



**ENVIRONMENTAL PROTECTION AGENCY 6560-50-P
40 CFR Part 80**

[EPA-HQ-OAR-2015-0049; FRL-9924-70-OAR]

RIN 2060-AS48

Regulation of Fuels and Fuel Additives: Cellulosic Waiver Credit Price and Minor Amendments to Renewable Fuel Standard Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to clarify our regulations related to the data sources used to establish the cellulosic waiver credit (CWC) price. We are also proposing to remove references to CWC prices from the renewable fuel standard regulations, and instead intend to post the prices on EPA's website. This proposed rule also indicates what the CWC prices for 2014 and 2015 would be using the data sources and methodology contained in the rule; however these prices will not be established until they are posted on our website following the effective date of the rule. In addition, we are proposing minor amendments to the renewable fuel standard program regulations to reinsert sections inadvertently overwritten by the Quality Assurance Program final rule published on July 18, 2014. In the "Rules and Regulations" section of this **Federal Register**, we are making these same amendments as a direct final rule. If we receive no adverse comment, the direct final rule will go into effect and we will not take further action on this proposed rule.

DATES: A request for a public hearing must be received by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If a public hearing

request is received, EPA will publish a notice in the **Federal Register** indicating the time and place for the hearing. If a public hearing is held, written comments must be received within 30 days after the date of the hearing. If no public hearing is held then comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2015-0049, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- Email: a-and-r-docket@epa.gov.
- Mail: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.
- Hand Delivery: EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. 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-2015-0049. 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 website 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>. For additional instructions on submitting comments, go to Section I.B of the **SUPPLEMENTARY INFORMATION** section of this document.

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 and Radiation Docket and Information Center, EPA/DC, EPA WJC 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: Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor MI 48105; Telephone number: 734-214-4131; Fax number: 734-

214-4816; E-mail address: macallister.julia@epa.gov, or the public information line for the Office of Transportation and Air Quality; telephone number (734) 214-4333; E-mail address: OTAQ@epa.gov.

SUPPLEMENTARY INFORMATION:

Why is EPA Issuing a Proposed Rule?

EPA is proposing to take action to clarify our regulations related to the data sources used to establish the price for cellulosic waiver credits (CWC). EPA is also proposing to remove the CWC prices from our regulations so as to allow the prices to be established in a more expeditious manner. The CWC prices would instead be published on EPA's "Renewable Fuels: Regulations & Standards" website (<http://www.epa.gov/otaq/fuels/renewablefuels/regulations.htm>). EPA is also proposing to reinsert regulatory provisions in the renewable fuel standard (RFS) program regulations that were inadvertently overwritten by the Quality Assurance Program (QAP) final rule (79 FR 42078, July 18, 2014).

Clarifying the data sources used in calculating the CWC price would eliminate uncertainty regarding EPA's process in establishing the CWC prices, would enable stakeholders to better predict the annual CWC price before it is established, and would allow EPA to establish the CWC price in a more timely manner. This action does not change the formula used to establish the CWC price (listed in our regulations at 40 CFR 80.1456(d)).

If we receive no relevant adverse comment or hearing request on the direct final rule, we will not take further action on this proposed rule. If EPA receives relevant adverse comment or a hearing request, we will publish a timely withdrawal in the Federal Register of the portions of the direct final rule on which adverse comment was received. We will address all public

comments in any subsequent final rule based on this proposed 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.

The proposed changes to the regulatory text are identical to those presented in the direct final rule published in the “Rules and Regulations” section of today’s Federal Register. For further information, including a detailed explanation and rationale for the proposal and the text of the proposed regulatory revisions, see the direct final rule published in the “Rules and Regulations” section of today’s Federal Register.

Does this Action Apply to Me?

