

- (x) [Reserved]
- (y) [Reserved]
- (z) [Reserved]
- (aa) [Reserved]
- (bb) [Reserved]
- (cc) *Siskiyou County APCD* (complete submittal received on December 6, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.
- (dd) [Reserved]
- (ee) [Reserved]
- (ff) *Tuolumne County APCD* (complete submittal received on November 16, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.
- (gg) [Reserved]
- (hh) *Yolo-Solano AQMD* (complete submittal received on October 14, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

\* \* \* \* \*

[FR Doc. 95-10825 Filed 5-2-95; 8:45 am]  
 BILLING CODE 6560-50-P

**40 CFR Part 80**

[AMS-FRL-5201-4]

**Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline Withdrawal of Reformulated Gasoline Program Extension in Wisconsin**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Withdrawal of final rule.

**SUMMARY:** The Clean Air Act, as amended, directs the Administrator of EPA to apply the prohibition against the sale of conventional gasoline under EPA's reformulated gasoline (RFG) regulations in an ozone nonattainment area upon the application of the governor of the state in which the nonattainment area is located. On December 29, 1994, EPA issued a direct final rule (DFRM) extending the prohibition set forth in section 211(k)(5) of the Act to three moderate ozone nonattainment areas in Wisconsin, including those counties in the federal RFG program. EPA is withdrawing the direct final rule, because the governor has withdrawn the three counties from the federal RFG program.

**EFFECTIVE DATE:** This action is effective April 25, 1995.

**ADDRESSES:** Materials directly relevant to the direct final rule are contained in Public Docket No. A-94-46, located at Room M-1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW, Washington,

D.C. 20460. Other materials relevant to the reformulated gasoline final rule are contained in Public Dockets A-91-02 and A-92-12. The docket may be inspected from 8:00 a.m. until 4:00 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Joann Jackson Stephens, U.S. EPA (RDS-12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668-4507. To Request Copies of This Notice Contact: Delores Frank, U.S. EPA (RDS-12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668-4295.

**SUPPLEMENTARY INFORMATION:** A copy of this action is available on the EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTNBBS). The service is free of charge, except for the cost of the phone call. The TTNBBS can be accessed with a dial-in phone line and a high-speed modem per the following information: TTN BBS: 919-541-5742 (1200-14400 bps, no parity, 8 data bits, 1 stop bit) Voice Help-line: 919-541-5384 Accessible via Internet:

TELNETtnbbs.rtpnc.epa.gov  
 Off-line: Mondays from 8:00 AM to 12:00 Noon ET

When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

- <T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
- <M> OMS
- <K> Rulemaking and Reporting
- <3> Fuels
- <9> Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the RFG rulemaking process. To download any file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp Selection or <CR> to exit: D filename.zip

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving

compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

**I. Background**

As part of the Clean Air Act Amendments of 1990, Congress added a new subsection (k) to section 211 of the Clean Air Act. Subsection (k) prohibits the sale of gasoline that EPA has not certified as reformulated in the nine worst ozone nonattainment areas beginning January 1, 1995. EPA published final regulations for the RFG program on February 16, 1994 and on August 2, 1994. See 59 FR 7716 and 59 FR 39258. Corrections and clarifications to the final RFG regulations were published July 20, 1994. See 59 FR 36944.

EPA has determined the nine covered areas to be the metropolitan areas including Los Angeles, Houston, New York City, Baltimore, Chicago, San Diego, Philadelphia, Hartford and Milwaukee. Any other ozone nonattainment area classified under subpart 2 of Part D of Title I of the Act as a Marginal, Moderate, Serious or Severe may be included in the program at the request of the Governor of the state in which the area is located. Section 211(k)(6)(A) provides that upon the application of a Governor, EPA shall apply the prohibition against the sale of conventional gasoline (gasoline EPA has not certified as reformulated) in any area classified as an ozone nonattainment area classified as an ozone nonattainment area<sup>1</sup> and EPA is to publish a governor's application in the **Federal Register**. To date, EPA has received and published applications from the Mayor of the District of Columbia and the Governors of the following states with ozone nonattainment areas: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Texas, and Kentucky. Since submitting opt-in applications, some states (Pennsylvania, Maine, and New York) have recently requested to opt-out of the RFG program for various reasons.

