insufficient time to draft and publish a NPRM. The delay encountered if normal rulemaking procedures were followed would effectively cancel the event. Cancellation of the event is contrary to public interest since the event is intended to provide public entertainment.

Background and Purpose

MTV submitted an Application for Approval of Marine Event to hold a fireworks program in the waters of the East River. This regulation establishes a safety zone in the waters of the East River from 10:30 p.m. until 11:45 p.m. on Wednesday, September 4, 1996, unless extended or terminated sooner by the Captain of the Port New York. This safety zone precludes all vessels from transiting south of the Brooklyn Bridge and north of a line drawn from Pier 9, Manhattan to Pier 3, Brooklyn. It is needed to protect mariners from the hazards associated with fireworks exploding in the area.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes a portion of the East River to all vessel traffic from 10:30 p.m. until 11:45 p.m. on Wednesday, September 4, 1996, unless extended or terminated sooner by the Captain of the Port New York. This section of the East River experiences moderate commercial and recreational marine traffic. Although this regulation prevents traffic from transiting this area, the effect of this regulation will not be significant for several reasons: the duration of the event is limited; the event is at a late hour; pleasure craft and some commercial vessels can take an alternate route via the Hudson and Harlem Rivers; and the extensive, advance advisories that will be made. Accordingly, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have significant economic impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e.(34)(g) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46

2. A temporary § 165.T01–100, is added to read as follows:

§ 165.T01–100 Safety Zone; MTV Music Awards Fireworks Display, East River, New York.

(a) *Location.* All waters of the East River south of the Brooklyn Bridge and north of a line drawn from Pier 9, Manhattan to Pier 3, Brooklyn.

(b) *Effective period.* This section is effective from 10:30 p.m. until 11:45 p.m. on Wednesday, September 4, 1996, unless extended or terminated sooner by the Captain of the Port New York.

(c) *Regulations.* (1) The general regulations contained in 33 C.F.R. 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: August 23, 1996.

Richard C. Vlaun,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 96–22209 Filed 8–29–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI50–01–7257a; FRL–5542–1]

Promulgation of Reid Vapor Pressure Standard; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: In this action, the Environmental Protection Agency (EPA) temporarily is approving a State Implementation Plan (SIP) establishing a summertime gasoline Reid vapor pressure (RVP) limit of 7.8 pounds per square inch (psi) for gasoline sold in Wayne, Oakland, Macomb, Washtenaw, Livingston, St. Clair, and Monroe counties in Michigan (Detroit-Ann Arbor consolidated metropolitan

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statistical area (CMSA)). The marketing of less volatile gasoline reduces excessive evaporation of fuel during the summer months. Evaporated gasoline combines with other pollutants on hot summer days to form ground-level ozone, commonly referred to as smog. Ozone pollution is of particular concern because of its harmful effects on lung tissue and breathing passages.

In a parallel action EPA is proposing to make permanent this temporary approval of Michigan's SIP revision to establish a RVP limit of 7.8 psi for gasoline sold in the Detroit-Ann Arbor CMSA. The proposed SIP revision is published in the proposed rule section of this Federal Register. The EPA is requesting comments on this rulemaking action, as well as the proposed rulemaking action. Any public comments received by EPA will be addressed in the subsequent final rulemaking on the proposed revision to the Michigan SIP.

An interim final approval action is being taken because EPA finds good cause under section 553 of the Administrative Procedures Act (APA) to promulgate this interim rule without prior notice and comment and to make this action effective July 1, 1996, because of the public health and timing concerns discussed below.

EFFECTIVE DATE: This interim final rule is effective July 1, 1996 through September 15, 1996.

ADDRESSES: Copies of the documents relevant to this action are available at the above address for public inspection during normal business hours.

Comments may be mailed to: Carlton T. Nash, United States Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Brad J. Beeson at (312) 353–4779.

SUPPLEMENTARY INFORMATION:

I. Background

In April 1995, the Detroit-Ann Arbor CMSA which was nonattainment for ozone was redesignated to attainment. At the time the area was redesignated to attainment, EPA approved, as a revision to the Michigan SIP, a 7.8 psi RVP fuels program as a contingency measure. However, during the summer of 1995 there were several monitored violations of the ozone standard in the Detroit area. Therefore, the State is required to implement an ozone contingency measure.

