NSPS DELEGATION OF AUTHORITY FOR THE STATE OF SOUTH CAROLINA

Category	Subpart	Date Delegated
Industrial Boilers	Db	01/24/89
Portland Cement Plants	F	01/23/90
Graphic Arts Industry: Publication Rotogravure Printing	QQ	04/23/83
Rubber Tire Manufacturing Industry	BBB	01/23/90
VOC Emissions from SOCMI Air Oxidation Unit Processes	III	08/07/90
VOC Emissions from SOCMI Distillation Operations	NNN	08/07/90
VOC Emissions from Petroleum Refinery Wastewater Systems	QQQ	01/24/89
Magnetic Tape Coating Facilities	SSS	01/23/90
Plastic Parts for Business Machines Coating	TTT	02/23/90
Polymeric Coating of Supporting Substrates Facilities	VVV	01/23/90

NSPS DELEGATION OF AUTHORITY FOR KNOXVILLE, TENNESSEE

Category	Subpart	Date delegated
Calciners and Dryers in Mineral Industries	UUU	04/10/95
Polymeric Coating of Supporting Substrates Facilities	VVV	03/01/90

NSPS DELEGATION OF AUTHORITY FOR NASHVILLE-DAVIDSON, TENNESSEE

Category	Subpart	Date delegated
VOC Emissions from SOCMI Reactor Processes	RRR	09/11/95

The above listed NSPS categories are delegated with the exception of the following sections within those subparts which may not be delegated.

1. Subpart A—§ 60.8(b) (1) thru (5), § 60.11(e) (7) and (8), § 60.13 (g), (i) and (j)(2)
2. Subpart B—§ 60.22, § 60.27, and § 60.29
3. Subpart Da—§ 60.45a
4. Subpart Db—§ 60.44b(f), § 60.44b(g), § 60.49(a)(4)
5. Subpart Dc—§ 60.48c(a)(4)
6. Subpart J—§ 60.105(a)(13)(iii), § 60.106(i)(12)
7. Subpart Ka—§ 60.114a
8. Subpart Kb—§ 60.111b(f)(4), § 60.114b, § 60.116b(e)(3) (iii) and (iv), § 60.116b(f)(2)(iii)
9. Subpart O—§ 60.153(e)
10. Subpart EE—§ 60.316(d)
11. Subpart GG—§ 60.334(b)(2), § 60.335(f)(1)
12. Subpart RR—§ 60.446(c)
13. Subpart SS—§ 60.456(d)
14. Subpart TT—§ 60.466(d)
15. Subpart UU—§ 60.474(g)
16. Subpart VV—§ 60.482–1(c)(2) and § 60.484
17. Subpart WW—§ 60.496(c)
18. Subpart XX—§ 60.502(e)(6)
19. Subpart AAA—§ 60.530(c), § 60.533, § 60.534, § 60.535, § 60.536(i)(2), § 60.537, § 60.538(e), § 60.539
20. Subpart BBB—§ 60.543(c)(2)(ii)(B)
22. Subpart DDD—§ 60.562–2(c)
23. Subpart III—§ 60.613
24. Subpart NNN—§ 60.663(e)
25. Subpart RRR—§ 60.703(e)
26. Subpart SSS—§ 60.711(a)(16), § 60.713(b)(1)(i), § 60.713(b)(1)(ii), § 60.713(b)(5)(i), § 60.713(d), § 60.715(a), § 60.716
27. Subpart TTT—§ 60.723(b)(1), § 60.723(b)(2)(i)(C), § 60.723(b)(2)(iv), § 60.724(e), § 60.725(b)
28. Subpart VVV—§ 60.743(a)(3)(v)(A) and (B), § 60.743(e), § 60.745(a), § 60.746

After a thorough review of the request, the Regional Administrator determined that such a delegation was appropriate for the source categories with the conditions set forth in the original delegation letters of these State or Local agencies. All sources subject to the requirements of 40 CFR Part 60 will now be under the jurisdiction of the above mentioned State or Local Agencies.

Since review of the pertinent laws, rules, and regulations of these State or Local Agencies has shown them to be adequate for the implementation and enforcement of the aforementioned categories of NSPS, the EPA hereby notifies the public that it has delegated the authority for the source categories listed on the above various dates. The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Authority: This notice is issued under the authority of sections 101, 110, 111, 112, and 301 of the Clean Air Act, as Amended (42 U.S.C. 7401, 7410, 7411, 7412, and 7601).

