

implemented. Thus, Executive Order 13175 does not apply to this rule.

*G. 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 (Energy Effects)*

This 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 Advancement Act*

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 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 action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

Executive Order 12898 (59 FR 7629 (Feb. 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 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 rule applies to one facility and withdraws a rule that was not implemented.

*K. The 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. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because it is a rule of particular applicability and does not impose any new requirements.

**List of Subjects in 40 CFR Part 261**

Environmental protection, Hazardous waste, Recycling, Waste treatment and disposal, Recycling.

Dated: June 19, 2008.

**Stephen L. Johnson,**  
*Administrator.*

■ For the reasons set forth in the preamble, parts 261 of chapter I of title 40 of the Code of Federal Regulations are amended as follows:

**PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE**

■ 1. The authority citation for part 261 continues to read as follows:

**Authority:** 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

■ 2. Section 261.4 paragraph (b)(16) is removed and reserved.

[FR Doc. E8-14403 Filed 6-24-08; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 1051**

**[EPA-HQ-OAR-2008-0124; FRL-8684-6]**

**RIN 2060-A088**

**Exhaust Emission Standards for 2012 and Later Model Year Snowmobiles**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** In a November 2002 final rule, we established the first U.S. emission standards for new snowmobiles. Subsequent litigation regarding that final rule resulted in a court decision which requires us to: remove the oxides of nitrogen (NO<sub>x</sub>) component from the Phase 3 snowmobile standards set to take effect in 2012, and; clarify the evidence and analysis upon which the Phase 3 carbon monoxide (CO) and hydrocarbon (HC) standards were based. In this action, we are removing the NO<sub>x</sub> component from the Phase 3 emission standard calculation. We are deferring action on the 2012 CO and HC emission standards portion of the court's remand to a separate rulemaking action.

**DATES:** This rule is effective on August 25, 2008 without further notice, unless EPA receives adverse comment by July 25, 2008 or a request for a public hearing by July 15, 2008. If a hearing is requested by this date, it will be held at a time and place to be published in the **Federal Register**. After the hearing, the docket for this rulemaking will remain open for an additional 30 days to receive comments. If a hearing is held, EPA will publish a document in the **Federal Register** extending the comment period for 30 days after the hearing. If EPA receives adverse comments or a request for public hearing, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-

OAR-2008-0124, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail*: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
- *Fax*: (202) 566-1741.
- *Mail*: Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460. Please include two copies.
- *Hand Delivery*: EPA Docket Center (Air Docket), U.S. Environmental Protection Agency, EPA West Building, 1301 Constitution Avenue, NW., Room: 3334 Mail Code: 6102T, Washington, DC. 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-2008-0124. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://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 <http://www.regulations.gov> or e-mail. The [www.regulations.gov](http://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 <http://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 <http://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 <http://www.regulations.gov> or in hard copy at the EPA Docket Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, 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.

*Public Hearing*: To request a public hearing, contact John Mueller at (734) 214-4275 or [mueller.john@epa.gov](mailto:mueller.john@epa.gov). If a public hearing is held, persons wishing to testify must submit copies of their testimony to the docket and to John Mueller at the address below, no later than 10 days prior to the hearing.

**FOR FURTHER INFORMATION CONTACT**: John Mueller, Assessment and Standards Division, Office of Transportation and

Air Quality, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4275; fax number: (734) 214-4050; e-mail address: [mueller.john@epa.gov](mailto:mueller.john@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Why Is EPA Using a Direct Final Rule?**

We are publishing this as a direct final rule because we view this as a noncontroversial action. We are simply removing the NO<sub>x</sub> component from the Phase 3 snowmobile emission standard equation as required by the court decision. 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 consider adoption of the provisions in this direct final rule if adverse comments or a request for a public hearing are received on this action. 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 or a request for a public hearing, 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. Does This Action Apply to Me?**

This action will affect companies that manufacture, sell, or import into the United States new snowmobiles and new spark-ignition engines for use in snowmobiles. This action may also affect companies and persons that rebuild or maintain these engines. Affected categories and entities include the following:

| Category       | NAICS code <sup>a</sup> | Examples of potentially affected entities               |
|----------------|-------------------------|---|
| Industry ..... | 333618                  | Manufacturers of new nonroad spark-ignition engines.    |
| Industry ..... | 336999                  | Snowmobile manufacturers.                               |
| Industry ..... | 811310                  | Engine repair and maintenance.                          |
| Industry ..... | 421110                  | Independent commercial importers of vehicles and parts. |

<sup>a</sup>North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether particular activities may be affected by this action, you should carefully examine the regulations. You may direct questions regarding the

applicability of this action as noted in **FOR FURTHER INFORMATION CONTACT**.

