choices, provided that they meet the criteria of the CAA and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the state to use VCS, EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of an operating permit program that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of NTTAA do not apply.

*J. Paperwork Reduction Act*

This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*K. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 70**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401–7671q.

Dated: October 22, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

For reasons set out in the preamble, Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

**PART 70—[AMENDED]**

1. The authority citation for part 70 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by revising the entry for Kentucky to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

* * * * *

**Kentucky**

(a)(1) Kentucky Natural Resources and Environmental Protection Cabinet: Submitted on December 27, 1993, and supplemented on November 15, 1994, April 14, 1995, May 3, 1995, and May 22, 1995; interim approval expires on December 1, 2001.

(2) Revision submitted on February 13, 2001. Rule revisions contained in the February 13, 2001 submittal adequately addressed the conditions of the interim approval which expires on December 1, 2001. The Commonwealth is hereby granted final full approval effective on November 30, 2001.

(b)(1) Air Pollution Control District of Jefferson County: submitted on February 1, 1994, and supplemented on November 15, 1994, May 3, 1995, July 14, 1995, and February 16, 1996; full approval effective on April 22, 1996.

(2) [Reserved]

* * * * *

[FR Doc. 01–27362 Filed 10–30–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 80

**[FRL–7095–8]**

**RIN 2060–AJ76**

## Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption for Motorcycles

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** This rule exempts motorcycles with emission control devices that could be affected by the use of leaded gasoline from having to be equipped with gasoline tank filler inlet restrictors. As before, motorcycles and other motor vehicles without such emission control devices are not required to be equipped with gasoline tank filler inlet restrictors.

The Clean Air Act and corresponding EPA regulations prohibit gasoline containing lead or lead additives (leaded gasoline) as a motor vehicle fuel after December 31, 1995. As a deterrent to misfueling prior to that date, the EPA regulations required filler inlet restrictors on motor vehicles equipped with an emission control device that could be affected by the use of leaded gasoline, such as a catalytic converter. EPA retained that provision after 1995 because the filler inlet restrictor, besides being a deterrent to misfueling, has also been incorporated into the design of some vapor recovery gasoline nozzle spouts. Gasoline tank filler inlet restrictors do not work well with most motorcycle fuel tanks, especially the saddle type of tank, because of their shallow depth. A gasoline tank filler inlet restrictor may cause gasoline spitback or spillage when a motorcycle is refueled, which increases evaporative emissions. Today there is relatively little risk of misfueling a motorcycle. Also, it is unlikely that a gasoline tank filler inlet restrictor on a motorcycle helps to control gasoline vapors when the motorcycle is refueled.

**DATES:** This action will be effective December 31, 2001, unless the Agency receives adverse or critical comments or a request for a public hearing by November 30, 2001. If the Agency receives adverse or critical comments, EPA will publish in the **Federal Register** a timely withdrawal of this direct final rule informing the public that this rule will not take effect.

**ADDRESSES:** Any person wishing to submit comments should submit them (in duplicate, if possible) to the docket listed below, with a copy forwarded to Richard Babst, U.S. Environmental Protection Agency, Transportation and Regional Programs Division, 1200 Pennsylvania Avenue, N.W., (Mail Code: 6406J), Washington, D.C. 20460.

Public Docket: Materials relevant to this rule are available for inspection in public docket A–2001–17 at the Air Docket Office of the EPA, 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. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying docket material.

**FOR FURTHER INFORMATION CONTACT:** Richard Babst at (202) 564–9473 facsimile: (202) 565–2085, e-mail address: babst.richard@epa.gov

**SUPPLEMENTARY INFORMATION**

**Regulated Entities**

Entities potentially affected by this rule are manufacturers of motorcycles. Regulated categories include:

| Category | Examples of regulated entities |
|---|---|
| Industry .... | Manufacturers of motorcycles |

To determine whether you are affected by this rule, you should carefully examine the requirements in § 80.24(b) 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.

