

The Administrator signed the following rule on December 20, 2006, and we are submitting it for publication in the *Federal Register*. While we've taken steps to ensure the accuracy of this Internet version of the rule, it's not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming *Federal Register* publication or on GPO's Web Site. You can access the *Federal Register* at: [www.gpoaccess.gov/fr/index.html](http://www.gpoaccess.gov/fr/index.html). When using this site, note that "text" files may be incomplete because they don't include graphics. Instead, select "Adobe Portable Document File" (PDF) files.

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

**EPA-HQ-OAR-2006-0841;**

**Regulation of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the East St. Louis, Illinois Ozone Nonattainment Area**

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

**ACTION:** Direct final rule.

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**SUMMARY:** Under section 211(k)(6) of the Clean Air Act, the Administrator of EPA shall require the sale of reformulated gasoline (RFG) in an ozone nonattainment area classified as marginal, moderate, serious or severe upon the application

of the Governor of the state in which the nonattainment area is located. In this direct final action, EPA is today extending the Act's prohibition against the sale of conventional gasoline (i.e., gasoline that is not RFG) to the Illinois portion of the St. Louis, Missouri-Illinois 8-hour ozone nonattainment area hereafter referred to as the East St. Louis nonattainment area. The RFG requirements will apply to refiners and all other persons in the fuel distribution system other than retailers and wholesale purchaser-consumers on May 1, 2007. For retailers and wholesale purchaser-consumers, the requirements of today's rule will apply on June 1, 2007. As of the June 1, 2007 implementation date, this area will be treated as a covered area for all purposes of the federal RFG program.

**DATES:** This final rule is effective on May 1, 2007 without further notice, unless EPA receives adverse comments by **[insert date 30 days from publication]**. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID

No. EPA-HQ-OAR-2006-0841, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- Mail: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., N.W., Washington, DC, 20460, Attention Docket ID No. EPA-HQ-OAR-2006-0841. Comments may also be emailed to [a-and-r-docket@epamail.epa.gov](mailto:a-and-r-docket@epamail.epa.gov). In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. N.W., Washington, DC 20503.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OAR-2006-0841. 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.

*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., N.W., 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.

NOTE: The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's Federal Register notice at 71 FR 38147 (July 5, 2006) or the EPA website at [www.epa.gov/epahome/dockets.htm](http://www.epa.gov/epahome/dockets.htm) for current information on docket operations, locations and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to [www.regulations.gov](http://www.regulations.gov) are not affected by the flooding and will remain the same.

**FOR FURTHER INFORMATION CONTACT:** Kurt Gustafson,  
Transportation and Regional Programs Division (Mail Code

6406J), Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, DC 20460; telephone number: 202-343-9219; fax number: 202-343-2800; e-mail address: gustafson.kurt@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**General Information**

*Does this Action Apply to Me?*

This action may affect you if you produce, distribute, or sell gasoline for use in the East St. Louis ozone nonattainment area.

The table below gives some examples of entities that may have to comply with the regulations. However, since these are only examples, you should carefully examine these and other existing regulations in 40 CFR part 80. If you have any questions, please contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section above.

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

<b>Category</b>	<b>NAICS Codes<sup>a</sup></b>	<b>SIC Codes<sup>b</sup></b>	<b>Examples of Potentially Regulated Entities</b>
<b>Industry</b>	324110	2911	<b>Petroleum Refiners</b>
<b>Industry</b>	422710 422720	5171 5172	<b>Gasoline Marketers and Distributors</b>
<b>Industry</b>	484220 484230	4212 4213	<b>Gasoline Carriers</b>

<sup>a.</sup> North American Industry Classification System (NAICS).

<sup>b.</sup> 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 potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your business is regulated by this action, you should carefully examine the list of areas covered by the reformulated gasoline program in Sec. 80.70 of title 40 of

the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding "FOR FURTHER INFORMATION CONTACT" section.

### **Additional Information**

Under section 211(k)(6) of the Clean Air Act, as amended (the Act), the Administrator of EPA shall require the sale of reformulated gasoline in an ozone nonattainment area classified as marginal, moderate, serious, or severe upon the application of the Governor of the state in which the nonattainment area is located. This final action extends the prohibition set forth in section 211(k)(5) against the sale of conventional (i.e., non-reformulated) gasoline to the East St. Louis, Illinois moderate ozone nonattainment area (Jersey, Madison, Monroe, and St. Clair Counties).