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

*A. Submitting CBI*. Do not submit Confidential Business Information (CBI) to EPA through <http://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.

#### IV. Summary of Rule

In November 2002, we adopted emission standards for new

snowmobiles.<sup>1</sup> The program contained three phases of standards. The Phase 1 standards, effective with the 2006 model year, and the Phase 2 standards, effective with the 2010 model year, contained limits for CO and HC emissions. The Phase 3 standards, effective with the 2012 model year, also contained a NO<sub>x</sub> component in addition to CO and HC components, effectively creating separate HC+NO<sub>x</sub> and CO emission standards for 2012 and later model years. Each set of these standards permits emissions averaging among a manufacturer's engine families.

The form of the Phase 3 standards also differed from the Phase 1 and 2 standards. While the Phase 1 and 2 standards simply contained numerical limits for CO and HC, the Phase 3 standards were in the form of an equation, as follows:

$$\left(1 - \frac{(HC + NO_x)_{STD} - 15}{150}\right) \times 100 + \left(1 - \frac{CO_{STD}}{400}\right) \times 100 \geq 100$$

The two main advanced technologies we anticipated being used to meet the Phase 3 standards (direct or semi-direct injection 2-stroke engines, and 4-stroke engines) tend to have rather different emissions profiles, and the equation was designed to allow manufacturers to use varying mixes of these technologies as the market would allow, while still achieving substantial emission reductions. The Phase 3 standard equation in essence requires nominal 50 percent reductions in CO and HC compared to uncontrolled levels, which are 150 g/kW-hr for HC and 400 g/kW-hr for CO. However, the equation is structured such that mixes of CO and HC reductions can be used. In conjunction with a straight HC limit of 75 g/kW-hr (ensuring at least 50 reduction in HC) and a corporate average CO standard that could not exceed 275 g/kW-hr (ensuring at least approximately 30 reduction in CO), the equation allows up to 70 percent reductions of HC and 30 percent reductions of CO, as long as the percentage reduction of both pollutants combined is at least 100 percent. As

previously mentioned, the Phase 3 equation also contained a NO<sub>x</sub> component. We did not want the anticipated increased use of 4-stroke engines (which tend to have higher NO<sub>x</sub> emissions as compared to 2-stroke engines) to result in fleet average increases in snowmobile NO<sub>x</sub> emissions. Thus, we included in the Phase 3 equation a NO<sub>x</sub> term that was intended to cap NO<sub>x</sub> emissions, and a “- 15” term that was intended to account for NO<sub>x</sub> emissions from existing 4-stroke engines. See 67 FR 68272–68275.

Following the promulgation of the November 2002 final rule, Bluewater Network, Environmental Defense and the International Snowmobile Manufacturers Association petitioned for review of the rule in the Court of Appeals for the District of Columbia. The court upheld much of the rule and rationale, but made two determinations requiring further action by EPA. See *Bluewater Network v. EPA*, 370 F. 3d 1 (D.C. Cir 2004) First, the court vacated the NO<sub>x</sub> portion of the Phase 3 standards, stating that EPA did not have

authority to adopt NO<sub>x</sub> standards for snowmobiles under the section 214(a)(4) of the Clean Air Act. Second, the court remanded the CO and HC portions of the Phase 3 standards for us to clarify the evidence and analysis upon which the standards are based. Today's action pertains to the first portion of the court's ruling. In contrast to today's action, addressing the remand of the 2012 CO and HC emission standards will require more deliberate study. Thus, we will be addressing those standards in a separate rulemaking action; we are not addressing them here. Our intention is to release a Notice of Proposed Rulemaking in the 2009 timeframe, with a Final Rule in the 2010 timeframe.