Dated: July 3, 1996.

John H. Hankinson, Jr.,

Regional Administrator.

[FR Doc. 96–21077 Filed 8–16–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 80

[FRL–5555–5]

State of Alaska Petition for Exemption From Diesel Fuel Sulfur Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of direct final decision.

SUMMARY: On March 14, 1994, EPA granted the State of Alaska a waiver from the requirements of EPA's low sulfur diesel fuel program, permanently exempting Alaska's remote areas and providing a temporary exemption for areas of Alaska served by the Federal Aid Highway System (FAHS). The exemption applied to certain requirements in section 211(i) and (g) of the Clean Air Act, as implemented in EPA's regulations. These exemptions were based on EPA's determination that it would be unreasonable to require persons in these areas to comply with the low sulfur diesel fuel requirements due to unique geographical, meteorological and economic factors for

Alaska, as well as other significant local factors.

The temporary exemption for the areas of Alaska served by the FAHS will expire on October 1, 1996. On December 12, 1995, the Governor of Alaska petitioned EPA to permanently exempt the areas covered by the temporary exemption. In this decision EPA is extending the temporary exemption for an additional 24 months, but reserving a final decision on whether it should be permanent.

Based on the factors and conditions identified in Alaska's December 12, 1995 petition, a continuation of the exemption is warranted at least temporarily. However, EPA believes that recent comments submitted to the agency merit further investigation before making a final decision on a permanent exemption. EPA is therefore extending the temporary exemption until October 1, 1998, or until such time that a final decision is made on the permanent exemption, whichever is shorter.

This decision will continue the current status in Alaska. It is not expected to have a significant impact on the ability of Alaska's communities to attain the National Ambient Air Quality Standards for carbon monoxide and particulate matter, based on the limited contribution of emissions from diesel motor vehicles in those areas and the sulfur level currently found in motor vehicle diesel fuel used in Alaska.

DATES: This action will become effective October 3, 1996 unless adverse comments or a request for a public hearing are received by September 18, 1996. If EPA receives such comments or a request for a public hearing, EPA will publish a timely notice in the Federal Register withdrawing this rule.

ADDRESSES: Copies of information relevant to this petition are available for inspection in public docket A–96–26 at the Air Docket of the EPA, first floor, Waterside Mall, room M–1500, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7548, between the hours of 8:00 a.m. to 5:30 p.m. Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Paul N. Argyropoulos, Environmental Protection Specialist, Fuels Implementation Group, Fuels and Energy Division (6406J), 401 M Street S.W., Washington, D.C. 20460, (202) 233–9004.

SUPPLEMENTARY INFORMATION:

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I. Regulated Entities

Entities potentially regulated by this action are refiners, marketers, distributors, retailers and wholesale purchaser-consumers of diesel fuel. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Petroluem distributors, marketers, retailers (service station owners and operators), wholesale purchaser consumers (fleet managers who operate a refueling facility to refuel motor vehicles).
Citizens	Any owner or operator of a diesel motor vehicle.
Federal Government	Federal facilities, including military bases which operate a refueling facility to refuel motor vehicles.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the criteria contained in § 80.29 and § 80.30 of title 40 of the Code of Federal Regulations as modified by today's action. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Electronic Copies of Rulemaking Documents

A copy of this document is also available electronically from the EPA Internet site and via dial-up modem on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. Both services are free of charge, except for your existing cost of Internet connectivity or the cost of the phone call to TTN. Users are able to access and download files on their first call using a personal computer per the following information. Any one of the following Internet addresses may be used:

World Wide Web:
http://www.epa.gov/OMSWWW/
Gopher:
gopher://gopher.epa.gov/ Follow menus for: Offices/Air/OMS
FTP:
ftp://ftp.epa.gov/ Change Directory to pub/gopher/OMS

The steps required to access information on this rulemaking on the TTN bulletin board system are listed below.