One of the contingency measures that State has chosen to implement is a fuels program. The fuels program requires the sale of 7.8 psi (low-RVP) gasoline during the summer months.

RVP is a measure of a fuel's volatility and thereby affects the rate at which gasoline evaporates and emits volatile organic compounds (VOCs). The lower a fuel's RVP, the lower the rate of evaporation of the fuel. The RVP of gasoline can be lowered by reducing the amount of its volatile components, such as butane. Lowering RVP in the summer months can offset the effect of summer temperature upon the evaporation of gasoline, which in turn lowers emissions of VOCs. Because VOCs are a component in the formation of ground level ozone on sunny, hot summer days, reduction of RVP will assist the State of Michigan to reduce ozone by reducing VOC emissions from vehicles.

The EPA first proposed to regulate gasoline RVP in 1987 (52 FR 31274). The EPA's gasoline RVP proposal resulted in a two-phased final regulation which was in large part incorporated into the 1990 Amendments to the Clean Air Act (Act) in section 211(h). Phase I of the regulation took effect in 1990 (54 FR 11868) for the years 1990 and 1991. Phase II of the regulation became effective in 1992 (55 FR 23658). The rule divides the continental United States into two control regions, Class B and Class C. Generally speaking, the Class B states are the warmer southern and western states, and Class C states are the cooler northern states. The Phase II regulation limits the volatility of gasoline sold during the high ozone season to 9.0 psi for Class C areas and 7.8 psi for Class B ozone nonattainment areas. Michigan is a Class C State, and therefore, required under the Federal rule to meet the 9.0 psi standard.

II. State Submittal

Prior to making its SIP revision submittal, the State has presented at several public hearings its intention to implement a low-RVP fuels program. Initially the State presented the State's legislation to implement a low-RVP gasoline program, House Bill 4898, shortly after the legislation was passed in the State legislature, in 1993.

Next, as part of the redesignation process for Southeast Michigan, the State held a public hearing on the redesignation plan, as well as those measures the State was including in its contingency plan. One of the contingency measures presented to the public was the low-RVP gasoline program.

Lastly, the State presented the proposed low-RVP fuels program at a public hearing as part of the State's contingency measure selection process. The program presented to the public at these hearings not only included the State's legislation establishing a 7.8 psi RVP program, but also the option to market RFG in the area at the discretion of individual gasoline marketers. Two hearings presenting this proposal were held in October 1995.

On January 6, 1996, Michigan Governor John Engler sent a letter to EPA advising EPA the State had selected a low-RVP fuels program as one of the contingency measures to be implemented in the Detroit area. Shortly thereafter, on May 16, 1996, the State submitted just the low-RVP portion of their fuels program to EPA for approval. The SIP revision submitted by the State was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). On May 24, 1996, the State's SIP submittal was found complete.

III. Analysis of State Submittal

State governments are preempted under section 211(c)(4)(A) of the Clean Air Act from mandating a gasoline volatility standard not identical to any Federal standard promulgated under § 211(c)(1) that is applicable to the same characteristic. However, under 211(c)(4)(C) a State can require, through a SIP revision, a more stringent RVP standard for a particular area if the Administrator finds that the more stringent standard is necessary to achieve the National Ambient Air Quality Standard for ozone. In addition to demonstrating necessity as part of the 211(c)(4)(C) waiver process, under section 110 the State must also submit an adequate description of the low-RVP program and associated enforcement procedures. If EPA finds that a State has shown necessity and has provided an adequate description of the program, EPA may approve the SIP revision requiring the lower State RVP standard for the selected areas.

A. Demonstration of Necessity

Section 211(c)(4)(C) provides that the Administrator may find that a State fuel control is necessary if there are no other measures that would bring about timely attainment or such measures are unreasonable or impracticable. The necessity showing must demonstrate that the State is actually in nonattainment or in danger of nonattainment and must include an evaluation of all available ozone control measures.

Once it was determined that a contingency measure would have to be implemented, and was necessary

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because of the violation of the ozone air quality standard, the State organized a workgroup to aid in the selection process. The Contingency Measure workgroup included participants from industry, state and local government, environmentalists, and any other interested persons. The analysis and final recommendations of the workgroup are summarized in a report.[1] The workgroup's recommendations were adopted by Michigan's Governor. The contingency measures selected by the State include a fuels program that limits RVP to 7.8 psi in the summertime, as well as expansion of the State's existing Stage I vapor recovery program.