Today's action consists of modifications to the Phase 3 emission standard equation shown above. In that equation (40 CFR 1051.103), we are removing both the component requiring addition of NO<sub>x</sub> emissions to HC emissions (the HC component remains) and the component reducing that sum by 15, to read as follows:

$$\left(1 - \frac{HC_{STD}}{150}\right) \times 100 + \left(1 - \frac{CO_{STD}}{400}\right) \times 100 \geq 100$$

<sup>1</sup> “Control of Emissions from Nonroad Large Spark-Ignition Engines; and Recreational Engines

(Marine and Land-Based); Final Rule,” 67 FR 68242, November 8, 2002.

We note that by removing both the “NO<sub>x</sub>” and the “–15” terms we are effectively maintaining the stringency of the HC and CO limits relative to baseline levels (nominal 50 percent reductions of HC and CO, or up to 70 percent reductions of HC and 30 percent reductions of CO) as they were originally promulgated.

## 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. This direct final rule merely removes the NO<sub>x</sub> component from the snowmobile Phase 3 emission standards equation, as directed by the court’s ruling. There are no new costs associated with this rule.

### B. Paperwork Reduction Act

This action does not impose any new information collection burden. This direct final rule merely revises the snowmobile Phase 3 emissions equation by removing the NO<sub>x</sub> component. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations [40 CFR part 1051] under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0338, EPA ICR number 1695. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations in 40 CFR are listed in 40 CFR part 9.

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this final rule on small entities, a small entity is defined as: (1) A small business that meets the definition for business based on SBA size standards 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.

After considering the economic impacts of today’s final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses 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. Thus, 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, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This direct final rule merely removes the NO<sub>x</sub> component from the snowmobile Phase 3 regulations. We have therefore concluded that today’s final rule will not affect regulatory burden for all affected small entities.

### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public

Law 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 to 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 of why such an alternative was 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.

This rule contains no federal mandates for state, local, or tribal governments, or the private sector as defined by the provisions of Title II of the UMRA. The rule imposes no enforceable duties on any of these governmental entities. This rule contains no regulatory requirements that would significantly or uniquely affect small governments. EPA has determined that this rule contains no federal mandates that may result in expenditures of more than \$100 million to the private sector in any single year. This direct final rule merely removes the NO<sub>x</sub> component from the snowmobile Phase 3 regulations. This rule is not subject to the requirements of sections 202 and 205 of 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” are 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.”

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the agency consults with State and local officials early in the process of developing the regulation.

Section 4 of the Executive Order contains additional requirements for rules that preempt State or local law, even if those rules do not have federalism implications (i.e., the rules 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). Those requirements include providing all affected State and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory authority, EPA also must consult, to the extent practicable, with appropriate State and local officials regarding the conflict between State law and Federally protected interests within the agency’s area of regulatory responsibility.

This 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 direct final rule merely removes the NO<sub>x</sub> component from the snowmobile Phase 3 regulations. Thus, Executive Order 13132 does not apply to this rule.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (59 FR 22951, November 6, 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.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on 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 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 rule does not uniquely affect the communities of Indian Tribal Governments. Further, no circumstances specific to such communities exist that would cause an impact on these communities beyond those discussed in the other sections of this rule. This direct final rule merely removes the NO<sub>x</sub> component from the snowmobile Phase 3 regulations. Thus, Executive Order 13175 does not apply to this rule.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and 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, section 5–501 of the Order directs the Agency to 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.

This rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the

Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This direct final rule merely removes the NO<sub>x</sub> component from the snowmobile Phase 3 regulations.

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

This rule is not a “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 is not likely to have a significant adverse effect on the supply, distribution or use of energy. This direct final rule merely removes the NO<sub>x</sub> component from the snowmobile Phase 3 regulations.

#### *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, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (such as materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This direct final rule does not involve technical standards. This direct final rule merely removes the NO<sub>x</sub> component from the snowmobile Phase 3 regulations. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

Executive Order 12898 (59 FR 7629 (Feb. 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 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 rule merely removes the NO<sub>x</sub> component from the snowmobile Phase 3 regulations.

**K. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended 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 Congress and the Comptroller General of the United States. We 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 before 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 direct final rule is effective on August 25, 2008.

**L. Statutory Authority**

The statutory authority for this action comes from section 213 of the Clean Air Act as amended (42 U.S.C. 7547). This action is a rulemaking subject to the provisions of Clean Air Act section 307(d). See 42 U.S.C. 7607(d).

