

crossing onto the Winston-Salem map, and return to the beginning point.

Signed: January 18, 2008.

John J. Manfreda,
Administrator.

Approved: March 13, 2008.

Timothy E. Skud,
Deputy Assistant Secretary (Tax, Trade, and
Tariff Policy).

[FR Doc. E8-9106 Filed 4-24-08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2008-0001]

Drawbridge Operation Regulations; Chelsea River, Chelsea and East Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation
from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the P.J. McArdle Bridge across the Chelsea River, mile 0.3, between Chelsea and East Boston, Massachusetts. This deviation is necessary to facilitate the annual Chelsea River Revel and 5K Road Race. This deviation allows the bridge to remain in the closed position during the running of the 5K Road Race. Vessels that can pass under the draw without a bridge opening may do so at all times.

DATES: This deviation is effective from 8 a.m. through 5 p.m. on June 14, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0001 and are available online at www.regulations.gov. They are also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223-8364.

SUPPLEMENTARY INFORMATION: The owner of the bridge, the City of Boston,

requested this temporary deviation. The P.J. McArdle Bridge, across the Chelsea River at mile 0.3, between Chelsea and East Boston, Massachusetts, has a vertical clearance in the closed position of 21 feet at mean high water and 30 feet at mean low water. The bridge opens on signal as required by 33 CFR 117.593. This deviation which allows the bridge to remain closed is effective from 8 a.m. through 5 p.m. on June 14, 2008. Vessels able to pass under the closed draw may do so at any time. Tankers, and tug and barge units transit Chelsea Creek under the McArdle Bridge. Waterway users were advised of the requested bridge closure period and offered no objection.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 17, 2008.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. E8-8993 Filed 4-24-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 79

[EPA-HQ-OAR-2007-0071; FRL-8557-8]

RIN 2060-AN94

Regulation of Fuels and Fuel Additives: Revised Definition of Substantially Similar Rule for Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final interpretive rule.

SUMMARY: EPA is taking direct final action to revise an interpretive rule defining the term "substantially similar" for unleaded gasoline as that phrase is used in section 211(f) of the Clean Air Act (the Act). To meet the current definition, fuel or fuel additives must possess, at the time of manufacture, all of the physical and chemical characteristics of an unleaded gasoline as specified in ASTM Standard D 4814-88 for at least one of the Seasonal and Geographical Volatility Classes specified in the standard. EPA is amending the definition to allow some additional flexibility for the vapor/liquid ratio specification for fuel introduced into commerce in the state of Alaska in order to improve cold starting for vehicles during the winter months in Alaska.

DATES: This rule is effective on June 24, 2008 without further notice, unless EPA receives adverse comment by May 27, 2008. 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.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2007-0071, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.

- *E-mail:* a-and-r-docket@epa.gov.

- *Fax:* (202) 566-9744

- *Mail:* Air and Radiation Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

- *Hand Delivery:* EPA Docket Center, Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Air Docket ID No. EPA-HQ-OAR-2007-0071. Such deliveries are only 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-2007-0071. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or e-mail. The 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>.

Docket: All documents in the docket are listed in the 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 www.regulations.gov or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 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: Jaimee Dong, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, Office of Air and Radiation, Environmental Protection Agency, Mail Code 6406J, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: (202) 343-9672; fax number: (202) 343-2800; e-mail address: Dong.Jaimee@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why is EPA Using a Direct Final Rule?

EPA is publishing this rule without a prior proposed rule¹ because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to amend

the definition of "substantially similar." If adverse comments are received on this direct final rule, we will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

II. General Information

A. Does This Action Apply to Me?

Entities potentially affected by this action include those involved with the production or importation of unleaded gasoline for use in Alaska. 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 affected by this action; however, other types of entities not listed in the table could also be affected. To determine whether your entity is affected by this action, you should examine the applicability criteria of Parts 79 and 80 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 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:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- 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.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.

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

- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- 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.

III. Statutory Background

Section 211(f)(1) of the Act makes it unlawful for any manufacturer of a fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use in motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the

¹ EPA is not statutorily obligated to conduct notice and comment rulemaking when amending this interpretive rule. See *APA section 553(b)(A)*;

CAA section 307(d). However, as it has done when previously amending this rule, EPA desires to

provide an opportunity for the public to comment on this amendment.

certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. An EPA interpretive rule, published at 46 FR 38582 (July 28, 1981) and amended at 56 FR 5352 (February 11, 1991), defines the term “substantially similar” for unleaded gasoline. Under this definition, unleaded gasoline that meets several conditions, including complying with the physical and chemical specifications of ASTM Standard D 4814–88 for at least one of the Seasonal and Geographical Volatility classes specified in the standard, is considered substantially similar. Further conditions are described in the interpretive rule and its amendment.

IV. Need for Action

Discussions with an Alaskan refiner have highlighted the need for an amendment to the definition of “substantially similar” for unleaded gasoline. Currently, manufacturers of gasoline for Alaska may not use a temperature below 41 degrees Celsius when testing the vapor-liquid (V/L) ratio of the fuel and still be within the current definition of “substantially similar.” This amendment will allow manufacturers producing unleaded gasoline for use only in Alaska during the winter months to use a minimum test temperature of 35 degrees Celsius when testing for a maximum V/L ratio of 20 instead of requiring a V/L test temperature of 41 degrees Celsius.