As part of the analysis, the workgroup considered several different emission control technologies including vehicle inspection and maintenance (basic through enhanced), Stage I vapor recovery, Stage II vapor recovery, enhanced degreasing controls, oxides of nitrogen (NO_X) controls on stationary sources, and RFG. The reasonableness and practicality of each of these proposed control measures were evaluated using a number of factors, including the cost effectiveness of each measure. After considering and weighting all the factors, the workgroup selected stricter gasoline RVP control.

Having considered other measures that the State could implement before a low-RVP program, EPA finds that all other measures the State could implement are unreasonable or impracticable in this context, or would be insufficient to bring about timely attainment. The State is currently expanding its existing Stage I vapor recovery program as part of its contingency plan. While an I/M program would be a reasonable control measure, it could not be implemented as quickly as a low-RVP program and therefore would not reduce emissions in the time-frame necessary to reduce the likelihood of ozone standard violations and provide for attainment in as timely a manner as possible. Reformulated gasoline is not a practicable measure because the Detroit-Ann Arbor CMSA is designated as an attainment area, and hence is precluded from opting into the federal RFG program. While there are some additional reasonable and practicable control measures available, such as more stringent degreasing rules, Stage II vapor recovery, and NO_X controls on stationary sources, none of these measures considered individually or collectively would reduce emissions enough to bring about timely attainment.

Because there are no more reasonable and practicable emission control programs available in Southeast Michigan that would bring about timely attainment, EPA finds that a 7.8 psi summertime gasoline RVP meets the necessity requirement of 211(c)(4)(C) of the Act.

B. Description of Program Including the Enforcement Procedures

Historically, EPA has found that an adequate program description includes: (1) The counties included in the program, (2) the parties regulated as part of the program, (3) the general RVP limit, (4) the control period of the program, and (5) a list of any exceptions to the general limit for different types of gasoline, such as gasohol and RFG.

An adequate description of the State's enforcement procedures should include: (1) The recordkeeping requirement for all regulated parties marketing gasoline, (2) the name of the State agency that will be enforcing the program, (3) the testing frequency and number of stations that will be tested, (4) how sampling will be done, (5) procedures that will be used to determine fuel volatility during enforcement testing, and (6) the State's authority to levy penalties and fines for noncompliance with the program.

The Michigan submittal specifies that the gasoline distributed in Wayne, Oakland, Macomb, Washtenaw, Livingston, St. Clair, and Monroe counties at the retail level must meet a RVP standard of 7.8 psi or less per gallon between June 1 and September 15.[2] Currently, the State's rules include a 1.0 psi exemption for ethanol blended fuels. In addition, the State's rule being developed to include RFG as part of the program will include a 0.3 psi for RFG. The rule to be submitted will also exempt gasoline dispensed at marinas, test tracks, and applications for agricultural purposes from the 7.8 psi limit. Because the State has satisfied all the program description elements, EPA finds the State's description of the program is sufficient.

To ensure enforcement of the program requirements, all parties involved with the marketing of gasoline in the area are required to maintain records for each gasoline shipment.[3] The Michigan Department of Agriculture (MDA) will conduct enforcement of the program.[4] As part of the SIP submittal, the State has committed to inspect a minimum of 40 percent of the dispensing facilities in the six county area during the control period. Sampling will be performed in accordance with the procedures described by EPA in its gasoline volatility regulations in 40 CFR part 80, Appendix D.[5] Gasoline volatility and ethanol content tests will be performed following procedures described by EPA in 40 CFR part 80, Appendices E and F, respectively. Gasoline deemed to be out of compliance will be subject either to a stop use order or seizure.[6] Additionally, MDA has the authority to levy administrative fines, in addition to applicable civil and criminal penalties.[7] The EPA finds the State's submittal sufficiently deters non-compliance and ensures effective enforcement of the program.

IV. Procedural Requirements

Section 553(b) of the APA provides that the general requirement to provide for notice and comment in the rulemaking process does not apply if an agency, for good cause, finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest. Additionally, section 553(d) of the APA provides that for good cause an agency may expedite the effective date of a rule allowing it to take effect sooner than 30 days from the date of publication. As discussed below, EPA has concluded that there is good cause to issue this interim final rule without notice and comment and to make the rule effective July 1, 1996.

