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Dated: April 24, 2006.

**Richard B. Ossias,**

*Associate General Counsel.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8164-2]

### Platinum GaSaver; Final Cancellation Order for a Fuel Additive Registration for Failure to Submit Test Data

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

**ACTION:** Final Cancellation Order for a Fuel Additive Registration.

**SUMMARY:** The regulations for Registration of Fuels and Fuel Additives, were promulgated under the authority of sections 211(a), (b) and (e) of the Clean Air Act, as amended. These regulations require the registration by EPA of certain motor-vehicle fuels and fuel additives. In certain cases, the manufacturer of a registered product is required to conduct research and submit various health-effects data to EPA within prescribed time frames. Under section 211(e) of the Clean Air Act, EPA may cancel the registration of any fuel or fuel additive for which the registrant has failed to submit the applicable test reports within the prescribed period. Administrative procedures are afforded and EPA may not cancel the registration for an existing fuel or additive without affording the registrant/manufacturer notice, opportunity to submit the requisite test data, and opportunity for a hearing. This order cancels the registration of the Platinum GaSaver fuel additive for nonsubmittal of applicable test data.

**DATES:** This final cancellation order is effective May 8, 2006.

**FOR FURTHER INFORMATION CONTACT:**

James W. Caldwell, Office of Transportation and Air Quality, Mail Code 6406J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343-9303; fax number: (202) 343-2801; e-mail address: [caldwell.jim@epa.gov](mailto:caldwell.jim@epa.gov)

**SUPPLEMENTARY INFORMATION:**

#### I. General Information

##### A. Does This Action Apply To Me?

The National Fuelsaver Corporation, the manufacturer and an EPA registrant of the fuel additive known as Platinum

GaSaver, may be potentially affected by this notice. This action is also directed to the public in general. Although this action may be of particular interest to persons who manufacture and use various fuel additives, the EPA has not attempted to describe all the specific entities that may be affected by this action.

##### B. How Can I Get Copies of This Document or Other Related Information?

1. This information is available from the person in the **FOR FURTHER INFORMATION CONTACT** section above.

2. Electronically.

You may obtain electronic copies of this **Federal Register** document electronically from the EPA Internet Home page under the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

#### II. What Action Is the Agency Taking?

Section 211(a) of the Clean Air Act (CAA or Act), authorizes the Administrator of the Environmental Protection Agency (EPA or Agency), to designate and require the registration of fuels and fuel additives (F/FAs) prior to sale or introduction into commerce. The EPA has designated gasoline and diesel F/FAs used in motor vehicles or motor vehicle engines for registration prior to sale or introduction into commerce. (See 40 CFR part 79 (1974).) Section 211(e)(1) mandates that EPA promulgate regulations requiring manufacturers of F/FAs "to conduct tests to determine potential public health effects of such F/FAs," and to furnish other "reasonable and necessary" information that identifies F/FAs emissions, and their effects on public health and welfare and vehicular emission control performance, as required by section 211(b)(2). Health effects tests are to be conducted according to procedures and protocols established by the Administrator. Further, section 211(e)(2) establishes a time limit by which manufacturers must comply with such test requirements. Additionally, under section 211(e)(3), EPA may exempt or make special exceptions for small businesses.

In 1994, EPA promulgated regulations implementing sections 211(b)(2) and (e), which established additional registration requirements to those promulgated in 1974. (See 40 CFR part 79 (1994).) These regulations require certain manufacturers of F/FAs, as part of their registration responsibilities, to conduct health-effects tests on their products, and submit the information to EPA within certain prescribed time periods. Test requirements are organized into three tiers known as Tier 1, 2 and 3. Tier 1 requires analysis of the

combustion and evaporative emissions of F/FAs and a survey of existing scientific information on the public health and welfare effects of these emissions. Tier 2 requires manufacturers to conduct specified toxicology tests to screen for potential adverse health effects of the F/FAs' emissions. Additional testing may be required under Tier 3 at EPA's discretion. With regard to those F/FAs registered at the time of promulgation of the regulations, the requisite Tier 1 and Tier 2 information was required to be submitted by May 27, 1997 and May 27, 2000, respectively. (See 40 CFR 79.51(c)(1).) With regard to all new F/FAs, *i.e.*, F/FAs not registered at the time of our promulgation of the regulations and F/FAs that cannot be enrolled in the same testing group as F/FAs that were already registered, the applicable public health-effects testing data were to be submitted prior to registration. (See 40 CFR 79.51(c)(2) and (c)(3).)

The rule also makes special provisions for small manufacturers of F/FAs as determined by certain financial factors, and grants them exemptions from certain test requirements. (See 40 CFR 79.58(d).) Small F/FAs manufacturers of F/FAs are manufacturers with either total annual sales of less than \$50 million for baseline/non-baseline F/FAs or total annual sales of less than \$10 million for atypical F/FAs. (See 40 CFR 79.58(d).) Small manufacturers of baseline/non-baseline F/FAs are exempt from both Tier 1 and 2 requirements, while small manufacturers of atypical F/FAs are required to comply with the basic registration and Tier 1 requirements, but are otherwise exempt from Tier 2 test requirements. (See 40 CFR 79.58(2) and (3).) Small manufacturers must submit the applicable test data to EPA within the prescribed period described above.