TTN BBS: 919–541–5742 (1,200–14,400 bps, no parity, eight data bits, one stop bit)
Voice help: 919–541–5384
Internet address: TELNET ttnbbs.rtpnc.epa.gov
Off-line: Mondays from 8:00–12:00 Noon ET

1. Technology Transfer Network Top Menu: <T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards) (Command: T)
2. TTN TECHNICAL INFORMATION AREAS: <M> OMS—Mobile Sources Information (Command: M)
3. *OMS BBS—MAIN MENU FILE TRANSFERS: <O> Other OMS Documents (Command: O)*

At this stage, the system will list all available files in this area. To download a file, select a transfer protocol that will match the terminal software on your computer, then set your own software to receive the file using that same protocol. If unfamiliar with handling compressed (that is, ZIP'd) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unZIP the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit TTN BBS with the <G>oodbye command.

III. Background

Section 211(i)(1) of the Act prohibits the manufacture, sale, supply, offering for sale or supply, dispensing, transport, or introduction into commerce of motor

vehicle diesel fuel which contains a concentration of sulfur in excess of 0.05 percent (by weight), or which fails to meet a cetane index minimum of 40 beginning October 1, 1993. Section 211(i)(3) establishes the sulfur content for fuel used in the certification of heavy-duty diesel vehicles and engines. Section 211(i)(4) provides that the States of Alaska and Hawaii may seek an exemption from the requirements of this subsection in the same manner as provided in section 325[1] of the Act, and requires the Administrator to take final action on any petition filed under this section, which seeks exemption from the requirements of section 211(i), within 12 months of the date of such petition.

Section 325 of the Act provides that upon application 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 any requirement of the Act, with some specific exceptions. 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.

IV. Petition for Exemption

On February 12, 1993, the Honorable Walter J. Hickel, Governor of the State of Alaska, submitted a petition to exempt motor vehicle diesel fuel in Alaska from all of the requirements of section 211(i) except the minimum cetane index requirement of 40. The petition requested a short-term exemption for areas accessible by the Federal Aid Highway System (''on-highway'') and a permanent exemption for areas not accessible by the Federal Aid Highway System (''off-highway''). The petition for a short-term exemption requested that EPA exempt motor vehicle diesel fuel manufactured for sale, sold, supplied, or transported within the Federal Aid Highway System (FAHS) from meeting the sulfur content requirement specified in section 211(i) until October 1, 1996. The petition also requested a permanent exemption from such requirements for those areas of Alaska not reachable by the Federal Aid Highway System. The petition was based on geographical, meteorological, air quality, and economic factors unique to the State of Alaska.

The petition was granted on March 14, 1994 and applied to all persons in Alaska subject to section 211(i)(1) and (g) of the Act and EPA's low sulfur requirement for motor vehicle diesel fuel in 40 CFR Part 80.29. Persons in communities served by the FAHS are exempt from compliance with the diesel fuel sulfur content requirement until October 1, 1996. Persons in communities that are not served by the Federal Aid Highway System are permanently exempt from compliance with the diesel fuel sulfur content requirement. Both the permanent and temporary exemption apply to all persons who manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce, in the State of Alaska, motor vehicle diesel fuel. Alaska's exemption does not apply to the minimum cetane requirement for motor vehicle diesel fuel.

On December 12, 1995, the Honorable Governor Knowles petitioned the Administrator for a permanent exemption for all areas of the state covered by the Federal Aid Highway System. This notice addresses EPA's action on the petition submitted on December 12, 1995. We are making a decision now for the 24 month extension and reserving the decision on the state's request for a permanent exemption, so the agency may consider possible alternatives for a longer period.

The following discussion summarizes the state's support for the exemption as provided for in the petition, and the rationale for the agency's extension of the temporary exemption.

A. Geography and Location of the State of Alaska

Alaska is about one-fifth as large as the combined area of the lower 48 states. Because of its extreme northern location, rugged terrain and sparse population, Alaska relies on barges to deliver a large percentage of its petroleum products. No other state relies on this type of delivery system to the extent Alaska does.

Only 35% of Alaska's communities are served by the Federal Aid Highway System, which is a combination of road and marine highways. The remaining 65% of Alaska's communities are served by barge lines and are referred to as off-highway or ''remote'' communities. Although barge lines can directly access some off-highway communities, those communities that are not located on a navigable waterway are served by a two-stage delivery system: over water by barge line and then over land to reach the community.

Because of the State's high latitude, it experiences seasonal extremes in the amount of daily sunlight and temperature, which in turn affects the period of time during which construction can occur, and, ultimately, the cost of construction in Alaska.