Entities potentially affected by this proposed rule are those involved with the production, distribution, and sale of transportation fuels, including gasoline and diesel fuel or renewable fuels such as ethanol and biodiesel. Potentially regulated categories include:

| Category | NAICS ¹ Codes | SIC ² Codes | Examples of Potentially Regulated Entities |
|----------|-----------------------------|---------------------------|---|
| Industry | 324110 | 2911 | Petroleum Refineries |
| Industry | 325193 | 2869 | Ethyl alcohol manufacturing |
| Industry | 325199 | 2869 | Other basic organic chemical manufacturing |
| Industry | 424690 | 5169 | Chemical and allied products merchant wholesalers |
| Industry | 424710 | 5171 | Petroleum bulk stations and terminals |
| Industry | 424720 | 5172 | Petroleum and petroleum products merchant wholesalers |
| Industry | 454319 | 5989 | Other fuel dealers |

¹ North American Industry Classification System (NAICS)

² 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 proposed action. This table lists the types of entities that EPA is now aware could potentially be regulated by this proposed action. Other types of entities not listed in the table could also be regulated. To determine whether your

activities would be regulated by this action, you should carefully examine the applicability criteria in 40 CFR part 80. If you have any questions regarding the applicability of this proposed action to a particular entity, consult the person listed in **FOR FURTHER INFORMATION CONTACT.**

Outline of this Preamble

- I. Executive Summary
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 - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- VII. Statutory Authority

I. Executive Summary

For any calendar year for which the projected volume of cellulosic biofuel production is less than the applicable volume of cellulosic biofuel set forth in CAA 211(o)(2)(B)(III), EPA must reduce the required volume of cellulosic biofuel for that year to the projected volume, and must provide obligated parties the opportunity to purchase cellulosic waiver credits (CWC). The price of these credits is determined using a formula specified in the CAA.¹ The cellulosic waiver

¹ CAA 211(o)(7)(D)(ii)

credit price is the greater of \$0.25 or \$3.00 minus the wholesale price of gasoline, where both the \$0.25 and \$3.00 are adjusted for inflation. In this action we are proposing to clarify the data sources we use to calculate the inflation adjustments used in this formula. This would eliminate potential uncertainty regarding EPA's approach to establishing the CWC prices. We are not making any modifications to the formula used to calculate the CWC price.

Additionally, in order to provide more certainty to the market through timely publication of CWC prices, EPA is also amending the procedure it uses to announce CWC prices. To date, we have established the prices by rulemaking and published them in the Code of Federal Regulations. To allow more expeditious publication of these prices, EPA is proposing to remove references to CWC prices from the CFR. The prices would instead be posted by the Office of Transportation and Air Quality within the Office of Air and Radiation on EPA's "Renewable Fuels: Regulations & Standards" website (<http://www.epa.gov/otaq/fuels/renewablefuels/regulations.htm>).

We are also proposing minor amendments to the regulations to reinsert language applicable to biofuel producers using *Arundo donax* or *Pennisetum purpureum* as feedstock, which was inadvertently overwritten by the Quality Assurance Program (QAP) final rule (79 FR 42078, July 18, 2014), and to make minor conforming changes to the numbering of other regulatory provisions.

II. Clarifications Related to CWC Price Calculation

EPA is proposing to clarify sections of the regulations related to the CWC price calculation. These proposed changes are consistent with the CWC price formula set forth in the statute, and more specifically, with the statutory direction to adjust certain terms in the formula

for inflation. We believe these proposed regulations would more clearly articulate the data sources that EPA uses in calculating the CWC price for each year.

The regulations that outline the process used by EPA to calculate the CWC price are set forth in 40 CFR 80.1456(d). The regulations currently state that “the wholesale price of gasoline used in the CWC calculation will be calculated by averaging the most recent twelve monthly values for U.S. Total Gasoline Bulk Sales (Price) by Refiners as provided by the Energy Information Administration (EIA) that are available as of September 30 of the year preceding the compliance period.”² In practice, given the publication schedule for the referenced EIA publication, this means that EPA calculates the wholesale price of gasoline using data from the 12 months prior to July of the year preceding the compliance period (i.e., July 2011 – June 2012 data for the 2013 CWC price). We are not proposing to make any modifications to this portion of the regulations.