## I. History of Fuel Tank Filler Restrictor

Prior to 1996, 40 CFR 80.24(b) contained size specifications for the gasoline tank filler inlet of motor vehicles equipped with an emission control device that would be significantly impaired by the use of leaded gasoline. The purpose of the tank filler inlet restriction was to allow the insertion of an unleaded gasoline pump nozzle, but not a leaded gasoline pump nozzle. Specifically, § 80.24(b) required that a manufacturer of motor vehicles ''equipped with an emission control device which the Administrator has determined will be significantly impaired by the use of leaded gasoline'' shall ''[m]anufacture such vehicle with each gasoline tank filler inlet having a restriction which prevents the insertion of a nozzle with a spout as described in § 80.22(f)(1) and allows the insertion of a nozzle with a spout as described in § 80.22(f)(2).'' Section 80.22(f)(1) specified that ''[e]ach pump from which leaded gasoline is introduced into motor vehicles shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than 0.930 inch (2.363 centimeters).'' Section 80.22(f)(2) specified that ''[e]ach pump from which unleaded gasoline is introduced into motor vehicles shall be equipped with a nozzle spout which meets the following specifications: (i) The outside diameter of the terminal end shall not be greater than 0.840 inch (2.134 centimeters); (ii) * * *''

Section 80.24(b) contained additional specifications to prevent misfueling of motor vehicles with leaded gasoline. Section 80.24(b)(1) required that the filler inlet restrictor ''pool'' gasoline at the restrictor's opening, if fueling is attempted when the spout of a pump nozzle is not inserted into the restrictor opening. Historically, this had been accomplished by a spring-loaded door on the inside of the restrictor opening, which would be pushed open by inserting the spout of an unleaded gasoline nozzle. Since leaded gasoline nozzle spouts were larger than the inlet restrictor opening, they did not fit into the restrictor opening or push open the spring loaded door. Fueling with leaded gasoline would require the nozzle spout to be positioned in front of the restrictor opening and spring-loaded door. If fueling were attempted in this manner, the gasoline would pool at the restrictor opening and cause the nozzle's automatic shut-off device to activate. The related § 80.24(b)(2) exempted motorcycle manufacturers from meeting the ''pooling'' requirements of § 80.24(b)(1).

Section 211(n) of the Clean Air Act, 42 U.S.C. 7545(n), prohibits the introduction of gasoline containing lead or lead additives into commerce for use as a motor vehicle fuel after December 31, 1995. For consistency with this Clean Air Act prohibition, we published in the **Federal Register** on February 2, 1996 a direct final rule and associated notice of proposed rulemaking revising our regulations (61 FR 3832 and 61 FR 3894, respectively). The direct final rule became effective on March 4, 1996 except for language associated with § 80.24(b). We withdrew language for that paragraph from the direct final rule on March 4, 1996 (61 FR 8221) due to adverse comment, and subsequently published revised language in the **Federal Register** on June 6, 1996 (61 FR 28763).

In the February 2, 1996 direct final rule and associated notice of proposed rulemaking, we removed various portions of § 80.24, including the introductory text, and modified § 80.24(b) to make the size requirements of the tank filler inlet applicable to all new motor vehicles, and not just to those equipped with an emission control device that would be significantly impaired by the use of leaded gasoline. We reasoned that retaining the requirement for the tank filler inlet restrictor would conform with the statutory ban prohibiting the use of gasoline containing lead or lead additives as a motor vehicle fuel. The restrictor requirements for motor vehicles would match the nozzle size requirement for dispensing unleaded gasoline, which we had retained in § 80.22(f)(2). Further, General Motors and several gasoline pump nozzle manufacturers had requested that the specification for the tank filler inlet size be retained so that automobile equipment would continue to be compatible with Stage II vapor recovery pump nozzles. We simplified the applicability language of § 80.24(b) to refer to all motor vehicles, instead of motor vehicles equipped with an emission control device that would be significantly impaired by the use of leaded gasoline, because we thought that all motor vehicles were manufactured with tank filler inlet restrictors at that time. We did not intend to broaden the applicability of § 80.24(b).

In the February 2, 1996 direct final rule and associated notice of proposed rulemaking, we also removed §§ 80.24(b)(1) and 80.24(b)(2). We believed misfueling would be unlikely, making the § 80.24(b)(1) ''pooling'' safeguard against misfueling unnecessary. Once we removed § 80.24(b)(1), it was appropriate for us to remove § 80.24(b)(2) as well, since § 80.24(b)(2) exempted motorcycle manufacturers from the requirements of § 80.24(b)(1).

We received an adverse comment from Harley Davidson, Inc. (Harley) on the revised language of 40 CFR 80.24(b) in the February 2, 1996 direct final rule and proposed rule.[1] In its comment, Harley stated that motorcycles generally do not use emission control devices that would be significantly impaired by the use of leaded gasoline (e.g., catalytic converters) and are therefore not manufactured with tank filler inlet restrictors matching the requirements of the existing § 80.24(b). The February 2, 1996 direct final rule and associated notice of proposed rulemaking would have required these motorcycles to meet the fuel inlet size requirements of 40 CFR § 80.24(b), thereby causing additional economic burden and manufacturing complexity for Harley. We did not intend or foresee that we would be expanding the applicability of § 80.24(b) by the revised applicability language. Because of this adverse comment, we withdrew paragraph 40 CFR 80.24(b) from the direct final rule, and published it in the June 6, 1996 final rule with its previous applicability.