**List of Subjects in 40 CFR Part 1051**

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Penalties, Reporting and recordkeeping requirements, Warranties.

Dated: June 19, 2008.

**Stephen L. Johnson,**  
*Administrator.*

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

**PART 1051—CONTROL OF EMISSIONS FROM RECREATIONAL ENGINES AND VEHICLES**

■ 1. The authority citation for part 1051 continues to read as follows:

**Authority:** 42 U.S.C. 7401-7671q.

■ 2. Section 1051.103 is amended by revising paragraphs (a)(1) including Table 1 and (a)(2) to read as follows:

**§ 1051.103 What are the exhaust emission standards for snowmobiles?**

(a) \* \* \*

(1) Follow Table 1 of this section for exhaust emission standards. You may generate or use emission credits under the averaging, banking, and trading (ABT) program for HC and CO emissions, as described in subpart H of this part. This requires that you specify a family emission limit for each pollutant you include in the ABT program for each engine family. These family emission limits serve as the emission standards for the engine family with respect to all required testing instead of the standards specified in this section. An engine family meets emission standards even if its family emission limit is higher than the standard, as long as you show that the whole averaging set of applicable engine families meets the applicable emission standards using emission credits, and the vehicles within the family meet the family emission limit. The phase-in values specify the percentage of your U.S.-directed production that must comply with the emission standards for those model years. Calculate this compliance percentage based on a simple count of your U.S.-directed production units within each certified engine family compared with a simple count of your total U.S.-directed production units. Table 1 also shows the maximum value you may specify for a family emission limit, as follows:

TABLE 1 OF § 1051.103.—EXHAUST EMISSION STANDARDS FOR SNOWMOBILES (g/kW-HR)

| Phase         | Model year           | Phase-in (percent) | Emission standards |                  | Maximum allowable family emission limits |       |
|---------------|----------------------|--------------------|--------------------|------------------|--|-------|
|               |                      |                    | HC                 | CO               | HC                                       | CO    |
| Phase 1 ..... | 2006 .....           | 50                 | 100                | 275              | .....                                    | ..... |
| Phase 1 ..... | 2007–2009 .....      | 100                | 100                | 275              | .....                                    | ..... |
| Phase 2 ..... | 2010 and 2011 .....  | 100                | 75                 | 275              | .....                                    | ..... |
| Phase 3 ..... | 2012 and later ..... | 100                | ( <sup>1</sup> )   | ( <sup>1</sup> ) | 150                                      | 400   |

<sup>1</sup> See § 1051.103(a)(2).

(2) For Phase 3, the HC and CO standards are defined by a functional relationship. Choose your corporate average HC and CO standards for each year according to the following criteria:

(i) Prior to production, select the HC standard and CO standard (specified as g/kW-hr) so that the combined percent reduction from baseline emission levels is greater than or equal to 100 percent;

that is, that the standards comply with the following equation:

$$\left(1 - \frac{HC_{STD}}{150}\right) \times 100 + \left(1 - \frac{CO_{STD}}{400}\right) \times 100 \geq 100$$

(ii) Your corporate average HC standard may not be higher than 75 g/kW-hr.

(iii) Your corporate average CO standard may not be higher than 275 g/kW-hr.

part to show compliance with these HC and CO standards at the end of the model year under paragraph (a)(2)(i) of this section. You must comply with

(iv) You may use the averaging and banking provisions of subpart H of this

these final corporate average emission standards.

\* \* \* \* \*

■ 3. Section 1051.740 is amended by revising paragraph (b)(4) to read as follows:

**§ 1051.740 Are there special averaging provisions for snowmobiles?**

\* \* \* \* \*

(b) \* \* \*

(4) For generating early Phase 3 credits, you may generate credits for HC or CO separately as described:

(i) To determine if you qualify to generate credits in accordance with paragraphs (b)(1) through (3) of this section, you must meet the credit trigger level. For HC this value is 75 g/kW-hr. For CO this value is 200 g/kW-hr.

(ii) HC and CO credits for Phase 3 are calculated relative to 75 g.kW-hr and 200 g/kW-hr values, respectively.