The regulations also currently state that the inflation adjustment used in calculating the CWC price will be calculated at the time EPA sets the cellulosic biofuel standard.³ In an effort to provide certainty to the market in relation to the CWC price as soon as reasonably practical, EPA believes it would be preferable to announce the CWC price as soon as the relevant data on the wholesale price of gasoline is available. Therefore, we are proposing to calculate the inflation adjustment using data from June of the year preceding the compliance period. We believe this is appropriate as it is the most recent month within the time period over which we calculate the average wholesale price of gasoline. We are also proposing to eliminate the regulatory references to CWC prices. Instead we intend to announce the CWC price in a notice on our “Renewable Fuels: Regulations & Standards” website by November of the year preceding

² 40 CFR 80.1456(d)(2)

³ 40 CFR 80.1456(d)(3)

the compliance period. Consistent with previous CWC calculations, EPA would continue to base the inflation adjustment on the Consumer Price Index for All Urban Consumers (CPI-U): U.S. City Average, Unadjusted Index for All Items expenditure category as provided by the Bureau of Labor and Statistics. We are proposing to amend our regulations in this action to clarify that we are using the unadjusted price index, rather than the seasonally adjusted price index, to calculate the inflation adjustment. We believe this is appropriate as the unadjusted index most accurately reflects the prices consumers actually pay and do not change, whereas the seasonally adjusted indexes are subject to revision for up to five years after their release.⁴ We are also clarifying that we are using “US City Average” data, as opposed to data for geographic subsets of the country. This is appropriate in light of the nation-wide applicability of the RFS program. Both of these changes simply clarify EPA’s current practice, and are designed to promote regulatory certainty and understanding by stakeholders.

We are also proposing to amend the section of our regulations where the CWC price for previous years is listed.⁵ EPA has included the prices for 2010, 2011, 2012, and 2013 CWCs in our regulations. Promulgating prices in regulations, however, requires EPA to undertake a rulemaking, which we believe may unnecessarily delay the announcement of the CWC price. Furthermore, we believe the CWC price need not be established by rulemaking, for the following reasons. First, the formula and all data sources for the CWC price are specified in our regulations, so the actual price calculation is a procedural action that will not benefit from a notice and comment rulemaking. Second, CWCs are purchased from EPA, and EPA can ensure that the correct price is paid for them. Finally, the publication of the CWC price in the CFR is

⁴ For more information on Seasonally Adjusted vs. Unadjusted Indexes see <http://www.bls.gov/cpi/cpisapage.htm>

⁵ 40 CFR 80.1405(d)

not necessary for informational purposes as EPA intends to promptly post the CWC prices on our website.

Therefore, in this action EPA is proposing to delete the sections of our regulations containing the CWC prices for previous years and is instead including a statement in the regulations indicating that the CWC price for each year will be posted on EPA's "Renewable Fuels: Regulations & Standards" website (<http://www.epa.gov/otaq/fuels/renewablefuels/regulations.htm>). Adopting this approach would allow EPA to announce the CWC prices at the earliest opportunity. We believe this would benefit both cellulosic biofuel producers and obligated parties. EPA would post the CWC prices for 2013, 2014, and 2015 on our website following the effective date of this rule.

III. CWC Price Calculations for 2014 and 2015

To illustrate the derivation of CWC prices pursuant to the statutory formula, and with the data sources specified in this proposed rule, we explain in this section the derivation of CWC prices for 2014 and 2015.⁶ EPA determined the average wholesale (refinery gate) price of gasoline using the monthly average prices for the 12 months prior to July of the year preceding each compliance period. In this calculation EPA uses the U.S. Total Gasoline Bulk Sales Price by Refiners (Dollars per Gallon) as reported by the U.S. Energy Information Administration (EIA). The data are shown below in Table 1 and Table 2 for the calculations for 2014 and 2015, respectively, and can be found at:

⁶ The calculations for the 2013 CWC were explained in a memo to the docket for our rulemaking establishing the 2013 standards (EPA-HQ-OAR-2012-0546-0134). The 2013 CWC price was calculated in accordance with the methodology and data sources described in this rule, with one minor difference. To calculate the Inflation Factor the August 2012 Index (230.037) was used rather than the June 2012 Index (229.815). Using the June 2012 Index in place of the August 2012 Index does not change the CWC waiver credit price for 2013 of \$0.42. EPA will therefore confirm the 2013 CWC price in the announcement on our website following the effective date of this rule.