According to the petition, Alaska's extreme northern location places it in a unique position to fuel transcontinental cargo flights between Europe, Asia, and North America. Roughly 75% of all air transit freight between Europe and Asia lands in Anchorage, as does that between Asia and the United States. The result is a large market for Jet-A fuel produced by local refiners, which decreases the importance of highway diesel fuel to these refiners. Based on State tax revenue receipts and estimates by Alaska's refiners, diesel fuel consumption for highway use represents roughly 5% of total state distillate fuel consumption.

B. Climate, Meteorology and Air Quality

Alaska's climate is colder than that of the other 49 states. The extremely low temperatures experienced in Alaska during the winter imposes a more severe fuel specification requirement for diesel fuel in Alaska than in the rest of the country. This specification, known as a ''cloud point'' specification[2] significantly affects vehicle start-up and other engine operations. Alaska has the most severe cloud point specification for diesel fuel in the U.S. at −56°F. Because Alaska experiences extremely low temperatures in comparison to the other 49 state's and the cloud point specifications are not as severe for fuel in the lower 48 states, most diesel fuel used in the State of Alaska is produced by refiners located in Alaska. Jet-A kerosene meets the same cloud point specification as No. 1 diesel fuel (which is marketed primarily during the winter in Alaska as opposed to No. 2 diesel fuel which is marketed primarily in the summer) and is commonly mixed with or used as a substitute for No. 1 diesel fuel. However, because Jet-A kerosene can have a sulfur content as high as 0.3%, the diesel fuel sulfur requirement

[1] Section 211(i) (4) mistakenly refers to exemptions under § 324 of the Act (''Vapor Recovery for Small Business Marketers of Petroleum Products''). While the proper reference is to § 325, Congress clearly intended to refer to § 325, as shown by the language used in § 211(i)(4), and the United States Code citation used in § 806 of the Clean Air Act Amendments of 1990, Public Law No. 101–549. Section 806 of the Amendments, which added paragraph (i) to § 211 of the Act, used 42 U.S.C. 7625–1 as the United States Code designation for § 324. This is the proper designation for § 325 of the Act. Also see 136 Cong. Rec. S17236 (daily ed. October 26, 1990) (statement of Sen. Murkowski).

[2] The cloud point defines the temperature at which cloud or haze or wax crystals appears in the oil. Its purpose is to ensure a minimum temperature above which fuel lines and other engine parts are not plugged by solids that form in the fuel.

of 0.05% would generally prohibit using Jet-A and No. 1 *low sulfur* diesel fuel interchangeably.

Ice formation on the navigable waters during the winter months restricts fuel delivery to off-highway areas served by barge lines. Therefore, fuel is generally only delivered to these areas between the months of May and October. This further restricts the ability of fuel distributors in Alaska to supply multiple grades of petroleum products to these communities.

The only violations of national ambient air quality standards in Alaska have been for carbon monoxide (CO) and particulate matter (PM_{10}). CO violations have only been recorded in the State's two largest communities: Anchorage and Fairbanks. PM_{10} violations have only been recorded in two rural communities, Mendenhall Valley of Juneau and Eagle River, a community within the boundaries of Anchorage. The most recent PM_{10} inventories for these two communities show that these violations are largely the result of fugitive dust from paved and unpaved roads, and that motor vehicle exhaust is responsible for less than one percent of the overall PM_{10} being emitted within the borders of each of these areas.[3] Moreover, Eagle River has not had a violation of the PM_{10} standard since 1986 and plans to apply to EPA for redesignation to attainment for PM_{10}. Mendenhall Valley has initiated efforts for road paving to be implemented to control road dust. The sulfur content of diesel fuel is not expected to have a significant impact on ambient PM_{10} or CO levels in any of these areas because of the minimal contribution by motor vehicles to PM_{10} in these areas and the insignificant effect of diesel fuel sulfur content on CO emissions.

Finally, EPA recognizes that the primary purpose of reducing the sulfur content of diesel fuel is to reduce vehicle particulate emissions. Additional benefits cited in the final rule (55 FR 34120, August 21, 1990) include a reduction in sulfur dioxide (SO_2) emissions and the ability to use exhaust after-treatment devices on diesel fueled vehicles, which would result in some reduction of HC and CO exhaust emissions. Despite the possibility that the use of high-sulfur diesel fuel may cause plugging or increased particulate sulfate emissions in diesel vehicles equipped with trap systems or oxidation catalysts, any increase in sulfate particulate emissions would likely have an insignificant effect on ambient PM levels in Alaska since current motor vehicle contributions to PM_{10} emissions are minimal. Also, the lower sulfur requirement for motor vehicle diesel fuel will have no impact on the attainment prospects of Fairbanks and Anchorage with respect to CO, since reducing sulfur content has no direct affect on CO emissions. Since Alaska is in attainment with ozone and SO_2 air quality standards, there is currently no concern for reducing HC or SO_2 emissions.

