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

# II. Withdrawal of the Wisconsin Opt-in DFRM

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

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

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was stipulated in the DFRM, the final rule adding the three Wisconsin nonattainment areas to the RFG program is being withdrawn by today's action and is effective immediately.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

EPA is withdrawing this provision to the reformulated and conventional gasoline regulations without providing prior notice and an opportunity to comment because it finds there is good cause within the meaning of 5 U.S.C. 553(b) to do so. For the same reasons, EPA finds it has good cause under 5 U.S.C. 533(d) to make this withdrawal immediately effective.

### **III. Statutory Authority**

The statutory authority for the action finalized today is granted to EPA by

Sections 114, 211(c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545(c) and (k), and 7601.

#### IV. Administrative Requirements

#### A. Administrative Designation

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

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

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

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

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

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

## B. Impact on Small Entities

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

#### C. Paperwork Reduction Act

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

#### D. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate; or by the private sector, of \$100 million or more. Under Section 205, EPA must select the most costeffective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

#### List of Subjects in 40 CFR Part 80

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

Dated: April 25, 1995.

#### Carol M. Browner,

Administrator.

40 CFR part 80 is amended as follows:

# PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

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

#### §80.70 [Amended]

2. In § 80.70 paragraph (l) is removed. [FR Doc. 95–10882 Filed 5–2–95; 8:45 am] BILLING CODE 6560–50–P

#### 40 CFR Part 180

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

RIN 2070-AB78

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

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

ACTION: Final rule.

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