shows that the southeast Michigan area will not attain the 8-hour ozone NAAQS by 2007 with emission reductions from national controls alone. The MDEQ and SEMCOG concluded that additional reductions should be obtained.

MDEQ used a weight-of-evidence approach that considered such factors as modeling, monitoring, emission changes, and historical experience in developing the area's attainment strategy and to estimate the amount of emission reduction needed for attainment. Based on this weight-of-evidence, MDEQ projected that a reduction of 13 to 15 tons of VOC per day will be needed to reach attainment of the 8-hour ozone NAAQS.

With this estimate of the VOC reductions necessary to achieve the 8-hour ozone NAAQS, the State evaluated an extensive list of non-fuel alternative controls to determine if reasonable and practicable controls could be adopted and used to attain the 8-hour ozone NAAQS by 2007, the required attainment date for Marginal ozone nonattainment areas.

The State evaluated a wide range of control measures, considering the following factors: VOC emission reduction potential; ability to implement the control measure expeditiously; time to secure the emission reduction and contribute to expeditious attainment; enforceability; potential impact on other air quality

issues; cost; degree of confidence in achieving the reduction and improving air quality; ease of implementation; and experience in other states. Michigan summarized the results of this evaluation in a document entitled "Southeast Michigan Ozone control measure evaluation matrix," and provided a more detailed discussion on each measure in the Ozone attainment strategy for southeast Michigan dated June 30, 2005 (See May 26, 2006 submittal from the State of Michigan, which is in the docket for this rulemaking).

After evaluating a wide range of other controls for their reasonableness and practicability, three measures did rise to the top: the reduction of VOC emission from cement manufacturing, the adoption of Ozone Transport Commission (OTC) rules for consumer and commercial products, and the lowering of gasoline vapor pressure from 7.8 psi to 7.0 psi during the summer months. Michigan determined that the rest of the control measures would not bring about timely attainment, were technically impossible to implement, and were either unreasonable or impracticable.

In the case of cement manufacturing, there is a single, very large VOC source in Monroe County. The State's analysis indicates that the application of controls at this single facility could yield emission reductions comparable to those from other source categories in the range of 5–7 tpd, in a time period compatible with the State's commitment to attain the 8-hour NAAQS as expeditiously as possible. Michigan's evaluation also showed that sizable VOC reductions in the range of 8 tpd could be achieved through the adoption of OTC rules for consumer and commercial products. The State concluded, however, that, although some of those reductions could come early, the majority of the benefits of such a requirement would not be achieved until after the 2007 attainment date.

While the State's analysis showed that controls on cement manufacturing and consumer/commercial products would result in significant VOC reductions, these reductions would not sufficient to ensure compliance with the 8-hour ozone NAAQS by 2007.

The State's analysis identified that adoption of all measures determined to be reasonable and practicable would result in approximately 13 to 15 tpd of emission reductions, but not in the timeframe needed to attain the 8-hour ozone NAAQS by 2007. Thus, even with implementation of all reasonable and practicable non-fuel control measures,

additional VOC reductions are necessary.

Michigan's 7.0 psi low-RVP fuels requirement is calculated to achieve approximately 5.6 to 7.1 tpd of VOC reductions beginning the summer of 2007. EPA believes these emission reductions are necessary to achieve the ozone NAAQS in Southeast Michigan. EPA is basing today's action on the information available to us at this time, which indicates that adequate reasonable and practicable non-fuel measures that would achieve these needed emission reductions, and protect Michigan's air quality in a timely manner are not available to the State. Hence, EPA finds that the RVP standards are necessary for attainment of the applicable ozone NAAQS, and is proposing to approve them as a revision to the Michigan SIP.

Finally, the proposed rule changes for Michigan's 7.0 psi RVP fuel program are not within the scope of the earlier May 5, 1997, "necessity" demonstration, under section 211(c)(4)(C), for Michigan's 7.8 psi RVP program. Under Michigan's 7.8 psi RVP fuel program, a smaller geographic area was covered than for the proposed 7.0 psi RVP program, because the Detroit-Ann Arbor 8-hour ozone nonattainment area includes one more county than the 1-hour ozone nonattainment area did. This change to the covered geographic area, therefore, affects our finding made at the time of the original SIP approval for 7.8 psi RVP, regarding the availability of non-fuel measures to bring about timely attainment.

