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**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 97-31599 Filed 12-2-97; 8:45 am]

BILLING CODE 7710-12-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 80**

[FRL-5931-3]

**Petition by the Commonwealth of the Northern Mariana Islands for Exemption From Anti-Dumping and Detergent Additization Requirements for Conventional Gasoline**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of direct final decision.

**SUMMARY:** The Environmental Protection Agency ("EPA" or "the Agency") is granting a petition by the Commonwealth of the Northern Mariana Islands ("CNMI") for exemption from the anti-dumping requirements for gasoline sold in the United States after January 1, 1995. This action is being taken because of CNMI's unique geographic location and economic factors. If the gasoline anti-dumping exemption were not granted, CNMI would be required to import gasoline from a supplier meeting the anti-dumping requirements adding a considerable expense to gasoline purchased by the CNMI consumer. CNMI is in full attainment with the national ambient air quality standard for ozone. This action is not expected to cause harmful environmental effects to the citizens of CNMI. EPA is not granting CNMI's petition for exemption from the fuel detergent additization requirements that all gasoline sold in the U.S. after January 1, 1995 contain fuel detergents. CNMI did not show that these requirements were unreasonable or infeasible due to any unique local factors. The fuel detergent additization requirements are designed to prevent the build-up of deposits in gasoline engines and fuel supply systems. By controlling such desposits in CNMI's vehicles, harmful engine exhaust emissions will be reduced.

This action is being taken as a direct final decision because EPA believes that this decision is noncontroversial. The effects of this decision are limited to the Commonwealth of the Northern Mariana Islands.

**DATES:** This action will be effective on February 2, 1998, unless the Agency receives adverse or critical comments by January 2, 1998. If the Agency receives adverse comments, EPA will publish in the **Federal Register** timely notice withdrawing this action. In a separate action published in the **Federal Register** today, EPA is concurrently proposing approval of CNMI's petition for reasons discussed in this document. All

correspondence should be directed to the addresses shown below.

**ADDRESSES:** Any persons wishing to submit comments should submit them (in duplicate, if possible) to the two dockets listed below, with a copy forwarded to Marilyn Winstead McCall, U. S. Environmental Protection Agency, Fuels and Energy Division, 401 M Street, S.W. (Mail Code: 6406J), Washington, DC 20460.

Materials relevant to this petition are available for inspection in public docket A-96-11 at the Air Docket Office of the EPA, room M-1500, 401 M Street, SW., Washington, DC 20460, (202) 260-7548, between the hours of 8:00 a.m. to 5:30 p.m. Monday through Friday. A duplicate public docket, A-NM-96 has been established at U.S. EPA Region IX, 75 Hawthorne Street, (Mail Code: A-2-1), 17th Floor, San Francisco, CA 94105, (415) 744-1225, and is available between the hours of 8:30 a.m. to noon, and 1 p.m. to 5 p.m., Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Winstead McCall at (202) 564-9029.

**SUPPLEMENTARY INFORMATION:****I. Background****A. Regulated Entities**

Entities potentially affected by this action are those involved with the production, distribution, and sale of conventional gasoline and gasoline detergent additives for gasoline used in CNMI. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Gasoline refiners and importers, gasoline terminals, detergent blenders, gasoline truckers, gasoline retailers and wholesale purchaser-consumers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this decision. Other types of entities not listed could also be affected. To determine whether your organization is affected by this decision, you should carefully examine the applicability requirements in § 80.90, § 80.125, and § 80.161, Subparts E, F, and G of title 40 of the Code of Federal Regulations (CFR). If you have any questions regarding the applicability of this action to a particular entity, consult the person

listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

#### *B. Summary of CNMI's Petition*

On July 12, 1995, the Honorable Froilan C. Tenorio, Governor of the Commonwealth of the Northern Mariana Islands, petitioned the Agency for an exemption from the requirements of regulations promulgated at 40 CFR 80 that require conventional gasoline meet certain anti-dumping specifications and detergent additization requirements. On December 15, 1993, EPA promulgated regulations on the production and sale of reformulated gasoline and gasoline that is not required to be reformulated, or "conventional" gasoline. For conventional gasoline, the gasoline produced by a refiner or importer is required to cause no more motor vehicle emissions than gasoline produced by that refiner or importer in 1990. This is commonly called the "anti-dumping" program. On October 14, 1994, and July 15, 1996, EPA promulgated regulations requiring that all gasoline contain fuel detergents. The fuel detergent additization regulations require that all gasoline sold or dispensed in the United States contain additives to prevent accumulation of deposits in vehicle engines and fuel supply systems, and that volumetric additive reconciliation records ("VAR") and product transfer documents ("PTD") be maintained by certain persons who add the required detergent to the gasoline and transfer the product to other persons. Since CNMI is in attainment for ozone, it is not required to offer reformulated gasoline. However, providers of gasoline in CNMI such as those listed in the table above are required to provide conventional gasoline that meets the anti-dumping provisions and the detergent additization requirements beginning January 1, 1995.

#### *C. Statutory Provisions*

Section 211(k) of the Clean Air Act requires that gasoline be reformulated to reduce motor vehicle emissions of toxic and tropospheric ozone-forming compounds, and that this reformulated gasoline be sold in the nine largest metropolitan areas with the most severe summertime ozone levels and other ozone nonattainment areas that opt into the program. Section 211(k)(8) prohibits conventional gasoline sold in the rest of the country from becoming any more polluting than it was in 1990. This requirement ensures that refiners do not "dump" fuel components into conventional gasoline that cause environmentally harmful emissions and that are restricted in reformulated gasoline. This requirement is referred to

as the "anti-dumping" standards for conventional gasoline.<sup>1</sup>

Section 211(l) states that "no person may sell or dispense to an ultimate consumer in the United States, and no refiner or marketer may directly or indirectly sell or dispense to persons who sell or dispense to ultimate consumers in the United States any gasoline which does not contain additives to prevent the accumulation of deposits in engines or fuel supply systems." This requirement is commonly referred to as the "fuel additization" or "detergent additization" regulation. The CNMI is defined as a state in these regulations.<sup>2</sup>

Section 325 of the Act provides that, upon petition by the Governor of Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Administrator may exempt any person or source in such territory from various requirements of the Act. It states that "such exemption may be granted if the Administrator finds that compliance with such requirements is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of such territory, or such other local factors as the Administrator deems significant."

EPA previously granted CNMI an exemption from the sulfur content requirements for motor vehicle diesel fuels as specified in sections 211 (i) and (g) of the Act on May 19, 1994. That exemption was effective on July 18, 1994. A more in-depth description of CNMI's geographical, meteorological and economic characteristics are discussed in the notice of direct final decision granting that petition (see 59 FR 26129, May 19, 1994).

#### *D. CNMI's Geographical, Meteorological, and Demographic Characteristics*

CNMI consists of fourteen islands of volcanic origin located in the western part of the Pacific Ocean. The islands are part of the Mariana Archipelago (the southernmost island of which is Guam, a separate territory of the United States) and extend generally in a north-south orientation for 388 nautical miles, with a total dry land area of 176.5 square miles. The largest and most populated of the islands is Saipan (population approximately 40,000). Most of the remainder of the population is split between the islands of Tinian and Rota, each having a population of slightly more than 2,000 persons. CNMI is 5,280 miles from the mainland United States,

1,440 miles east of Manila, 1,150 miles south of Tokyo, and 108 miles north of Guam.

CNMI has a tropical climate, with consistently warm and humid weather. Prevailing winds blow from the east 55% of the time and from the northeast 25% of the time. The trade winds are strongest and most constant during the dry season when wind speeds average 15 to 25 miles per hour. In addition, during the rainy season, the islands are periodically hit by westward moving typhoons and heavy storm systems with wind speeds exceeding 100 miles per hour.

CNMI is in attainment with all primary and secondary ambient air quality standards (NAAQS), including the standard for ozone. The developed and populated areas of Saipan are located predominantly on the western side of the island. CNMI's petition states that, as a result, the winds from the east regularly disperse most air pollutants emitted from sources on the island over the Philippine Sea.

#### *E. Economic Factors in CNMI*

All motor vehicle gasoline is imported to CNMI and supplied by refineries in Singapore and Australia. Transportation costs dictate that the markets supplying gasoline to CNMI be limited to the Far East. It is estimated that there are 20,000 to 30,000 gasoline-powered vehicles in CNMI. Most are relatively new as the harsh, corrosive environment of CNMI tends to shorten a car's operational life. Average vehicle usage is estimated to be less than 1,000 miles per month.<sup>3</sup>

CNMI is significantly less affluent than the mainland United States. The annual per capita income in CNMI is less than \$7,200<sup>4</sup> compared to a national average of \$14,420<sup>5</sup>. Moreover, due to relatively high transportation costs, retail gasoline prices are already significantly higher in CNMI than in the continental U.S., ranging, in July 1995, from an average of about \$1.60 per gallon on the island of Saipan to more than \$1.80 per gallon on the islands of Rota and Tinian. For the same period, the national weekly average for a gallon of gasoline was approximately \$1.18.<sup>6</sup>

<sup>3</sup> Letter dated August 7, 1996, from Eric Murdock, Hunton & Williams, Washington, D.C., supporting CNMI's petition.

<sup>4</sup> Final Rule, "Commonwealth of the Northern Mariana Islands; Petition for Exemption from the Diesel Fuel Sulfur Requirements," 59 FR 26129, (May 19, 1994).

<sup>5</sup> Guam Department of Commerce.

<sup>6</sup> "U. S. Sees Higher Gasoline Demand and Prices," *The New York Times*, April 11, 1996.

<sup>1</sup> 40 CFR part 80, subparts E and F.

<sup>2</sup> 40 CFR part 80, subparts A and G.

## II. Clarification and Rationale for Exemption

### A. Anti-Dumping Requirements (Subparts E and F)

#### Clarification

Section 211(k)(8) requires that average per gallon emissions of VOC, CO, NO<sub>x</sub>, and toxics due to conventional gasoline produced by a refiner or importer not increase over 1990 levels for each refiner or importer. Since VOC and CO emission increases are expected to be controlled through other regulatory programs, the anti-dumping provisions are limited to regulating emissions of toxics and NO<sub>x</sub> emissions.

Pursuant to Section 211(k)(8) of the Act, EPA adopted the regulations in Subpart E to address exhaust benzene, total exhaust toxics and NO<sub>x</sub> emissions from conventional gasoline use. Under a simple emissions model, applicable from January 1, 1995 to January 1, 1998, a limit is set for sulfur, olefins and T90 as well as exhaust benzene. A more complex emissions model is required beginning January 1, 1998, with limits set on exhaust toxics and NO<sub>x</sub>. All the limits are set as annual averages.

Compliance is measured by comparing emissions of a refiner's or importer's conventional gasoline against those of a baseline gasoline—either a baseline based on the quality of a refiner's 1990 gasoline or on a statutory baseline specified by the Clean Air Act. Subparts E and F require a refiner or importer that establishes a baseline to hire an independent auditor to verify its baseline parameters. EPA requires each refiner or importer to maintain records and to report to EPA certain information pertaining to production of conventional gasoline by February 1996, and every subsequent year. CNMI's petition states that importers would be required to demonstrate compliance with the anti-dumping requirements using the statutory baseline.

#### Rationale for Exemption From Anti-dumping Requirements

The burden of compliance with these requirements in CNMI will fall principally on the two major gasoline importing and marketing companies who import gasoline to CNMI. These companies also import the gasoline that is supplied in Guam. Therefore the gasoline supplied in CNMI is expected to have the same properties in terms of the anti-dumping parameters as the gasoline sold in Guam.<sup>7</sup>

Transportation costs dictate that the markets supplied by these refineries be limited to the Far East. These refineries have no reason to produce reformulated gasoline or conventional gasoline that meets the anti-dumping requirements. One importer states that the demand for gasoline in CNMI represents less than 1% of the total gasoline production of the Singapore refineries.

As in Guam, Singapore refineries currently supply CNMI's gasoline. Therefore, the quality is the same in CNMI as in Guam. Singapore refineries differ from the configurations of typical mainland U.S. refineries in that they do not have catalytic cracking capability (that is, the Singapore refineries do not employ fluid catalytic cracking or "FCC" units). As a result of these differences in plant configuration, the properties of the gasoline produced by the Singapore refineries would be expected to be quite different in some respects from the properties of gasoline produced by the typical mainland U. S. refinery (i.e., "baseline" conventional gasoline). Specifically, gasoline produced at the Singapore refineries would typically have lower concentrations of sulfur and olefins and relatively higher concentrations of benzene and aromatics.

As a result of these differences, the gasoline produced at the Singapore refineries cannot consistently satisfy the anti-dumping requirements when compared to statutory baseline gasoline, particularly for the winter season. This is not the result of any "dumping" of components restricted in reformulated gasoline; it is a reflection of differences in the quality of the gasoline produced in Singapore compared to that typically produced in the mainland U.S.

The two importers of gasoline to CNMI have indicated that the gasoline normally imported from the Singapore refineries is likely to contain benzene and aromatic concentrations that exceed the statutory baseline levels. Approximately 12,000,000 gallons of gasoline are consumed annually in CNMI.<sup>8</sup> As previously stated, the quality of the gasoline imported to CNMI is the same as that imported to Guam. If CNMI is not granted an exemption from the anti-dumping requirements, EPA calculates that gasoline, meeting the statutory baseline, could result during a compliance period in emitting approximately 4 tons of total toxic emissions in CNMI.

A simple cost effectiveness analysis indicates that the cost effectiveness of

reducing the total toxic emissions would be over \$200,000 per ton.<sup>9</sup> In EPA's Regulatory Impact Analysis for Reformulated Gasoline,<sup>10</sup> the Agency estimated that reducing total toxic emissions from combustion and use of gasoline under the reformulated gasoline program would cost approximately \$55,000 per ton. Therefore, the cost effectiveness of using another gasoline supplier to reduce air toxics emissions in CNMI is several times higher than EPA's estimate for nationwide control of toxics in the federal reformulated gasoline program.

CNMI's petition states that overall compliance with the anti-dumping and fuel detergent requirements would require capital expenditures of \$143,000 and annual operating costs of \$212,500. These costs are entirely associated with gasoline and will therefore result in increases in the retail price of gasoline, estimated by the companies to be at least 1 to 2 cents per gallon.

In addition, the anti-dumping requirements could force importers to obtain gasoline from distant refineries, adding substantially to the transportation costs and resulting in a price increase at the retail level of as much as another 10 cents per gallon. The CNMI consumer is already paying a significantly higher price for gasoline than the consumer on the U. S. mainland. An additional 10 cents or more per gallon for gasoline would pose a significant economic burden to CNMI residents.

### B. Fuel Additization Requirements—(Subpart G)

#### Clarification

Section 211(l) requires that, beginning January 1, 1995, no person may sell or dispense to an ultimate consumer in the United States, and no refiner or marketer may sell or dispense to persons who sell or dispense to ultimate consumers in the United States any gasoline which does not contain additives to prevent the accumulation of deposits in engines or fuel supply systems. EPA promulgated a rule on October 14, 1994, under which all gasoline (reformulated and conventional) sold or transferred to gasoline retail outlets or wholesale purchaser consumer facilities and all gasoline sold or transferred to ultimate consumers must be additized with a fuel

<sup>9</sup> Computed from values in Guam petition based on proportional relationship (see 61 FR 53854 10/16/96).

<sup>10</sup> See Regulatory Impact Analysis for Reformulated Gasoline, EPA Air Dockets A-92-01 and A-92-12, 401 M Street, S.W., Washington, D.C. 20460.

<sup>7</sup> Letters dated August 7, 1996 and October 8, 1996, from Eric Murdock, Hunton & Williams, Washington, D.C., supporting CNMI's petition.

<sup>8</sup> Letter dated October 8, 1996, from Eric Murdock, Hunton & Williams, Washington, D.C., supporting CNMI's petition.

detergent additive registered with the EPA, starting January 1, 1995. On July 5, 1996, EPA published a supplemental rule requiring testing and certification of the fuel detergents (61 FR 3510).

Fuel deposits in motor vehicle engines and fuel supply systems and their impacts on vehicle performance have been studied for many years. Fuel injector and intake valve deposits have been shown to have significant adverse effects on drivability, exhaust emissions and, in some cases, on fuel economy. Deposits in fuel injectors may undercut the effectiveness of engines' oxygen sensors in ensuring the best fuel/air ratio to control emissions. Carburetor deposits can cause improper enrichment of the fuel/air mixture, which can result in rough idling, stalling, poor acceleration, reduced fuel economy and higher emissions of hydrocarbons, carbon monoxide, and, in some cases, nitrogen oxides. The mechanisms by which intake valve deposits increase emissions are less clear. Adsorption and desorption of fuel on the intake valves can lead to improper fuel/air ratios across the cylinders, thereby interfering with the ability of the oxygen sensor to regulate proper mixture composition. Intake valve deposits might also increase emissions by interfering with the proper preparation and delivery of the fuel air mixture resulting in combustion inefficiency.

Under the current additization program, the detergent additive must be registered under 40 CFR Part 79, and must be added in concentration equal to or exceeding the level specified by the additive manufacturer as being effective in preventing deposits. Each facility where detergent additization is performed is required to create and maintain volumetric additive reconciliation (VAR) records to demonstrate that the gasoline has been additized to the proper concentration. Product transfer documentation (PTD) is required whenever title or custody to any gasoline or detergent is transferred, other than when additized gasoline is sold or dispensed at a retail outlet or wholesale purchaser-consumer facility to the consumer. Each gasoline refiner, importer, carrier, distributor, oxygenate blender or detergent blender who owns, leases, operates, controls or supervises the facility (including a truck or individual storage tank) is subject to these requirements.

#### Rationale for Denying Exemption

CNMI's petition states that of the two importers of gasoline, only one importer adds a detergent additive to all of the grades of gasoline that it sells in CNMI. The importer using detergents in all the

gasoline it imports to CNMI adds a detergent additive (RT2276) to both grades it imports at a concentration of 19.1 gallons to every 42,000 gallons of gasoline. As mentioned in the notice of direct final decision on Guam's petition for exemption from the anti-dumping and gasoline detergent additization regulations, all importers and marketers of Guam's gasoline are now adding detergents to Guam's gasoline.<sup>11</sup> EPA, believes, therefore, that it is also feasible for the importer and its marketers not using detergents to add detergents to the gasoline it imports for consumption in CNMI.

Capital costs of compliance with the anti-dumping and additization requirements would be approximately \$143,000, of which amount, the majority would be required for the additization requirements. Approximately \$5,000 of this amount would be required for software modifications for the VAR and PTD requirements (for the importer that is not already adding detergents to its gasoline). Annual operating expenditures would amount to more than \$212,000—approximately one-half of that amount would be required for operating expenses for the additization requirements for the two importers. These costs are comparable to the costs computed for the three importers of gasoline to Guam as described in the notice of direct final decision on Guam's petition for exemption from the anti-dumping and detergent additization requirements of conventional gasoline.<sup>12</sup>

EPA believes that the costs in CNMI of compliance with the requirements of Subpart G would be the same as compared to compliance costs in Guam. The Guam petition stated that the compliance cost would add between .6 to 1.4 cents to the cost of a gallon of gasoline. EPA estimated that the average incremental cost to consumers of compliance with the detergent requirements for the mainland United States would be 0.1 cent a gallon<sup>13</sup> with this cost being partially compensated for by the increased fuel economy and decreased maintenance requirements which improved deposit control is expected to provide. Over 90 percent of the total estimated cost of the program is associated with the price of the additional additive amounts needed to bring all gasoline up to the effective detergency levels which most of U.S. gasoline already contains. EPA believes that the cost to CNMI consumers will,

most likely, closely parallel that projected for consumers in the mainland U.S.