(http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMA_EPM0_PBR_NUS_DPG&f=M).

Table 1 – Wholesale Gasoline Prices for 2014 CWC Calculation

| Month | Average Price in \$ |
|----------------|---------------------|
| July 2012 | 2.703 |
| August 2012 | 2.961 |
| September 2012 | 3.133 |
| October 2012 | 2.922 |
| November 2012 | 2.622 |
| December 2012 | 2.554 |
| January 2013 | 2.668 |
| February 2013 | 2.892 |
| March 2013 | 2.963 |
| April 2013 | 2.822 |
| May 2013 | 2.824 |
| June 2013 | 2.817 |

Table 2 – Wholesale Gasoline Prices for 2015 CWC Calculation

| Month | Average Price in \$ |
|----------------|---------------------|
| July 2013 | 2.879 |
| August 2013 | 2.916 |
| September 2013 | 2.831 |
| October 2013 | 2.610 |
| November 2013 | 2.496 |
| December 2013 | 2.551 |
| January 2014 | 2.598 |
| February 2014 | 2.650 |
| March 2014 | 2.763 |
| April 2014 | 2.829 |
| May 2014 | 2.853 |
| June 2014 | 2.924 |

The average monthly price in dollars for the calculation of the 2014 CWC price is 2.823. The average monthly price in dollars for the calculation of the 2015 CWC price is 2.742.

The CAA requires that EPA adjust for inflation the comparison values of twenty-five cents (\$0.25) and three dollars (\$3.00) in the CWC price formula. EPA must compare the

inflated twenty-five cent value with the amount the inflated three dollar value exceeds the average wholesale price of gasoline. EPA is required to use the greater of the two values as the price for the cellulosic biofuel waiver credits.

EPA evaluated inflation by using the Unadjusted Index values from the Consumer Price Index for All Urban Consumers (CPI-U): U.S. City Average, for the All Items expenditure category as provided by the Bureau of Labor and Statistics, for the months of January 2009 (the first comparable value after 2008) and June 2013 and June 2014, as discussed in Section II of this preamble. These unadjusted indexes are used to calculate an Inflation Factor for each year, as shown in Table 4 below. Finally, we compare \$0.25 (inflation adjusted) to \$3.00 (inflation adjusted) minus the wholesale price of gasoline for each year. The greater of these values is the price for the cellulosic waiver credits.

Table 3 – Inflation Adjustments

| Month | Unadjusted Index | Source |
|--------------|------------------|---|
| January 2009 | 211.143 | http://www.bls.gov/cpi/cpid0901.pdf (Table 1) |
| June 2013 | 233.504 | http://www.bls.gov/cpi/cpid1306.pdf (Table 1) |
| June 2014 | 238.343 | http://www.bls.gov/cpi/cpid1406.pdf (Table 1) |

Table 4 – Inflation Factors

| Months | Equation | Inflation Factor |
|-----------------------|-------------------------------|------------------|
| Jan. 2009 – June 2013 | $1+(233.504-211.143)/211.143$ | 1.106 |
| Jan. 2009 – June 2014 | $1+(238.343-211.143)/211.143$ | 1.129 |

Table 5 – Cellulosic Waiver Credit Price Calculations

| Year | \$0.25 (Inflation Adjusted) | \$3 – Wholesale Price of Gasoline (Inflation Adjusted) | CWC Price (Larger of the two values, rounded to the nearest cent) |
|------|-----------------------------|--|---|
| 2014 | $\$0.25 * 1.106 = \0.28 | $(\$3.00 * 1.106) - \$2.823 = \$0.4947$ | \$0.49 |
| 2015 | $\$0.25 * 1.129 = \0.28 | $(\$3.00 * 1.129) - \$2.742 = \$0.6445$ | \$0.64 |

As shown in Table 5, using the data sources for the inflation adjustment that are specified in this proposed rule results in a CWC price of \$0.49 for 2014 and \$0.64 for 2015. These prices, along with the CWC price for 2013 (\$0.42) would be posted on EPA's website after the effective date of a final rule.