Additionally, the rule allows for the cancellation of any F/FA registration upon the Administrator's determination of failure to timely submit the requisite test data by a manufacturer. (See 40 CFR 79.51(f)(6).) In general, the Agency must issue a notice of intent to cancel that affords such a manufacturer an opportunity to comply with the applicable requirement, submit written comments, or request a hearing on the notice of intent to cancel.

On February 23, 1990 the Agency registered Platinum GaSaver, an atypical fuel additive manufactured by the National Fuelsaver Corporation. On May 27, 1997 the Tier 1 health-effects testing report (Tier 1 Report) for Platinum GaSaver became due. (See 40 CFR 79.51(c)(1)(vi)(A).) On December 2, 2004

EPA notified the National Fuelsaver Corporation of its obligation to submit the Tier 1 report. On August 1, 2005 the Agency issued a notice of intent to cancel the registration of Platinum GaSaver to the National Fuelsaver Corporation, along with instructions for responding (Notice). The Notice stated that the Tier 1 report was necessary in order for the National Fuelsaver Corporation to maintain the registration of Platinum GaSaver. The Notice also provided 60 days from its receipt to submit written comments and/or the Tier 1 report, or to request an informal hearing.

The National Fuelsaver Corporation objected to the Notice, in a response dated September 19, 2005, and reiterated its posture that Platinum GaSaver is not a fuel additive under 40 CFR part 79. The National Fuelsaver Corporation further maintained that the registration of Platinum GaSaver was based on its fulfillment of the terms and conditions of various correspondence between the Agency and its attorney in 1989, instead of the requirements under 40 CFR part 79. Additionally, the National Fuelsaver Corporation maintained that none of the terms and conditions of these letters allowed for cancellation of the registration for Platinum GaSaver.

While the EPA accepted submission of the registration documentation by the National Fuelsaver Corporation on the condition that their submission would not constitute an admission by the National Fuelsaver Corporation that Platinum GaSaver is a fuel additive, as contemplated by 40 CFR part 79, there is nothing, in either the referenced letters, or elsewhere, indicating that EPA either waived or limited its authority under 40 CFR part 79. Similarly, there is also nothing in either these letters, or elsewhere, indicating that EPA either waived or limited the National Fuelsaver Corporation's obligations under 40 CFR part 79.

The Agency registered Platinum GaSaver as a fuel additive under sections 211(a), (b) and (e) of the Act, and the applicable requirements that are set forth at 40 CFR part 79. The National Fuelsaver Corporation was required to submit a Tier 1 Report for Platinum GaSaver by May 27, 1997 as a condition for maintaining this registration. To date the National Fuelsaver Corporation has yet to comply with this requirement.

This is a final cancellation order of the Agency's registration of Platinum GaSaver. A copy of this order has been sent to the National Fuelsaver Corporation through certified mail in the past several days. The cancellation order will become effective five days

after publication in the **Federal Register**.

### III. Description of a Fuel Additive Registration Canceled for Nonsubmittal of a Tier 1 Test Report by May 27, 1997

*Product Name:* Platinum GaSaver (also known as the Pollution Cleaner, and also known as the Platinum Vapor Injector).

*Manufacturer:* National Fuelsaver Corporation, 227 California Street, Newton, MA 02458-1047.

#### List of Subjects

Environmental protection, Fuels, Fuels additives, Registration, Reporting requirements.

Dated: April 24, 2006.

**Margo Tsirigotis Oge,**

*Director, Office of Transportation and Air Quality.*

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### ENVIRONMENTAL PROTECTION AGENCY

**[Docket No. EPA-R04-SFUND-2006-0378; FRL-8164-4]**

#### Baxley Complaint Superfund Site, Baxley, Appling County, Georgia; Notice of Settlement

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

**ACTION:** Notice of proposed settlement.

**SUMMARY:** Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement for the partial reimbursement of past response costs concerning the Baxley Complaint Superfund Site located in Baxley, Appling County, Georgia.

**DATES:** The Agency will consider public comments on the settlement until June 1, 2006. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

**ADDRESSES:** Copies of the settlement are available from Ms. Paula V. Batchelor. Submit your comments, identified by Docket ID No. EPA-RO4-SFUND-2006-0378 or Site name Baxley Complaint Superfund Site by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- E-mail: [Batchelor.Paula@epa.gov](mailto:Batchelor.Paula@epa.gov).
- Fax: (404) 562-8842/Attn Paula V.

Batchelor.

Mail: Ms. Paula V. Batchelor, U.S. EPA Region 4, WMD-SEIMB, 61 Forsyth Street, SW., Atlanta, Georgia 30303. "In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503."

*Instructions:* Direct your comments to Docket ID No. EPA-R04-SFUND-2006-0378. 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](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 [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://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](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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or in hard copy at the U.S. EPA Region 4 office located at