Transportation costs associated with shipping detergent additive which complies with federal detergency requirements to CNMI are likely to be somewhat higher than in the mainland U.S. However, EPA believes that this differential in cost will have minimal effect due to the small volume of detergent additive estimated to be needed to achieve proper additization (approximately 0.4 to 0.6 gallons of detergent to 1,000 gallons of gasoline). In addition, EPA's estimate of the cost to the consumer of the detergent program assumed the average motorist drives 10,000 to 15,000 miles per year and consumes 400 to 600 gallons of gasoline. Given CNMI's small size, the average motorist would tend to drive less than the average motorist on the mainland which would tend to reduce the cost to a CNMI consumer relative to EPA's estimate. CNMI's petition states that average miles driven per year are less than 12,000. All things considered, the cost to the consumer of up to six dollars a year estimated for the U.S. as a whole, holds for CNMI as well. EPA believes that this would not be an unreasonable economic burden for the CNMI consumer. This is generally consistent with EPA's estimate of the cost of compliance with the detergent requirements for the mainland United States. In addition, one supplier is already adding detergents to all of the gasoline it imports to CNMI. Therefore only one importer's gasoline is not currently being additized.

Compliance costs associated with the record keeping (VAR and PTD) requirements of the detergent rule are the primary additional costs to be considered herewith. As in the Guam petition<sup>14</sup> EPA estimates that compliance with the record keeping requirements of Subpart G would add only a small portion—less than 1 cent—to the cost of a gallon of gasoline. EPA believes that this would not be an unreasonable economic burden for the CNMI consumer.

Start-up costs could be higher in CNMI than in other markets on the mainland where detergent additization has been an ongoing process for several years. EPA does not believe that start-up of this program will be significantly more difficult or expensive in CNMI compared to the rest of the U.S. Further, once compliance programs are established, the annual cost of compliance will be comparable to that in other areas. In summary, the small

<sup>11</sup> 61 Fed. Reg. 53854 (October 16, 1996).

<sup>12</sup> 61 FR 53854 (October 16, 1996).

<sup>13</sup> Final Rule on the Certification Standards for Deposit Control of Gasoline Additives, July 5, 1996, 61 FR 35353.

<sup>14</sup> 61 FR 53854 (October 16, 1996).

added cost to CNMI consumers, the fact that one of the two importers is now adding detergents to its gasoline, and the fact that the CNMI gasoline suppliers also supply Guam's gasoline of the same quality (see 61 FR 53854 (October 16, 1996)) which contains detergents lead EPA to conclude that an exemption from the requirements of Subpart G is not warranted.

### III. Final Action

#### A. Anti-Dumping Provisions for Conventional Gasoline

EPA has decided to exempt the Commonwealth of the Northern Mariana Islands from compliance with the anti-dumping standards for conventional gasoline under section 211(k)(8). The Agency believes that compliance with the gasoline anti-dumping requirements is unreasonable given the significantly increased costs to consumers in CNMI in achieving compliance. These increased costs are directly attributable to CNMI's location and resulting inability of importers to comply with the anti-dumping requirements without significantly greater costs than those expected for importers in the U.S. mainland. Gasoline price increases of the magnitude expected to result from compliance with subparts E and F could be especially burdensome for the many citizens of CNMI whose incomes are modest.

In addition, despite its geographic remoteness from the mainland, compliance with the anti-dumping provisions might require that CNMI import conventional gasoline from the U.S. mainland, greatly increasing the cost of conventional gasoline. EPA finds that these economic factors are unique to the Commonwealth of the Northern Mariana Islands.

This exemption will apply to all persons in CNMI subject to the anti-dumping requirements in section 211(k)(8) of the Act, and subparts E and F of 40 CFR Part 80. This exemption is retroactive to January 1, 1995, and applies only to gasoline imported to CNMI for use in CNMI. EPA reserves the right to review and reopen this exemption in the future if conditions change to warrant such an action.

#### B. Fuel Detergent Additization

EPA is denying the petition from the Commonwealth of the Northern Mariana Islands for an exemption from the fuel detergent additization requirement that, after January 1, 1995, all conventional gasoline contain registered fuel additives that control fuel deposits as established in 40 CFR part 80, subpart G. CNMI has not demonstrated that

unique local factors exist such that compliance with the detergent additization and record keeping requirements would be either infeasible or unreasonable.