The Agency is adopting May 1, 2007, as the implementation date of the prohibition described herein for all persons other than retailers and wholesale purchaser-consumers (i.e., refiners, importers, and distributors). For retailers and wholesale purchaser-consumers, EPA is



adopting June 1, 2007 as the implementation of the prohibition described. As of the implementation date for retailers and wholesale purchaser-consumers, the East St. Louis ozone nonattainment area will be a covered area for all purposes in the federal RFG program.

**Outline of this Preamble:**

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    G. Executive Order 13045: Protection of Children From

Environmental Health & Safety Risks

- H. Executive Order 13211: Actions that Significantly Effect Energy Supply
- I. National Technology Transfer Advancement Act
- J. Statutory Authority
- K. Congressional Review Act

**I. Background**

Opt-in Provision/Process

As part of the Clean Air Act Amendments of 1990, Congress added a new subsection (k) to section 211 of the Act.

Subsection (k) prohibits the sale of conventional gasoline (i.e., gasoline that EPA has not certified as reformulated) in certain ozone nonattainment areas beginning January 1, 1995. Section 211(k)(10)(D) defines the areas covered by the reformulated gasoline (RFG) program as the nine ozone nonattainment areas having a 1980 population in excess of 250,000 and having the highest ozone design values during the period 1987 through 1989.<sup>1</sup> In addition, under section

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

211(k)(10)(D), any area reclassified as a severe ozone nonattainment area under section 181(b) is also included in the RFG program. EPA first published final regulations for the RFG program on February 16, 1994. See 59 FR 7716.

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

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and Milwaukee.

## II. The Governor's Request

EPA received an application July 10, 2006 from the Honorable Rod R. Blagojevich, Governor of the State of Illinois, for the East St. Louis ozone nonattainment area to be included in the reformulated gasoline program. The Governor's letter is set out in full below.

July 10, 2006.

Mr. Stephen L. Johnson,  
U.S. Environmental Protection Agency,  
401 M Street, SW,  
Washington, DC 20460

Dear Administrator Johnson:

Pursuant to Section 211(k)(6) of the Clean Air Act (CAA), I hereby formally request the U.S. Environmental Protection Agency (EPA) to extend the requirement for the sale of Reformulated Gasoline (RFG) to the Illinois portion of the St. Louis ozone non-attainment area. The pertinent Illinois counties include Jersey, Madison, Monroe, and St. Clair. I

request that the RFG program be implemented beginning January 1, 2007.

Implementation of the RFG program in the Metro-East St. Louis RFG area will provide additional volatile organic compound emission reductions, which will assist the region in attaining the 8-hour ozone standard by 2010. The required use of RFG, which is currently in use in St. Louis Missouri, will also replace the summertime low volatility gasoline requirement in the Metro-East area, removing the need for a "boutique" fuel and simplifying gasoline supply in the region.

Thank you for your attention to this matter. I look forward to the successful implementation of the RFG program in the Metro-East area and to the attainment of the national air quality standards in the St. Louis region. If you have any questions regarding this request, please contact Mr. Douglas P. Scott, Director of the Illinois Environmental Protection Agency at 217 782-3397.

Sincerely,

Rod R. Blagojevich

Governor

cc: USEPA, Region V

### **III. Final Action**

The RFG program includes seasonal requirements. Summertime RFG must meet certain VOC control requirements to reduce emissions of volatile organic compounds (VOCs), an ozone precursor. Under the RFG program, there are two compliance dates for VOC-controlled RFG. At the refinery level, and all other points in the distribution system other than the retail level, compliance with RFG VOC-control requirements is required from May 1 to September 15. At the retail level (service stations and wholesale purchaser-consumers), compliance is required from June 1 to September 15. See 40 CFR 80.78 (a)(1)(v). Pipeline requirements and demands for RFG from the supply industry drive refineries to establish their own internal compliance date earlier than May so that they can then assure that terminals are capable of meeting the RFG VOC-control requirements by May 1.

Based on our evaluation of the appropriate lead time and start date(s) and pursuant to the Governor's letter and the

provisions of section 211(k)(6), EPA is today adopting regulations that apply the prohibitions of subsection 211(k)(5) to the East St. Louis, Illinois ozone nonattainment area as of May 1, 2007, for all persons other than retailers and wholesale purchaser-consumers. This date applies to the refinery level and all other points in the distribution system other than the retail level. For retailers and wholesale purchaser-consumers, EPA is adopting regulations that apply the prohibitions of subsection 211(k)(5) to the East St. Louis, Illinois ozone nonattainment area on June 1, 2007. As of the June 1, 2007 implementation date, this area will be treated as a covered area for all purposes of the federal RFG program.