<sup>1</sup> EPA promulgated such designations pursuant to Section 107(d)(4) of the Act (56 FR 56694; November 6, 1991).

Governor Tommy G. Thompson of Wisconsin submitted two letters dated April 6, 1994 and August 2, 1994 requesting to opt-in the reformulated gasoline program. The DFRM published by EPA on January 11, 1995 (60 FR 2693) extended the reformulated gasoline program to three moderate ozone nonattainment areas in Wisconsin: Sheboygan, Manitowoc, and Kewaunee counties to be effective May 1, 1995 at the terminal and June 1, 1995 at the retail level. The Agency published a Direct Final Rule because it viewed the addition of the three ozone nonattainment areas in Wisconsin to the RFG program and the May 1/June 1 effective dates as non-controversial given the level of coordination between EPA, Wisconsin, and industry on the opt-in request and thus, anticipated no adverse or critical comments.

## II. Withdrawal of the Wisconsin Opt-in DFRM

After publication of the DFRM in the **Federal Register**, Governor Tommy G. Thompson of Wisconsin submitted a letter dated March 31, 1995 requesting the termination of the federal reformulated gasoline program slated for extension to Wisconsin's three moderate ozone nonattainment counties of Sheboygan, Manitowoc, and Kewaunee.

After publication of the DFRM in the **Federal Register**, the Agency also received adverse comments expressing concern about the economic impact of the reformulated gasoline program on Kewaunee County citizens and small businesses, as well as border/supply issues. A copy of these comments can be found in Public Docket A-94-46.

Since receiving the Governor's letter and adverse comments which were submitted to EPA, as was stipulated in the DFRM, the final rule adding the three Wisconsin nonattainment areas to the RFG program is being withdrawn by today's action and is effective immediately. Today's withdrawal affects the amendment of § 80.70, paragraphs (l) and (l)(1) appearing at 60 FR 2693 (January 11, 1995), which were to become effective March 13, 1995.

EPA is withdrawing this provision to the reformulated and conventional gasoline regulations without providing prior notice and an opportunity to comment because it finds there is good cause within the meaning of 5 U.S.C. 553(b) to do so. For the same reasons, EPA finds it has good cause under 5 U.S.C. 553(d) to make this withdrawal immediately effective.

## III. 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.

## IV. Administrative Requirements

### A. Administrative Designation

Under Executive Order 12866 (58 FR 51735, 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. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this withdrawal is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires Federal agencies to identify potentially adverse impacts of federal regulations upon small entities. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(B) et seq., the Administrator certifies that this regulation will not have a significant impact on a substantial number of small entities.

### C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and implementing regulations, 5 CFR Part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

### D. Unfunded Mandates Act

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 expenditure by State,

local, and tribal governments, in the aggregate; or by 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.

EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This action has the net effect of reducing burden of the reformulated gasoline program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

## List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution.

Dated: April 25, 1995.

**Carol M. Browner,**  
Administrator.

40 CFR part 80 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:** Sections 114, 211 and 301(a) of the Clean Air Act as amended, (42 U.S.C. 7414, 7545 and 7601(a)).

### § 80.70 [Amended]

2. In § 80.70 paragraph (l) is removed.

[FR Doc. 95-10882 Filed 5-2-95; 8:45 am]

BILLING CODE 6560-50-P

## 40 CFR Part 180

[PP 3F4273/R2132; FRL-4953-2]

RIN 2070-AB78

## Plant Pesticide *Bacillus Thuringiensis* CryIIIA Delta-Endotoxin and the Genetic Material Necessary for Its Production; Tolerance Exemption

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

**ACTION:** Final rule.

**SUMMARY:** EPA is establishing an exemption from the requirement of a tolerance for residues of the plant pesticide active ingredient *Bacillus thuringiensis* CryIIIA delta-endotoxin and the genetic material necessary for