### IV. Public Participation and Effective Date

The Agency is publishing this action as a direct final decision because it views it as noncontroversial and limited to the Commonwealth of the Northern Mariana Islands. EPA anticipates no adverse or critical comments. Representatives of automobile and petroleum industry associations have indicated that their constituents will not be adversely affected by this direct final decision and therefore the Agency expects no adverse comments from the members of those associations. Similarly, the Agency does not expect adverse comments from the environmental community or state and local governments, since the environmental impact is very minimal.

This action will become effective February 2, 1998. If the Agency receives adverse or critical comments by January 2, 1998, EPA will publish a subsequent **Federal Register** document withdrawing this decision. In the event that adverse or critical comments are received, EPA is also publishing a notice of proposed decision in a separate action today, which proposes the same action contained in this direct final decision. Any adverse comments received by the date listed above will be addressed in a subsequent final decision. That final decision will be based on the relevant portion of the proposed final decision that is published today in the proposed rules section of this **Federal Register** and that is identical to this direct final decision. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective February 2, 1998.

This procedure allows the opportunity for public comments and opportunity for oral presentation of data as required under section 307(d) of the Act. This procedure also provides an expedited procedure for final action where a decision is not expected to be controversial and no adverse comment is expected.

### V. Executive Order 12866

Under Executive Order 12866,<sup>15</sup> the Agency must determine whether a regulation 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 of 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 this Executive Order.<sup>16</sup>

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

### VI. Impact on Small Entities

This action either eases or leaves unchanged requirements otherwise applicable to affected entities. Thus, EPA has determined that it will not result in a significant adverse impact on a substantial number of small entities.

### VII. 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.

### VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions. This decision would not have a significant impact on a substantial number of small entities because the overall impact of this decision is a net decrease in requirements on all entities including small entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

<sup>15</sup> 58 FR 51736 (October 4, 1993).

<sup>16</sup> *Id.* at section 3(f)(1)-(4).

**IX. Unfunded Mandates**

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to 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 exemption in this notice does not include a federal mandate that may result in estimated costs of \$100 million or more to those entities mentioned above. This federal action approves a request for exemption by petitioners in CNMI to reduce the cost of implementing the Clean Air Act. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector result from this action.

**X. Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this decision and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the decision in today's **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

**XI. Electronic Copies of Decision**

A copy of this action is available on the Internet at [www.epa.gov/OMSWWW](http://www.epa.gov/OMSWWW) under the title: "EPA Decision to Grant Conventional Gasoline Anti-dumping Exemption to the Commonwealth of the Northern Mariana Islands."

**XII. Statutory Authority**

Authority for the action described in this notice is in section 325(a)(1) (42 U.S.C. 7625-1(a)(1)) of the Clean Air Act as amended.

Dated: November 25, 1997.

**Carol M. Browner,**  
Administrator.

[FR Doc. 97-31736 Filed 12-2-97; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[OPP-300574; FRL-5754-1]

RIN 2070-AB78

**Sodium Chlorate; Exemption From Pesticide Tolerance for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited exemption from the requirement of a tolerance for residues of sodium chlorate in or on wheat. This action is in connection with crisis exemptions declared by the states of Arkansas and Mississippi under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on wheat in Arkansas and Mississippi. This regulation establishes an exemption from the requirement of a tolerance for residues of sodium chlorate in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The exemption will expire and is revoked on July 31, 1998.

**DATES:** This regulation is effective December 3, 1997. Objections and requests for hearings must be received by EPA on or before February 2, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP-300574], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300574], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk

may also be submitted electronically by sending electronic mail (e-mail) to: [opp-docket@epamail.epa.gov](mailto:opp-docket@epamail.epa.gov). Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300574]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Libby Pemberton, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9364, e-mail: [pemberton.libby@epamail.epa.gov](mailto:pemberton.libby@epamail.epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing an exemption from the requirement of a tolerance for residues of the defoliant/desiccant sodium chlorate, in or on wheat. This exemption will expire and is revoked on July 31, 1998. EPA will publish a document in the **Federal Register** to remove the revoked exemption from the Code of Federal Regulations.

**I. Background and Statutory Authority**

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL-5572-9).

New section 408(c)(2)(A)(i) of the FFDCA allows EPA to establish an