\* \* \* \* \*

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BILLING CODE 6560-50-P

**GENERAL SERVICES ADMINISTRATION**

**41 CFR Parts 301-11 and 302-17**

[FTR Amendment 2008-04; FTR Case 2008-303; Docket 2008-0002, Sequence 2]

RIN 3090-A150

**Federal Travel Regulation; Relocation Allowances; Relocation Income Tax (RIT) Allowance Tax Tables**

**AGENCY:** Office of Governmentwide Policy, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) has determined that it will no longer publish the Federal, State, and Puerto Rico tax tables needed for calculating the relocation income tax (RIT) allowance in the **Federal Register**. These tax tables, for use in calculating the annual RIT allowance to be paid to relocating Federal employees, will be treated like changes to other tables of rates that implement long-standing policies, such as the domestic per diems, relocation mileage, and travel mileage rates, and be posted in a Federal Travel Regulation (FTR) bulletin. GSA will continue to publish policy changes in the **Federal Register** as amendments to the Federal Travel Regulation.

**DATES:** *Effective Date:* June 25, 2008.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Mr. Ed

Davis, Office of Governmentwide Policy (M), Office of Travel, Transportation and Asset Management (MT), General Services Administration at (202) 208-7638 or e-mail at *ed.davis@gsa.gov*. For information pertaining to status or publication schedules, contact the Regulatory Secretariat (VPR), Room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FTR Amendment 2008-04; FTR Case 2008-303.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

In previous years, the General Services Administration (GSA), Office of Governmentwide Policy published the annual tax tables for Federal, State, and Puerto Rico used for calculating the RIT allowance to be paid to relocating Federal employees, in the **Federal Register**. These tax tables have been located in 41 CFR part 302-17 as Appendices A through D.

This final rule informs Government agencies that the Federal, State, and Puerto Rico tax tables (41 CFR part 302-17, Appendices A through D) will no longer appear in the **Federal Register** or in 41 CFR part 302-17. From now on, these tax tables will be published similar to other tables of rates that implement long-standing policies, such as the domestic per diems, relocation mileage, and travel mileage rates, and appear as Federal Travel Regulation (FTR) bulletins. You may find the FTR bulletins with the annual RIT allowances at *www.gsa.gov/ftrbulletin*. The tax table will also be published at *www.gsa.gov/relo*. This final rule removes Appendices A through D of 41 CFR part 302-17, adds a new section to that part that will provide a cross reference to the tax tables, and amends references to part 302-17 Appendices A through D in applicable sections of the FTR.

These tax tables are developed from several sources of information (e.g., the IRS, individual state taxing authorities, and the Commonwealth of Puerto Rico Department of the Treasury). GSA has determined that publishing these tax tables annually in the **Federal Register** is a time consuming and costly process that will no longer be needed when this same information is posted as FTR bulletins. As a result of the newly implemented process, the information will be available to the agency and relocating employees in a more timely manner. As part of GSA mission to serve its Federal customers as quickly as permitted, this change in delivering the RIT Allowance Tables is now implemented by this final rule.

**B. Summary of the Issues Involved**

This final rule is a response to agency personnel who process relocation vouchers and must delay the reimbursements because they are waiting for the most current RIT Allowance Tables to be published. By moving to the FTR bulletin process, this information will be available for the calculation of reimbursements much earlier in the calendar year and will therefore benefit both agencies and their relocating employees.

**C. Changes to Current FTR**

This final rule removes Appendices A through D of 41 CFR part 302-17 and adds a new section 302-17.14 to that part which will serve as a cross-reference to the location of the calendar 2008 RIT Tables and all subsequent changes to the RIT Allowance Tables in FTR bulletins. This information will be able to be accessed at both *www.gsa.gov/ftrbulletin* and *www.gsa.gov/relo*. This final rule also amends numerous sections in FTR part 301-11, 302-17.5, 302-17.8, and 302-17.10.

**D. Executive Order 12866**

This final rule is excepted from the definition of “regulation” or “rule” under Section 3(d)(3) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993 and, therefore, was not subject to review under Section 6(b) of that executive order.

**E. Regulatory Flexibility Act**

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

**F. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**G. Small Business Regulatory Enforcement Fairness Act**

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

**List of Subjects in 41 CFR Parts 301-11 and 302-17**

Government Employees, Relocation, Travel and Transportation Expenses.