A. Notice and Comment

Section 553(b) of the APA provides that agencies must provide the public notice and an opportunity to comment on agency rulemaking, unless one of the specified exceptions applies. Further, section 553(b)(B) of the APA states that notice and comment are not required "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Because of unusual circumstances associated with this rulemaking and for the reasons explained below, EPA finds good cause to issue this interim final rule without prior notice and comment.

[1] The report is titled "Evaluation of Air Quality Contingency Measures for Implementation in Southeast Michigan" and is included in the materials submitted by the State for this proposed SIP revision.

[2] MCLA 290.643 section 3(4), MCLA 290.650d section 10d.

[3] MCLA 290.647 section 7(3)–7(4), MCLA 290.649b section 9b(4).

[4] MCLA 290.641, et seq.

[5] MCLA 290.647 section 7(4), MCLA 290.643 section 3.

[6] MCLA 290.643 section 3.

[7] MCLA 290.647 section 7(5), MCLA 290.613 section 13, MCLA 290.615 section 15.

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1. Time Critical Nature of Action

Ground-level ozone is a threat to public health. Ozone pollution is of particular concern because of its harmful effects on lung tissue and breathing passages. To address this threat, EPA places significant requirements on States to implement programs to control ozone to levels that protect the public health.

Because of the seriousness of the public health issue, the State of Michigan wants to implement a program that will provide substantial emission reduction benefits as soon as this summer. Any program that could be put in place immediately would help the State avoid violations of the ozone standard this summer. Conversely, control programs which take several months to implement would not help protect public health this summer.

A low-RVP fuels program addresses the need for immediate reductions because the air quality benefits of a low-RVP program are produced as soon as the fuel is delivered to retail gasoline stations. Currently, the State and the regulated industry are prepared to implement a low-RVP fuels program this summer, beginning July 1, 1996. There are no other measures the State could implement now to provide the needed emissions reductions in this time-frame.

Providing notice and comment for this action would run counter to the public interest because delaying this rulemaking through applying the normal notice and comment process would mean that the low-RVP program could not be put into place before the end of this summer. Without implementing a low-RVP program immediately the State risks further violations of the ozone standard and an adverse impact on public health this summer.

2. Prior Extensive Public Process and Public Consensus

Considerable public discussion and comment has already transpired concerning the State's adoption of a low-RVP fuels program and the outcome of this process is widespread consensus that a low-RVP fuels programs in the best approach. In particular, the directly affected regulated entities have participated extensively in the decision making process and have notice of the low-RVP fuels program to be implemented in Southeast Michigan.

Prior to making its submittal, the State discussed its plans to implement a fuels program beginning in the summer of 1996, featuring 7.8 psi gasoline, with the regulated parties and the general public. Not only did the State discuss its intentions, it also solicited comments on the State's plans. Initially, as part of the redesignation process for Southeast Michigan, the State held a public hearing on the redesignation plan, as well as those measures the State was including its contingency plan. One of the contingency measures presented to the public was a low-RVP fuels program.

Shortly after the State completed its public hearing process on the redesignation and associated contingency measures, the State submitted the redesignation request to EPA for approval. In the Federal Register notice proposing approval of the redesignation, a low-RVP program was listed as one of the possible contingency measures the State would implement if necessary. While EPA received a variety of comments on the proposal, none of the comments concerned the State's choice of low-RVP as part of the contingency plan, indicating there was no opposition to the possibility of implementation of this program. The EPA finalized approval of the Michigan contingency plan including a low-RVP program as a revision to the Michigan SIP on March 7, 1995.

Because of ozone violations during the summer of 1995 Michigan is required to select a contingency measure to be implemented from its contingency plan. To aid in the selection process, the State formed a workgroup. The Contingency Measure workgroup included participants from industry, state and local government, environmentalists, and any other interested persons. The committee eventually narrowed their recommendation to include a low-RVP fuels program. The Workgroup recommendation indicates the consensus support for this measure by the most directly affected and interested parties.

The final step in the contingency measure selection process was to present the committee's recommendations at a public hearing. Two hearings were held in October 1995. During the hearings none of the oil companies objected to the selection of a low-RVP fuels program as a contingency measure.

During the public participation process, the Detroit media covered the debate concerning which contingency measure would be selected. A number of articles and editorials were published in both the Detroit Free Press and the Detroit News concerning the selection process and the low-RVP fuels program. On January 6, 1996, Michigan Governor John Engler sent a letter to EPA identifying a low-RVP fuels program as one of its contingency measures to be implemented in the Detroit area. Shortly after the Governor's decision, both the Michigan Department of Agriculture and the Governor's offices issued press releases concerning the low-RVP fuels program. Both of these press releases included the planned start-up date of the program, July 1996. Following these press releases several more articles on the program were published in the print media. In addition, the AAA magazine Michigan Living, printed an article about the low-RVP fuels program including the planned start-up date of July 1996.

In addition to the general press coverage the program was receiving, the State held a series of meetings with the oil companies serving the Detroit area as well as the American Petroleum Institute (API), an industry association. During these meetings the State, represented oil companies, and API discussed the details concerning implementation of a low-RVP fuels program by July 1996.

Providing prior notice and comment is of limited benefit to the public here because of the extensive public comment process that has already taken place and the widespread support for the program. This public process has provided an opportunity for all interested parties to participate in the decision to implement low-RVP gasoline as a contingency measure and has generated consensus this is the optimal approach. In addition, delaying the SIP revision approval to allow for notice and comment would run counter to the public interest because of the potential for confusion regarding the applicable requirements. At this point in time the regulated industry, the general public, and the State have planned to begin the program on July 1, 1996. Providing notice and comment would preclude the program from beginning on July 1, 1996, which would likely cause disruption to the regulated industries and confuse the public.

3. Time Limited Nature of Action

This interim final rule is a temporary SIP revision, which will expire automatically and be followed by a notice-and-comment rulemaking to decide whether to make this a permanent SIP revision. The EPA is requiring that gasoline sold in the Detroit—Ann Arbor ozone nonattainment area from July 1, 1996 to September 15, 1996, comply with a 7.8 psi standard. This action does not establish a permanent change to the

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gasoline RVP requirements in Southeast Michigan.

Prior notice and comment is of limited benefit to the public because of the limited time period of this action, and the need for prompt implementation of the program discussed above. In a parallel action, EPA is proposing to make this temporary RVP limit permanent by revising Michigan's SIP to establish a RVP limit of 7.8 psi for gasoline sold in the Detroit—Ann Arbor CMSA. The proposed SIP revision is published in the proposed rule section of this Federal Register. The EPA is hereby providing opportunity to comment on this rulemaking action, as well as on the proposed rulemaking action on the permanent revision. Any public comments received by EPA will be addressed in the subsequent final rulemaking on the proposed revision to the Michigan SIP. Thus, any negative results caused by the lack of notice and comment would exist only for a short and clearly delineated period.

For all the reasons stated above EPA believes that there is good cause for issuing this rule without prior notice and comment, as such prior notice and opportunity to comment under these circumstances is impracticable, unnecessary, and contrary to the public interest.

B. Effective Period

The APA also provides that a rule may not become effective until 30 days after it is published; this requirement is generally met through publication in the Federal Register. However, in certain situations the APA provides that agencies may expedite, or shorten, the time to make the rule effective. Section 553(d) of the APA provides an exception to the effective date requirement where an agency finds there is good cause to expedite the effective date. Because of circumstances specific to this situation and for the reasons explained below, EPA finds good cause to make this rule effective as of July 1, 1996.

1. Time Critical Nature of Action

As discussed more fully above, to protect public health during the upcoming ozone season, the State would need to implement a measure that would immediately reduce VOC emissions. The low-RVP program proposed by the State and required here on a temporary basis, would provide such immediate reductions if EPA's approval is effective by July 1, 1996.

Delaying the effective date until 30 days after publication runs counter to the public interest because of the need to address the risk of ozone air pollution occurring this summer. If this rulemaking action were subject to such a delay, the low-RVP program could not be put into place before the end of this summer. Without implementing a low-RVP program immediately the State risks further violations of the ozone standard and an adverse impact on public health this summer.

2. Prior Public Notice

Delaying the effective date until 30 days after publication is irrelevant to the lead time needed for compliance because the public has had substantial public notice of the upcoming low-RVP requirements. In particular, the directly affected regulated entities and the public have participated extensively in the decision process to implement this program starting July 1, 1996, and have notice of that start date. Hence, delay beyond that date is not necessary for compliance purposes and will introduce confusion as to when the requirements will apply.