The Agency recognizes that granting this extension to the temporary exemption means Alaska will forego the potential benefits to its air quality resulting from the use of low-sulfur diesel fuel. However, the Agency believes that the potential benefits to Alaska's air quality are minimal and far outweighed by the increased costs resulting from factors unique to Alaska, at this time, to communities served by the FAHS.

C. Economic Factors

In complying with the section 211(i) sulfur requirement, refiners have the option to invest in the process modifications necessary to produce low-sulfur diesel fuel for use in motor vehicles, or not invest in the process modifications and only supply diesel fuel for off-highway purposes (e.g., heating, generation of electricity, fuel for non-road vehicles). Most of Alaska's refiners indicated that local refineries would choose to exit the market for highway diesel fuel if an exemption from the low sulfur requirement is not granted, because of limited refining capabilities, the small size of the market for highway diesel fuel in Alaska, and the costs that would be incurred to produce low-sulfur diesel fuel.

Demand for Jet-A kerosene, which is also sold as No. 1 diesel fuel because it meets Alaska's winter cloud point specification, accounts for almost fifty percent (50%) of Alaska's distillate consumption and dominates refiner planning. A survey of the refiners in Alaska, conducted by the State, revealed that it would cost over $100,000,000 in construction and process modifications to refine Alaska North Slope (ANS) crude into 0.05% sulfur diesel fuel to meet the demand for highway diesel fuel. Among the reasons for the high cost include the construction costs in Alaska, which are 25% to 65% higher than costs in the lower 48 states, and the cost of modifying the fuel production process itself. The petition states that because there is such a small demand for highway diesel fuel in Alaska, the costs that would be incurred to comply with section 211(i)'s sulfur requirement are excessive in light of the expected benefits. Without an exemption from having to meet this requirement, most refiners would choose to exit the market for highway diesel fuel.

Whether low-sulfur diesel fuel is produced in Alaska or imported from the lower 48 states or Canada, there remains the problem of segregating the two fuels for transport to communities accessible only by navigable waterways and storage of the fuels thereafter. Fuel is delivered to these communities only between the months of May and October due to ice formation which blocks waterways leading to these communities for much of the remainder of the year. The fuel supplied to these communities during the summer months must last through the winter and spring months until resupply can occur. Additionally, the existing fuel storage facilities limit the number of fuel types that can be stored for use in these communities. The cost of constructing separate storage facilities and providing separate tanks for transport of low-sulfur diesel fuel is prohibitive. This is largely due to the high cost of construction in Alaska relative to the lower 48, and the constraints inherent in distributing fuel in Alaska. One alternative to constructing separate storage facilities is to supply only low-sulfur diesel fuel to these communities. However, the result would require use of the higher cost, low-sulfur diesel fuel for all diesel fuel needs. This would greatly increase the already high cost of living in these communities, since a large percentage of distillate consumption in these communities is for off-highway uses, such as operating diesel powered electrical generators.

D. Environmental Factors

Information provided to EPA by the State of Alaska indicates that refiners supply and distribute standard diesel fuel in the summer which has a sulfur content of approximately 0.3% by weight, and supply and distribute Jet-A fuel in the winter as an Arctic-grade diesel, which has a sulfur content between 0.065 and 0.11. Thus, the reported level of sulfur in motor vehicle diesel fuel used in Alaska is below the current ASTM sulfur specification which allows up to 0.5% (by weight). Therefore, in general, the impact of not requiring the low sulfur diesel fuel program in Alaska are not as significant as they would be if the fuel were to approach the ASTM allowable sulfur content level.