The application of the prohibition of section 211(k)(5) to the East St. Louis ozone nonattainment area could take effect no later than July 10, 2007, under section 211(k)(6)(A), which stipulates that the effective program date must be no "later than January 1, 1995 or 1 year after [the Governor's] application is received, whichever is later." The Governor of Illinois asked that EPA establish January 1, 2007, as the RFG implementation date.

EPA believes the implementation dates adopted today achieve a reasonable balance between requiring the earliest possible start dates to achieve air quality benefits in East St. Louis and providing adequate lead time for industry to prepare for program implementation. These dates are consistent with the State's request that EPA require RFG to be sold in the East St. Louis area in advance of the beginning of the high ozone season, which begins June 1. These dates will provide environmental benefits by allowing East St. Louis to achieve VOC reduction benefits for the 2007 VOC control season.

EPA has concluded, based on its analysis of available information, that the refining and distribution industry's capacity to supply federal RFG to East St. Louis this summer exceeds the estimated demand. EPA has also concluded that the implementation dates adopted today provide adequate lead time to industry to set up storage and sales agreements to ensure supply of RFG to the East St. Louis ozone nonattainment area. If adverse comment is received and this direct final rule is withdrawn, EPA will finalize the companion proposal also published in today's Federal Register. That proposal also includes a May 1, 2007, implementation date for parties other than retailers and



wholesale purchaser-consumers, and a June 1, 2007 implementation date for retailers and wholesale purchaser-consumers.

Although section 211(k)(6) provides EPA some discretion to establish the effective date for the application of RFG requirements in marginal, moderate, serious or severe ozone nonattainment areas subject to a Governor's petition, and allows EPA to consider whether there is sufficient domestic capacity to produce RFG in establishing the effective date for such requirements, EPA does not have discretion to deny a Governor's request. Therefore, the scope of this action is limited to setting an effective date for East St. Louis' opt-in to the RFG program, and not to decide whether St. Louis should in fact opt in. EPA considers that July 10, 2007 would be the latest possible effective date, since EPA expects there to be sufficient domestic capacity to produce RFG and therefore has no current reason to extend the effective date beyond one year after July 10, 2006 under section 211(k)(6)(B). Selection of the May 1/June 1 effective date coincides with the start of the summer RFG VOC control period and is the only practical date available for consideration. EPA does not have the authority to extend the date beyond July 10, 2007

absent supply issues and there is no justifiable reason to select a date between June 1 and July 10, 2007. For this reason we view this as a noncontroversial amendment, anticipate no adverse comment, and are publishing this action as a direct final rule without prior proposal. However, in the ``Proposed Rules'' section of this Federal Register publication, we are publishing a separate document that will serve as the proposal for a rule amendment should adverse comments be filed. That proposal also includes effective dates of May 1, 2007 and June 1, 2007. This direct final rule will be effective May 1, 2007 without further notice unless the Agency receives adverse comments by **[insert date 30 dates from publication]**.

If EPA receives adverse comments, we will publish in the Federal Register a timely withdrawal of the direct final rule informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time.

#### **IV. Environmental Impact**

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

Illinois EPA analyzed the emissions benefits which could be achieved by switching from 7.2 RVP fuel to RFG. Using the U.S. EPA's MOBILE6a model, Illinois projected that year 2010 motor vehicle VOC emissions could be reduced by 5.4 percent and carbon monoxide by 2.2 percent. The use of RFG in the Metro-East area would also decrease benzene emissions by 75 tons per year, which equates to a 44

percent reduction from motor vehicles. On a total toxic emissions basis, the use of RFG would reduce emissions of the five primary motor vehicle related air toxics by 63 tons per year in 2010, a total percentage reduction of 23.5 percent.

## **V. Statutory and Executive Order Reviews**

### **A. Executive Order 12866: Regulatory Planning and Review**

This action is not a "significant regulatory action" under the terms of Executive Order (EO)12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO. EPA notes that the economic impacts of the RFG program were assessed in EPA's Regulatory Impact Analysis for the 1994 RFG rules. See 59 FR 7810-7811 (February 16, 1994). In that analysis the production cost of RFG was estimated to be 4 to 8 cents more per gallon than conventional gasoline. Since conventional gas regulations have evolved since that time to be more like RFG and since the State has a low RVP requirement that also more closely resembles RFG, EPA expects the costs of RFG in

the East St. Louis area to be at the low end or lower than this range. Nonetheless, using the 4 to 8 cent per gallon estimate, the cost of the program in East St. Louis would be significantly lower than the trigger for a significant regulatory action.