For all the reasons stated above EPA believes that there is good cause for making this rule effective as of July, 1, 1996, as a later effective date is impracticable, unnecessary, and contrary to the public interest.

IV. Action

The EPA is approving a revision to Michigan's SIP to establish a summertime gasoline RVP limit of 7.8 psi for gasoline sold in Wayne, Oakland, Macomb, Washtenaw, Livingston, St. Clair, and Monroe counties and is finding that such a requirement is necessary for the area to attain the ozone National Ambient Air Quality Standard for ozone, at least for the period the approval is effective. This approval is effective from July 1, 1996, to September 15, 1996.

V. Administrative Requirements

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA*, 427 U.S. 246, 256–66 (1976).

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

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circuit by October 29, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

F. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 808(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act (SBREFA) EPA submitted 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 General Accounting Office prior to publication of the rule in the Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended. Pursuant to 5 U.S.C. 808(2) as added by SBREFA, this rule may take effect prior to the date of its submission to Congress because EPA for good cause has found that providing for notice and public procedure on this rule is impracticable, unnecessary, and contrary to the public interest.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: June 21, 1996.

David A. Ullrich,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(107) to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(107) On May 16, 1996, the State of Michigan submitted a revision to the Michigan State Implementation Plan (SIP). This revision is for the purpose of establishing a gasoline Reid vapor pressure (RVP) limit of 7.8 pounds per square inch (psi) for gasoline sold in Wayne, Oakland, Macomb, Washtenaw, Livingston, St. Clair, and Monroe counties in Michigan. This revision will only be effective from July 1, 1996, to September 15, 1996.

(i) Incorporation by reference.

(a) House Bill No. 4898; signed and effective November 13, 1993.

(b) Michigan Complied Laws, Motor Fuels Quality Act, Chapter 290, Sections 642, 643, 645, and 646, 647, and 649 all effective November 13, 1993.

(c) Michigan Complied Laws, Weights and Measures Act of 1964, Chapter 290, Sections 613, 615; all effective August 28, 1964.

(ii) Additional materials.

(a) Letter from Michigan Governor John Engler to Regional Administrator Valdas Adamkus, dated January 5, 1996.

(b) Letter from Michigan Director of Environmental Quality Russell Harding to Regional Administrator Valdas Adamkus, dated May 14, 1996.

(c) State report titled "Evaluation of Air Quality Contingency Measures for Implementation in Southeast Michigan," submitted to the EPA on May 14, 1996.

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40 CFR Part 86

[AMS–FRL–5602–3]

RIN 2060–AC65

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Regulations Requiring On-Board Diagnostic (OBD) Systems—Acceptance of Revised California OBD II Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This final rulemaking revises requirements associated with on-board diagnostic (OBD) systems. The federal OBD rulemaking, published February 19, 1993, allowed for compliance with California OBD II requirements to satisfy federal OBD requirements through the 1998 model year. The California Air Resources Board has recently revised their OBD II requirements. This rulemaking promulgates appropriate revisions to federal OBD regulations such that compliance with the recently revised OBD II requirements will satisfy federal OBD. This rulemaking does not require that manufacturers comply with OBD II anti-tampering provisions. OBD systems in general provide substantial ozone benefits.

EFFECTIVE DATE: This final rule is effective October 29, 1996.

ADDRESSES: Materials relevant to this rulemaking are contained in Docket No. A–90–35, and are available for public inspection and photocopying between 8 a.m. and 5:30 p.m. Monday through Friday. The telephone number is (202) 260–7548 and the facsimile number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket material.

FOR FURTHER INFORMATION CONTACT: Todd Sherwood, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, telephone (313) 668–4405, or Internet e-mail at "sherwood.todd@epamail.epa.gov."

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those which manufacture new motor vehicles and engines. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	New motor vehicle and engine manufacturers.

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 product is regulated by this action, you should carefully examine the applicability criteria in § 86.094–17 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular product, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Electronic Copies of Rulemaking Documents

Electronic copies of the preamble and the regulatory text of this final rulemaking are available via the Internet on the Office of Mobile Sources (OMS) Home Page (http://www.epa.gov/OMSWWW/). Users can find OBD related information and documents through the following path once they have accessed the OMS Home Page: "Automobiles," "I/M & OBD," "On-Board Diagnostics Files."

Electronic copies of the preamble and the regulatory text of this final

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