ASTM D 2533 is a test method that covers a procedure for measuring the volume of vapor formed at atmospheric pressure from a given volume of gasoline. The ratio of these volumes is expressed as the V/L ratio of the gasoline at the temperature of the test. The tendency of a fuel to vaporize in common automobile fuel systems is indicated by the V/L ratio of that fuel at conditions approximating those in critical parts of the fuel system. Allowing a lower test temperature means that the vapor fraction of the fuel may be higher.

The extreme cold of Alaska during the winter months increases the risk that engines using typical gasoline blends will suffer from difficulty in cold starting. A higher vapor fraction improves mixing of the fuel with air, which in turn improves cold starting. Because the automotive fuel system is closed, the lower test temperature of 35 degrees Celsius compared to 41 degrees Celsius in the winter months is unlikely to significantly increase evaporative emissions. In addition, Alaska presently does not possess ozone non-attainment areas, most likely due to the cold temperatures observed in Alaska.

Therefore, in the Agency’s judgment, the impact on emissions will not be significant and this increased flexibility will allow refiners to provide a fuel more suitable to the climatic conditions of Alaska.

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 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

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.* Burden is defined at 5 CFR 1320.3(b). No information is collected as a result of this amendment to the “substantially similar” interpretive rule.

C. Regulatory Flexibility Act

This interpretive rule is not subject to the Regulatory Flexibility Act (RFA) which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This rule is not subject to notice and comment requirements under the APA or any other statute because it is an interpretive rule. See *APA section 553(b)(A)*; *CAA section 307(d)*.

Although this interpretive rule is not subject to the RFA, EPA nonetheless has assessed the potential of this rule to adversely impact small entities subject to the rule. Small entity is defined as: (1) A small business as defined by the Small Business Administration’s (SBA) 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. The impact of concern is any significant adverse economic impact on small entities since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives “which minimize any significant economic

impact of the rule on small entities.” 5 U.S.C. 603 and 604.

After considering the economic impacts of today’s direct final interpretive rule on small entities, the Agency does not believe that this action is likely to have an adverse economic impact on small entities. This final action amends the “substantially similar” interpretive rule by allowing a minimum test temperature of 35 degrees Celsius for a maximum V/L ratio of 20 from September 16 to May 31 for unleaded gasoline for use only in Alaska. This change is intended to improve cold starting in automobiles during the winter months in Alaska by allowing production and sale in Alaska during the winter season of unleaded gasoline with a higher volatility. This amendment to the interpretive rule does not impose a regulatory burden on anyone, including small businesses. Instead, this final action will have a positive impact, enabling all manufacturers, including small manufacturers, to produce and market this gasoline in Alaska. We therefore believe that today’s final interpretive rule should have a positive economic impact on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. 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 interpretive 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. This final action will amend the “substantially similar” interpretive rule by allowing a minimum test temperature of 35 degrees Celsius for a maximum V/L ratio of 20 from September 16 to May 31 for unleaded gasoline for use only in Alaska, instead of requiring a test temperature of 41 degrees Celsius. Thus, today’s interpretive rule is not subject to the requirements of sections 202 and 205 of the UMRA.

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 final interpretive 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 final action will amend the “substantially similar” interpretive rule by allowing a minimum test temperature of 35 degrees Celsius for a maximum V/L ratio of 20 from September 16 to May 31 for unleaded gasoline for use only in Alaska. The requirements of this amendment will be enforced by the federal government at the national level. Thus, Executive Order 13132 does not apply to this interpretive 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 final interpretive rule does not have tribal implications, as specified in Executive Order 13175. This interpretive rule will apply to gasoline refiners and importers of gasoline. This final action changes the volatility standards for gasoline in Alaska, and will not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this interpretive rule.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Energy Effects

This interpretive 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 and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, 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 interpretive rulemaking involves technical standards. This final action will amend the “substantially similar” interpretive rule by allowing a minimum test temperature of 35 degrees Celsius for a maximum V/L ratio of 20 from September 16 to May 31 for unleaded gasoline for use only in Alaska. The test temperature of 35 degrees Celsius may be found in Table 3, Vapor Lock Protection Class 6, of ASTM D4814–04a. All technical standards included in today’s amendment to the “substantially similar” interpretive rule are standards developed by ASTM, a voluntary consensus standards body, and thus raise no issues under the NTTAA. ASTM D4814–04a may be obtained from ASTM International at 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959, 610–832–9585 (phone), 610–832–9555 (fax), or service@astm.org (e-mail); or through the ASTM Web site (<http://www.astm.org>).

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (February 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final interpretive rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This direct final interpretive rule will amend the “substantially similar” interpretive rule by allowing a minimum test temperature of 35 degrees Celsius for a maximum V/L ratio of 20 from September 16 to May 31 for unleaded gasoline for use only in Alaska. This interpretive rule amendment does not relax the control measures on sources regulated by the rule and therefore will not cause emissions increases from these sources.

