

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 80**

[FRL-6984-9]

Approval of Colorado's Petition to Relax the Federal Gasoline Reid Vapor Pressure Volatility Standard for 2001**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA" or "the Agency") is proposing to approve the State of Colorado's petition to relax the Reid Vapor Pressure ("RVP") gasoline standard that applies to gasoline introduced into commerce in the Denver-Boulder area from June 1 to September 15, 2001. The Agency proposes to approve a relaxation of the federal RVP standard for this area from 7.8 pounds per square inch ("psi") to 9.0 psi for the year 2001, as an amendment to EPA's gasoline volatility regulations at 40 CFR 80.27. The Agency does not believe that this action will cause environmental harm to Denver/Boulder area residents. EPA has approved relaxations of Denver/Boulder's RVP standard from 7.8 psi to 9.0 psi for the past eight years and the area has remained in compliance with the ozone standard since 1987.

DATES: Comments on this proposed rule must be received in writing by June 25, 2001.

ADDRESSES: Materials relevant to this petition are available for inspection in public docket A-2000-53 at the Air Docket Office of the EPA, Room M-1500, 401 M Street, SW., Washington, DC 20460, (202)260-7548, between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A duplicate public docket CO-RVP-01 has been established at U. S. EPA Region VIII, 999 18th Street, Suite 500, Denver, CO 80202-2466, and is available for inspection during normal working hours. Interested persons wishing to examine the documents in this docket should contact Kerri Fiedler at (303) 312-6493 at least 24 hours before the visiting day. As provided in 40 CFR part 2, a reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: For more information on this proposal, please see EPA's direct final rule published in the

Rules and Regulations section of this **Federal Register** which approves Colorado's petition for relaxation of the federal gasoline Reid Vapor Pressure standard for 2001. The Agency views this direct final rule as a noncontroversial action for the reasons discussed in the Direct Final Rule published in today's **Federal Register**. If no adverse or critical comments or requests for a public hearing are received in response to this proposal, no further action is contemplated in relation to this rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Administrative Requirements*A. Executive Order 12866*

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 entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

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

B. Paperwork Reduction Act

This proposed action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and therefore is not subject to these requirements.

C. Unfunded Mandates Reform Act

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

EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments in the aggregate or the private sector in any one year. Today's proposed rule continues the current relaxation of the Federal 7.8 psi RVP gasoline standard and thus avoids imposing the costs that the existing Federal regulations would otherwise impose. Today's proposed rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, because small governments will not be significantly or uniquely affected by this proposed rule, the Agency is not required to develop a plan with regard to small governments.

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

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885 (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.

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant action as defined by 12866, and because it does not address an environmental health or safety risk that would have a disproportionate effect on children.

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 proposed rule does not have federalism implications. Today's proposed rule affects the level of the Federal RVP gasoline standard with which businesses supplying gasoline to the Denver/Boulder area must comply. 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. Therefore, Executive Order 13132 does not apply to this proposed rule.

F. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law

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 use available and applicable voluntary consensus standards. This proposed rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

G. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this proposed rule. EPA has also determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because this proposed rule continues the relaxation of the Federal volatility gasoline standard that has been in effect in the Denver/Boulder area since 1992, and thus imposes no new requirements on small entities. Instead, today's proposed rule relieves the regulatory burden associated with the 7.8 psi RVP requirement that would otherwise apply to all entities, including small entities subject to this standard. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have significant economic impacts on a substantial number of small entities.

H. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

On January 1, 2001, Executive Order 13084 was superseded by Executive Order 13175. However, this proposed rule was developed during the period when Executive Order 13084 was still in force, and so tribal considerations were addressed under Executive Order 13084.

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."

Today's proposed rulemaking does not have tribal implications. The proposed rule affects the level of the Federal RVP standard applicable to gasoline supplied to the Denver/Boulder area. It therefore affects only refiners, distributors and other businesses supplying gasoline to the Denver/Boulder area and will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

I. Electronic Copies of Rulemaking

For more information about this proposed rule and more details as described in the preamble to the direct final rule see a copy of this rule on the Internet at <http://www.epa.gov/otaq> under the title: "Direct Final—Approval of Colorado's Petition to Relax the Federal Gasoline Reid Vapor Pressure Volatility Standard for 2001."

J. Statutory Authority

Authority for this action is in sections 211(h) and 301(a) of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (42 U.S.C. 7545(h) and 7601(a)).

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedures, Air pollution control, Fuel additives, Gasoline, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 16, 2001.

Christine Todd Whitman,
Administrator.

For the reasons set forth in the preamble to this proposal and the preamble to the related direct final rule, part 80 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 80—REGULATIONS OF FUELS AND FUEL ADDITIVES

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

Authority: Sections 114, 211, and 301(a) of the Clean Air Act as amended, 42 U.S.C. 7414, 7545 and 7601(a).

2. In § 80.27(a)(2), the table is amended by revising the entry for

Colorado and footnote 2 to read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

(a) * * *

(2) * * *

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APPLICABLE STANDARDS¹ 1992 AND SUBSEQUENT YEARS

State	May	June	July	August	September
Colorado ²	9.0	7.8	7.8	7.8	7.8

¹ Standards are expressed in pounds per square inch (psi).

² The standard for 1992 through 2001 in the Denver-Boulder area designated nonattainment for the 1-hour ozone NAAQS in 1991 (see 40 CFR 81.306) will be 9.0 for June 1 through September 15.

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