Although the State's largest communities, Fairbanks and Anchorage,

[3] "PM_{10} Emission Inventories for the Mendenhall Valley and Eagle River Areas," prepared for the U.S. Environmental Protection Agency, Region X, by Engineering-Science, February 1988.

are CO nonattainment areas, extending this exemption is not expected to have any significant impact on ambient CO levels because the sulfur content in diesel fuel does not significantly affect CO emissions. Two rural communities are designated nonattainment areas with respect to particulate matter (PM_{10}); however, motor vehicle exhaust is responsible for less than one percent of the overall PM_{10} being emitted within the borders of these two areas where fugitive dust is reported to be a problem. Thus, EPA believes that granting a 24-month extension to the current temporary exemption to communities served by the FAHS will not have a significant impact on the ability of any of these communities to meet the NAAQS.

V. Decision for Extending the Current Temporary Exemption

In this notice, the Agency is extending the temporary exemption for those areas in Alaska served by FAHS from the diesel fuel sulfur content requirement of 0.05% (by weight), for a period of 24 months from October 1, 1996, or until such time as a decision is made on the petition for a permanent exemption, whichever is shorter. For the same reasons, the Agency also extends the exemption for those areas in Alaska covered by the FAHS from those provisions of section 211(g)(2)[4] of the Act that prohibit the fueling of motor vehicles with high-sulfur diesel fuel. Sections 211(g) and 211(i) both restrict the use of high-sulfur motor vehicle diesel fuel. Therefore, areas in Alaska served by the Federal Aid Highway System are also exempt from the related 211(g)(2) provisions until such time as a decision has been made on the state's petition for a permanent exemption.

The basis for this decision is that compliance with this requirement is unreasonable during such time period because, at this time, it would continue to create a severe economic burden for refiners, distributors and consumers of diesel fuel in the State of Alaska. This economic burden is created by unique meteorological conditions in Alaska and a set of unique distillate product demands in the state. As a result of these conditions, during the term of this exemption, it is not mandated that low-sulfur diesel fuel be available for commercial use in Alaska. The Agency will make a final determination on the state's petition for a permanent exemption, as discussed below.

The EPA believes that a 24-month continuation of the current exemption for areas served by the Federal Aid Highway System from the diesel fuel sulfur content requirement is reasonable and appropriate so that the Agency can consider recent comments on the state's petition. A permanent exemption is not appropriate at this time because EPA has not yet verified all relevant information and comments submitted by other interested parties.

Alaska's most recent petition included a compilation of information, provided by a Task Force (in which an EPA representative participated) that was established after the first petition, to further evaluate the conditions as described in that petition. These conditions included: the availability of arctic-grade, low-sulfur diesel fuel from out-of-state refiners, the costs associated with importing the fuel, and the costs of storing and distributing the fuel to areas on the highway system. The conditions and factors that were identified in the initial petition were expanded upon in the task force review. At this time there is sufficient evidence to support granting an extension to the current exemption, however, the Agency believes there are several issues that merit further investigation prior to making a final decision to act on the state's request for a permanent exemption. These issues include: consideration of an alternative fuel standard or fuel, local environmental effects, manufacturer's emissions warranty and recall liability, and the potential for tightening future heavy-duty emission standards for model year 2004 engines.

The information which is summarized in this notice and other pertinent information is being investigated in more detail by the Agency, prior to issuing a decision on the States request for a permanent exemption.

The Agency will publish a separate notice in the Federal Register to take action on the state's petition for a permanent exemption.

VI. Public Participation

The Agency is publishing this action as a direct final rule because this action is only extending Alaska's current temporary exemption from the diesel fuel sulfur standards as established in section 211(i) of the Act. The Agency views the changes contained herein as non-controversial and based on outreach efforts with affected parties, EPA anticipates no adverse or critical comments.

Following the August 27, 1993 publication of EPA's proposed decision to grant the first exemption from the low sulfur diesel fuel requirements requested by Alaska, there was a thirty day comment period, during which interested parties could request a hearing or submit comments on the proposal. The Agency received no request for a hearing. Comments were received both in support of the proposal to grant the exemption and expressing concerns over the impact of granting the exemption. These comments were considered in the Agency's decision to grant the previous exemption. The Agency received Alaska's request for a permanent exemption for the FAHS areas in December of 1995. Since that time, the Agency has received comment on the petition from the Alaska Center for the Environment and the Engine Manufacturers of America. Although the Agency believes that the petition does support an extension of the current exemption, EPA believes the information in these comments and the possible tightening of heavy duty engine standards in 2004 necessitate further consideration before the Agency proposes a decision on Alaska's request for a permanent waiver.

