than January 1, 1995 or 1 year after such application is received, whichever is later". EPA considers the date of the second letter from the Governor as the effective date of the application, as that letter first expresses when Wisconsin would like the program to start and clarifies the Governor's original letter. Additionally, EPA expects there to be sufficient domestic supply of RFG and therefore has no current reason to delay implementation of the program in Wisconsin beyond August 2, 1995.

For those nonattainment areas in Wisconsin, EPA could establish the start of the RFG program at the retail level anytime between January 1, 1995 and August 2, 1995. However, the Agency believes that any effective date for the retail level prior to June 1, 1995 is inappropriate for the following reasons. First, an effective date of January 1, 1995 for the RFG program in Wisconsin would not provide sufficient notice to relevant parties. In addition, implementation of the RFG program in Wisconsin later than January 1, 1995 but earlier than June 1, 1995 would require that winter RFG be sold at the retail level for a brief period before summer VOC-control requirements would become effective. As stated in the Governor's letter, Wisconsin officials are primarily concerned with the benefits derived from VOC-controlled RFG which is required June 1, 1995. Thus, EPA believes that an effective date of June 1, 1995 is suitable for Wisconsin since it is consistent with the beginning of the RFG summer VOC control season and with the request in Governor Thompson's letter.

Requiring that the RFG program begin at the onset of the VOC-control season, as requested by Governor Thompson, addresses concerns raised by wholesale/ retail distributors to Wisconsin officials regarding the unwillingness of refiners which normally sell gasoline in Wisconsin to supply RFG to a geographic area which is so small and that is such a substantial distance from the nearest RFG market. Wisconsin officials believe that the June 1 effective date will provide the gasoline distribution industry with the necessary lead-time to establish storage and cross sales agreements with refiners (other than those which already market fuel in the area) willing to sell RFG in the three county moderate ozone nonattainment area. Such storage and cross sales agreements will facilitate the sale of reformulated gasoline, which will aid Wisconsin in meeting its statutory 15 percent reduction requirements. In addition, as expressed in the Governor's letter, the main interest in opting into this program is based on a belief that the state air quality would most benefit from the summer season reformulated gasoline.

RFG VOC-control compliance at the terminal in Wisconsin should be consistent with the final regulatory requirements for the RFG program. Thus, compliance by parties upstream of retail outlets, in Wisconsin, will be effective May 1, 1995. As in the federal volatility program, such an effective date for upstream parties such as terminals is necessary to ensure compliance at the retail level by requiring that RFG be in the pipeline (upstream) prior to June.

# IV. Public Participation and Effective Date

The Agency is publishing this action as a direct final rule because it views the addition of the three ozone nonattainment areas in Wisconsin to the RFG program as non-controversial and anticipates no adverse or critical comments. Representatives from the state of Wisconsin have met with refiners that supply the majority of the state's fuel, including those refiners willing to supply RFG to the moderate ozone nonattainment areas, and the parties apparently agree that the on-set of the VOC-control season is an appropriate time to begin implementation of the RFG program. Thus, interested parties appear to agree on the June 1, 1995 date.

This action will be effective on March 13, 1995 unless the Agency receives notice by February 10, 1995 that adverse or critical comments will be submitted, or that a party requests the opportunity to submit such oral comments pursuant to section 307(d)(5) of the Clean Air Act, as amended. If such notice or comments are received regarding the addition of the moderate ozone nonattainment areas in Wisconsin to the RFG program, today's action will be withdrawn before the effective date by the publication of a subsequent withdrawal notice in the Federal Register. In the event that today's direct final rule is withdrawn as a result of the submission of adverse or critical comments or a request to present such comments at a public hearing, the Agency will issue a notice of proposed rulemaking to extend the RFG program to the three moderate ozone nonattainment counties in Wisconsin.

### V. Statutory Authority

The statutory authority for the action finalized today is granted to EPA by Sections 114, 211(c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545(c) and (k), and 7601.

### **VI. Administrative Designation**

Pursuant to Executive Order 12866, [58 FR 51,735 (October 4, 1993)] the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. Pursuant to the terms of Executive Order 12866, it has been determined that this direct rule is not a "significant regulatory action".

# VII. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) of 1980 requires federal agencies to examine the effects of extending the RFG program to three moderate ozone nonattainment areas in Wisconsin and to identify significant adverse impacts of federal regulations on a substantial number of small entities. Because the RFA does not provide concrete definitions of "small entity," 'significant impact,'' or ''substantial number," EPA has established guidelines setting the standards to be used in evaluating impacts on small businesses. For purposes of the RFG program, a small entity is any business which is independently owned and operated and not dominant in its field as defined by SBA regulations under section 3 of the Small Business Act.

The Agency believes that the extension of the RFG program to the three ozone nonattainment areas in Wisconsin is unlikely to have a significant economic impact on a substantial number of small entities. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

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

Environmental protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: December 29, 1994.

Carol M. Browner,

# Administrator.

40 CFR part 80 is amended by making the following revisions:

# PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

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

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

In \$ 80.70, paragraphs (l) and (l)(1) are added to read as follows: