

one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

This direct final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This direct final rule applies to gasoline refiners, blenders and importers that supply gasoline or diesel fuel. Today's action updates an ASTM test method to its most recent version, and does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this direct final rule.

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

Executive Order 13045: “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This direct final rule is not an economically “significant energy action” as defined in Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it does not have a

significant adverse effect on the supply, distribution, or use of energy. EPA is allowing additional flexibility and streamlining the regulations by updating an ASTM test method to its most current version for three applications under its motor vehicle programs.

*I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rule will update an ASTM test method which is a designated analytical test method for two applications and an alternative test method for one application to its most recent ASTM version. Today's action does not establish new technical standards or analytical test methods, although it does update an ASTM test method to its most current version. To the extent that this action would allow the use of standards developed by voluntary consensus bodies (such as ASTM) this action would further the objectives of the NTTAA.

*J. 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(a).

**VI. Statutory Provisions and Legal Authority**

Statutory authority for today's direct final rule comes from sections 211(c), 211(i) and 211(k) of the CAA (42 U.S.C. 7545(c) and (k)). Section 211(c) and 211(i) allows EPA to regulate fuels that contribute to air pollution which endangers public health or welfare, or which impairs emission control equipment. Section 211(k) prescribes requirements for RFG and conventional gasoline and requires EPA to promulgate regulations establishing these requirements. Additional support for the fuels controls in today's rule comes from sections 114(a) and 301(a) of the CAA.

**List of Subjects in 40 CFR Part 80**

Environmental protection, Air pollution control, Fuel additives, Gasoline, Diesel, Imports, Incorporation by reference, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: September 24, 2003.

**Marianne Lamont Horinko,**  
*Acting Administrator.*

■ For the reasons set forth in the preamble, part 80 of title 40, chapter I of the Code of Federal Regulations is amended as follows:

**PART 80—REGULATION OF FUELS AND FUEL ADDITIVES**

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

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

■ 2. Section 80.2 is amended by revising paragraphs (z) to read as follows:

**§ 80.2 Definitions.**

\* \* \* \* \*

(z) *Aromatic content* is the aromatic hydrocarbon content in volume percent as determined by ASTM standard test method D 1319–02a, entitled, “Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption”. ASTM test method D 1319–02a is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Dr., West Conshohocken, PA 19428–2959. Copies may be inspected at the Air Docket Center, room B–108, U.S. Environmental Protection Agency, Docket No. A–2202–15, 1200 Pennsylvania Avenue, NW.,