EPA notes that in this action we are not making a determination regarding whether CWCs will actually be offered. As required by statute, CWCs are only made available for sale if EPA lowers the required cellulosic biofuel volume requirement below the applicable volume set forth in the Act. EPA will decide whether or not it will lower the required cellulosic biofuel volumes in future rules establishing the 2014 and 2015 cellulosic biofuel percentage standards. At that time EPA will determine if CWCs will be sold. If so, they will be sold at the prices indicated above. However EPA notes that it has offered CWCs for every year since 2010, the first year for which a separate cellulosic biofuel standard was established. Given the anticipated shortfall in cellulosic biofuel production, as compared to statutory volumes, in these years it is probable that CWCs will be offered.

IV. Reinsertion of Inadvertently Overwritten Language

In the RFS RIN Quality Assurance Program final rule (79 FR 42078, July 18, 2014), we moved the previous 40 CFR 80.1426(f)(12) (regarding process heat produced from biogas) to 40 CFR 80.1426(f)(14) as we had proposed on February 21, 2013 (78 FR 12158). When we moved 40 CFR 80.1426(f)(12) to 40 CFR 80.1426(f)(14), however, we inadvertently overwrote the previous 40 CFR 80.1426(f)(14) (regarding renewable fuel produced from giant reed (*Arundo donax*) or napier grass (*Pennisetum purpureum*)) that had been finalized in a separate final rule which was published on July 11, 2013 (78 FR 41703). The new 40 CFR 80.1426(f)(12) finalized in the RFS RIN Quality Assurance Program final rule dealt with additional requirements for

producers and importers when generating RINs. In today's action, we are proposing to amend the regulations to undo our inadvertent elimination of the regulatory provisions related to giant reed and napier grass. Specifically, we are proposing: 1) re-inserting the inadvertently eliminated language as 40 CFR 80.1426(f)(14) (see 78 FR 41714, July 11, 2013); 2) moving the current 40 CFR 80.1426(f)(14) (process heat produced from biogas) back to 40 CFR 80.1426(f)(12), where it existed prior to the RFS RIN Quality Assurance Program final rule (see 75 FR 79977, December 21, 2010); and 3) moving the current 40 CFR 80.1426(f)(12) to a new 40 CFR 80.1426(f)(17).

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

A. Submitting CBI

Do not submit confidential business information (CBI) to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

B. Tips for Preparing Your Comments

When submitting comments, remember to:

- 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.

C. Docket Copying Costs

You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the PRA. The changes made to the regulations as a result of this action impose no new or different reporting requirements on regulated parties.

C. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This action clarifies the data sources and methodology used by EPA to establish the CWC price, establishes these prices for 2014 and 2015, and reinserts inadvertently overwritten regulatory language. The impacts of the RFS2 program on small entities were already addressed in the RFS2 final rule promulgated on March 26, 2010 (75 FR 14670), and this rule will not impose any additional requirements on small entities beyond those already analyzed. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action implements mandate(s) specifically and explicitly set forth in Clean Air Act section 211(o) without the exercise of any policy discretion by the EPA.

E. Executive Order 13132: Federalism

This action 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.

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

This action does not have tribal implications, as specified in Executive Order 13175. This rule will be implemented at the Federal level and potentially impacts gasoline, diesel, and renewable fuel producers, importers, distributors, and marketers. Tribal governments would be affected only to the extent they purchase and use regulated fuels. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets EO 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks and because it implements specific standards established by Congress in statutes (section 211(o) of the Clean Air Act).

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

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

This proposed rule is a technical correction and does not concern an environmental health or safety risk. Therefore, Executive Order 12898 does not apply.

VII. Statutory Authority

Statutory authority for this proposed action comes from section 211 of the Clean Air Act, 42 U.S.C. 7545.

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Oil imports, Petroleum, Renewable Fuel.

Dated: March 24, 2015.

Gina McCarthy,
Administrator

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