This action will become effective October 3, 1996 unless the Agency receives adverse comments or a request for a public hearing by September 18, 1996. If EPA receives such comments or request for a public hearing, EPA will publish a timely notice in the Federal Register withdrawing this rule. 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 exemption 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 revision that is noticed as a proposed decision in the 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 October 3, 1996.

VII. Statutory Authority

Authority for the action in this document is in sections 211(i)(4) (42

[4] This subsection makes it unlawful for any person to introduce or cause or allow the introduction into any motor vehicle of diesel fuel which they know or should know contains a concentration of sulfur in excess of 0.05 percent (by weight). It would clearly be impossible to hold persons liable for misfueling with diesel fuel with a sulfur content higher than 0.05%, when such fuel is permitted to be sold or dispensed for use in motor vehicles. The proposed exemptions would include exemptions from this prohibition, but not include the prohibitions in § 211(g)(2) relating to the minimum cetane index or alternative aromatic levels.

U.S.C. 7545(i)(4)) and 325(a)(1) (42 U.S.C. 7625–1(a)(1)) of the Clean Air Act, as amended.

VIII. Administrative Designation and Regulatory Analysis

Under Executive Order 12866,[5] 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.[6]

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.

IX. Compliance With the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that Federal Agencies examine the impacts of their regulations on small entities. The act requires an Agency to prepare a regulatory flexibility analysis in conjunction with notice and comment rulemaking, unless the Agency head certifies that the rule will not have a significant impact on a substantial number of small entities. 5 U.S.C. 605(b).

Today's action to extend the temporary exemption of the low sulfur diesel fuel requirements in the State of Alaska until October 1, 1998, or until such time as the Agency proposes to act on the states request for a permanent exemption, whichever period of time is shorter, will not result in any additional economic burden on any of the affected parties, including small entities involved in the oil industry, the automotive industry and the automotive service industry. EPA is not imposing any new requirements on regulated entities, but instead is continuing an exemption from a requirement which makes it less restrictive.

Therefore, the Administrator has determined that this direct final decision will not have a significant impact on a substantial number of small entities, and that a regulatory flexibility analysis is not necessary in connection with this decision.

X. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 544 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.

XI. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

XII. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate with estimated costs to the private sector of $100 million or more, or to state, local, or tribal governments of $100 million or more in the aggregate. 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 this direct final rule imposes no new federal requirements and does not include any federal mandate with costs to the private sector or to state, local, or tribal governments. Therefore, the Administrator certifies that this direct final rule does not require a budgetary impact statement.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Diesel fuel, Motor vehicle pollution.

Dated: August 12, 1996.

Carol M. Browner,

Administrator.

[FR Doc. 96–21078 Filed 8–16–96; 8:45 am]

BILLING CODE 6560–50–P

[5] 58 FR 51736 (October 4, 1993)

[6] *Id.* at section 3(f)(1)–(4).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1336

RIN 0970–AB37

Native American Programs

AGENCY: Administration for Native Americans, Administration for Children and Families, HHS.

ACTION: Final rule.

SUMMARY: On September 30, 1992, the Congress passed the Older Americans Act Amendments of 1992 (Pub. L. 102–375), amending the Native American Programs Act of 1974. In accordance with these amendments, the Administration for Native Americans (ANA) is amending 45 CFR Part 1336 to incorporate an appeals procedure for ANA ineligible applications. This action affords the applicants in ANA grant program announcement areas the opportunity to appeal the rejection of an application based on a finding that either the applicant or the proposed activities are ineligible for funding. A successful appeal would lead to reconsideration of the application in the next cycle of grant proposals following the HHS Departmental Appeals Board's determination to uphold the appeal. It does not guarantee ANA approval for grant funding.

EFFECTIVE DATE: September 18, 1996.

FOR FURTHER INFORMATION CONTACT: R. Denise Rodriguez (202) 690–6265, Department of Health and Human Services, Administration for Children and Families, 200 Independence Avenue SW., Room 348–F, Washington, DC 20201–0001.

SUPPLEMENTARY INFORMATION:

I. Program Description

In 1974, the Native American Programs Act (the Act) was enacted as Title VIII of the Economic Opportunity Act of 1964, (Pub. L. 93–644) (42 U.S.C. 2991a *et seq.*) to promote the goal of social and economic self-sufficiency for