E. What Are the Relevant Energy Policy Act Requirements?

The Energy Policy Act of 2005 (EPA) amends the CAA by requiring EPA, in consultation with the Department of Energy (DOE), to determine the total number of fuels approved into all SIPs under section 211(c)(4)(C), as of September 1, 2004, and to publish a list that identifies these fuels, the States and Petroleum Administration for Defense Districts (PADD) in which they are used. It also places three additional restrictions on EPA's authority to waive preemption by approving a State fuel program into the SIP. These restrictions are as follows:

- First, EPA may not approve a State fuel program into the SIP if it would cause an increase in the "total number of fuels" approved into SIPs as of September 1, 2004.
- Second, in cases where EPA approval would not increase the total number of fuels on the list because the total number of fuels in SIPs at that point is below the number of fuels as of

the September 1, 2004, then EPA approval requires a finding, after consultation with DOE, that the new fuel will not cause supply or distribution problems or have significant adverse impacts on fuel producibility in the affected or contiguous areas.

- Third, with the exception of 7.0 psi RVP, EPA may not approve a state fuel unless that fuel is already approved in at least one SIP in the applicable PADD.

F. How Has the State Met the Relevant Energy Policy Act Requirements?

In a **Federal Register** notice published on June 6, 2006 (71 FR 32532), we proposed an interpretation of the EPA Act provisions which is based on a fuel type interpretation. We also determined and published a draft list of the total number of fuels approved into all SIPs, under section 211(c)(4)(C) of the CAA, as of September 1, 2004. Under the proposed interpretation, we will approve a 7.0 psi RVP state fuel program even if we have not previously approved 7.0 psi RVP into a SIP in the applicable PADD as of September 1, 2004. (71 FR 32534). Our approval of a 7.0 psi RVP program, however, is subject to the other EPA Act restrictions, described earlier above. More specifically, our approval of a 7.0 psi RVP program must not cause an increase to the total number of fuels approved into all SIPs as of September 1, 2004. Also, if our approval will not increase the total number of fuels on the list, because the total number of fuels in SIPs is below the number of fuels we approved as of the September 1, 2004, we must make a finding, after consultation with DOE, that the 7.0 psi RVP program will not cause supply or distribution problems or have significant adverse impacts on fuel producibility in the affected or contiguous areas.

Under our proposed interpretation, Michigan's 7.0 psi RVP requirement for Southeast Michigan is not a "new fuel type." EPA's approval of Michigan's 7.0 psi RVP will not increase the total number of fuels approved into all SIPs, as of September 1, 2004, because 7.0 psi RVP is on the draft list of fuels.¹ Further, because the total number of fuels approved into all SIPs at this time is not below the number of fuels on the draft list of fuels, which we have just published on June 6, 2006 (71 FR 32532), we do not believe that we need to make a finding on the effect of a 7.0 psi RVP fuel requirement in Southeast

¹ The draft list of fuels includes 7.0 psi RVP programs, which have been approved into the Alabama, Arizona, Kansas, Missouri, and Texas SIPs.

Michigan on fuel supply and distribution in either Southeast Michigan or the contiguous areas. Nevertheless, EPA notes that an April 15, 2005 study prepared for the American Petroleum Institute titled "Potential Effects of the 8-Hour Ozone Standard on Gasoline Supply, Demand and Production Costs" concluded that the petroleum industry was capable of supplying 7.0 psi summertime gasoline to Southeast Michigan without fuel supply or distribution disruptions.

In today's action, we are proposing approval of Michigan's 7.0 psi RVP program as consistent with the provisions of EPA Act, and assuming that we will finalize our interpretation of the EPA Act provisions, as proposed. Accordingly, in our final action approving Michigan's 7.0 psi RVP program, we will address the issue of whether our approval of Michigan's program is consistent with the final adopted interpretation of EPA Act.

G. Why Is EPA Taking This Action?

EPA is proposing to approve a SIP revision at the request of the MDEQ. To ensure that it secures the needed approval under section 211(c)(4)(C) of the CAA, Michigan submitted this action for EPA approval to make it part of the SIP.

III. Proposed Action

EPA is proposing to approve a SIP revision submitted by the State of Michigan on May 26, 2006 and July 14, 2006, establishing a 7.0 psi RVP fuel requirement for gasoline distributed in Southeast Michigan which includes Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties. EPA is proposing this approval on the condition that the Agency's final interpretation of the EPA Act provisions and our determination of the total number of fuels approved under section 211(c)(4)(C) of the CAA as of September 1, 2004, based on this interpretation, and the resulting draft list of these fuels does not change from what we proposed on June 6, 2006 (71 FR 32532).

EPA is proposing to approve Michigan's fuel requirements into the SIP because EPA has found that the requirements are necessary for Southeast Michigan to achieve the NAAQS for ozone.

IV. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action

is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

Paperwork Reduction Act

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

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

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 3, 2006.

Jo-Lynn Traub,

Acting Regional Administrator, Region 5.

[FR Doc. E6-13345 Filed 8-14-06; 8:45 am]

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