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 June 24, 2008.

Dated: April 17, 2008.

Stephen L. Johnson,
Administrator.

■ For the reasons set forth above, EPA is amending the definition of substantially similar as follows:

Definition—Substantially Similar

EPA will treat a fuel or fuel additive for general use in light-duty vehicles manufactured after model year 1974 as substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year vehicle or engine, under section 206 of the Act, i.e., "substantially similar," if the following criteria are met.

(1) The fuel must contain carbon, hydrogen, and oxygen, nitrogen, and/or sulfur, exclusively,² in the form of some combination of the following:

- (a) Hydrocarbons;
- (b) Aliphatic ethers;
- (c) Aliphatic alcohols other than methanol;

(d)(i) Up to 0.3 percent methanol by volume;

(ii) Up to 2.75 percent methanol by volume with an equal volume of butanol, or higher molecular weight alcohol;

(e) A fuel additive³ at a concentration of no more than 0.25 percent by weight

²Impurities which produce gaseous combustion products (i.e., products which exist as a gas at Standard Temperature and Pressure) may be present in the fuel at trace levels. An impurity is that substance which is present through contamination, or remains naturally, after processing of the fuel is completed.

³For the purposes of this interpretive rule, the term "fuel additive" refers only to that part of the additive package which is not hydrocarbon.

which contributes no more than 15 ppm sulfur by weight to the fuel.

(2) The fuel must contain no more than 2.0 percent oxygen by weight, except fuels containing aliphatic ethers and/or alcohols (excluding methanol) must contain no more than 2.7 percent oxygen by weight.

(3) The fuel must possess, at the time of manufacture, all of the physical and chemical characteristics of an unleaded gasoline as specified in ASTM Standard D 4814–88 for at least one of the Seasonal and Geographical Volatility Classes specified in the standard, with the exception of fuel introduced into commerce in the state of Alaska. For fuel introduced into commerce in the state of Alaska, all of the requirements of this section (3) apply, with the exception of the test temperature for a maximum Vapor/Liquid Ratio (V/L) of 20, which shall be a minimum of 35 °C (95 °F) for the period from September 16 through May 31.

(4) The fuel additive must contain only carbon, hydrogen, and any one or all of the following elements: Oxygen, nitrogen, and/or sulfur.⁴

[FR Doc. E8–8944 Filed 4–24–08; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

45 CFR Part 148

[CMS–2260–F]

RIN 0938–A046

Grants to States for Operation of Qualified High Risk Pools

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final Rule.

SUMMARY: This rule finalizes the interim final rule with comment period that was published on July 27, 2007, regarding extended funding for seed and operational grants for State High Risk Pools under the Public Health Service Act.

DATES: *Effective Date:* These regulations are effective May 27, 2008.

FOR FURTHER INFORMATION CONTACT: Jessica Kahn, (410) 786–9361, or John Young, (410) 786–0505.

SUPPLEMENTARY INFORMATION:

⁴Impurities which produce gaseous combustion products may be present in the fuel additive at trace levels.

I. Background

The Trade Adjustment Assistance Reform Act of 2002 (Pub. L. 107–210) added section 2745 of the Public Health Service Act (PHS Act) to provide for two types of grants to States for the promotion of "qualified high risk pools." These pools provide health coverage to high-risk individuals who may find private health insurance unavailable or unaffordable. Under this provision, a pool could meet the definition of a "qualified" high risk pool for purposes of section 2745 only if it met the definition of a qualified high risk pool in section 2744(c)(2) of the PHS Act. Section 2744 deals with how States can satisfy the requirement of section 2741 of the PHS Act to guarantee access to health coverage for individuals who meet the definition of an "eligible individual" under section 2741, as added by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These individuals are commonly referred to as "HIPAA-eligible" individuals.

Under section 2744(c)(2) of the PHS Act, a qualified high risk pool must provide health coverage without a pre-existing condition exclusion to "all" HIPAA-eligible individuals. This meant that State high risk pools that did not allow all HIPAA-eligible individuals into the pool without a pre-existing condition exclusion could not meet the definition of a "qualified" risk pool.

The two types of grants authorized by the legislation were "seed grants" for States that had not yet created a high risk pool, and "operational" grants to offset losses incurred by States that operate a qualified high risk pool. Under the prior law, in order for a risk pool to qualify for an operational grant, it could not charge premiums that exceeded 150 percent of the premium for applicable standard risk rates. Moreover, the amount of the grants was limited to 50 percent of the losses incurred by a State.

Section 6202 of the Deficit Reduction Act of 2005 (Pub. L. 109–171) (DRA) and the State High Risk Pool Extension Act of 2006 (Pub. L. 109–172) (Extension Act) extended funding for seed and operational grants for State High Risk Pools and amended section 2745 of the PHS Act. The Extension Act made the following changes:

1. Expanded the definition of a "qualified high risk pool." As noted above, section 2745(d) of the PHS Act previously defined the term to have the same meaning as in section 2744(c)(2) of the PHS Act, which required that the risk pool provide coverage to "all" HIPAA-eligible individuals (as defined in § 148.103), without any pre-existing