#### **B. Paperwork Reduction Act**

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The Office of Management and Budget (OMB) has approved the information collection requirements that apply to the RFG/anti-dumping program (see 59 FR 7716, February 16, 1994), and has assigned OMB control number 2060-0277 (EPA ICR No. 1951.08).

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.

### **C. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses,

small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) a small business that has not more than 1,500 employees (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.

In promulgating the RFG and the related anti-dumping regulations for conventional gasoline, the Agency analyzed the impact of the regulations on small businesses. The Agency concluded that the regulations may possibly have some economic effect on a substantial number of small refiners, but that the regulations may not significantly affect other small entities, such as gasoline blenders, terminal operators, service stations and ethanol blenders. See 59 FR 7810-7811 (February 16, 1994). As stated in the preamble to the final RFG/anti-dumping rule, exempting small refiners from the RFG regulations would result in the failure of meeting CAA standards. 59 FR 7810. However,

since most small refiners are located in the mountain states or in California, which has its own RFG program, the vast majority of small refiners are unaffected by the federal RFG requirements (although all refiners of conventional gasoline are subject to the anti-dumping requirements). Moreover, all businesses, large and small, maintain the option to produce conventional gasoline to be sold in areas not obligated by the Act to receive RFG or those areas which have not chosen to opt into the RFG program. A complete analysis of the effect of the RFG/anti-dumping regulations on small businesses is contained in the Regulatory Flexibility Analysis which was prepared for the RFG and anti-dumping rulemaking, and can be found in the docket for that rulemaking. The docket number is: EPA Air Docket A-92-12.

Today's action will affect only those refiners, importers or blenders of gasoline that choose to produce or import RFG for sale in the East St. Louis ozone nonattainment area, and gasoline distributors and retail stations in those areas. As discussed above, EPA determined that, because of their location, the vast majority of small refiners would be unaffected by the RFG requirements. For the same reason, most small refiners will be unaffected by



today's action. Other small entities, such as gasoline distributors and retail stations located in East St. Louis, which will become a covered area as a result of today's action, will be subject to the same requirements as those small entities which are located in current RFG covered areas. The Agency did not find the RFG regulations to significantly affect these entities. Based on this, EPA certifies that this direct final rule would not have a significant adverse impact on a substantial number of small entities.

#### **D. Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 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.

EPA has determined that this rule does not contain a

Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. Although EPA does not believe that UMRA imposes requirements for this rulemaking, EPA notes that the environmental and economic impacts of the RFG program were assessed in EPA's Regulatory Impact Analysis for the 1994 RFG rules.

#### **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 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. The rule would only impose requirements on certain refiners and other entities in the gasoline distribution system, and not on States. 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 9, 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." This direct final rule does not have tribal implications, as specified in Executive Order

13175. Today's direct final rule will affect only those refiners, importers or blenders of gasoline that choose to produce or import RFG for sale in the East St. Louis ozone nonattainment area, and gasoline distributors and retail stations in those areas. Thus, Executive Order 13175 does not apply to this rule.

**G. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks**

Executive Order 13045 , entitled Protection of Children from Environmental Health 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 section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is not economically significant.

**H. Executive Order 13211: Actions that Significantly Effect Energy Supply**

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

**I. National Technology Transfer Advancement Act**

Section 12(d) of Public Law 104-113, the National Technology Transfer and Advancement Act of 1995 (NTTAA), directs us to use voluntary consensus standards in our regulatory activities unless it 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) developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. This direct final rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

#### **J. Statutory Authority**

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

#### **K. 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(2). This rule will be effective May 1, 2007.

List of Subjects in 40 CFR Part 80

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

Dated:

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Stephen L. Johnson, Administrator.



40 CFR part 80 is amended as follows:

PART 80--[AMENDED]

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

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

2. Section 80.70 is amended by adding paragraph (k)(2) to read as follows:

§ 80.70 Covered areas.

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(k)\*\*\*

(2) The Illinois portion of the St. Louis, MO-IL 8-hour ozone nonattainment area is a covered area beginning June 1, 2007. The prohibitions of section 211(k)(5) of the Clean Air Act apply to all persons other than retailers and wholesale purchaser-consumers in the Illinois portion of the St. Louis,

MO-IL 8-hour ozone nonattainment area beginning May 1, 2007. The prohibitions of section 211(k)(5) of the Clean Air Act apply to retailers and wholesale purchaser-consumers in the Illinois portion of the St. Louis, MO-IL 8-hour ozone nonattainment area beginning June 1, 2007.

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