## II. Why Are We Exempting Motorcycles?

There are few, if any, offsetting environmental benefits to support the continued use of gasoline tank filler inlet restrictors in motorcycles equipped with emission control devices that would be significantly impaired by the use of leaded gasoline. Today there is relatively little risk of misfueling a motorcycle. Gasoline tank filler inlet restrictors were originally required to prevent motor vehicles with an emission control device, such as a catalytic converter, from using leaded gasoline. Leaded gasoline can damage catalytic converters and certain other emission control devices. Significantly,

[1] This comment can be found in docket No. A–95–13 for the February 2, 1996 direct final rule and proposed rule, and for the June 6, 1996 final rule.

leaded gasoline has now been banned from use in all motor vehicles for over five years and is generally no longer available for sale at gasoline filling stations. Also, it is unlikely that a gasoline tank filler inlet restrictor on a motorcycle helps to control gasoline vapors when the motorcycle is refueled. Although a vapor recovery gasoline nozzle, in conjunction with the gasoline tank filler inlet restrictor, helps to control gasoline vapors and emissions when used to refuel most motor vehicles, they are relatively ineffective when used to refuel motorcycles.

During refueling of a car or truck, the fuel nozzle spout is inserted into the fill tube and through the filler neck restrictor plate. The fuel nozzle automatically stops the flow of gasoline when it senses a sufficiently high level of gasoline vapors below the restrictor plate, which indicates the fuel tank is full. We understand that, beginning with the introduction of Stage I vapor recovery fueling systems in the early 1990s and continuing with current Stage II vapor recovery systems, the fuel tank inlet restrictor of a car or truck has been used as a guide, a seat and a pressure contact point for some vapor recovery gasoline nozzle spouts.

For some vapor recovery fueling systems, the restrictor plate lines up the nozzle and helps concentrate the fugitive emissions for collection. Without the restrictor plate, more fugitive emissions would be released. The ''balance'' type of vapor recovery system uses a boot to seal around the outside of the tank filler inlet tube. While this system does not require the restrictor plate to help capture fugitive emissions, it requires the restrictor plate to push against in order to activate an interlock. An ''emission'' or ''efficiency'' control vapor recovery device does not need the restrictor plate to control fugitive emissions. This device consists of a cup, which has an outside diameter the same as the inside diameter of the fill hole, that is clipped to the spout. A similar type of vapor recovery system, the Marconi system, does not need the restrictor plate or the plastic cup.[2]

Most on-board vapor recovery systems, which are required for light-duty vehicles and light-duty trucks but not for motorcycles, are also designed around the restrictor plate. A seal is needed between the pump nozzle and the tank filler inlet tube to prevent fugitive emissions from escaping. This seal is normally located below the restrictor plate, and uses the restrictor plate to line-up the nozzle with the seal. Fugitive emissions below the seal are then diverted to a canister in the vehicle.[3]

We understand that gasoline tank filler inlet restrictors do not work well with most motorcycle fuel tanks, especially the saddle type of tank, because of their shallow depth. The use of gasoline tank inlet restrictors in motorcycles may in fact contribute to unnecessary releases of gasoline vapors and emissions. Unlike a car or truck, motorcycles are typically fueled while the operator observes the tank fuel level, similar to filling a small gasoline container typically used to refuel lawnmowers and other small gasoline powered equipment. However, the restrictor plate obstructs the view of the fuel level, and could contribute to inadvertent fuel overfill and spillage. If fueling with the ''balance'' type of vapor recovery nozzle, motorcycle operators generally pull back and hold the rubber boot to activate the interlock and allow for better visibility, but that defeats the vapor recovery system.[4] Further, the filler inlet restrictor may cause the nozzle spout to be inserted deeper into the motorcycle tank than otherwise would be necessary, potentially causing increased splash back from the shallow tank. Besides causing excess gasoline vapors and spitback through the restrictor plate openings, this splashback could cause the pump nozzle to prematurely stop the flow of gasoline. The operator may have to reactivate the pump nozzle, possible several times, before the tank is full.

These problems were not much of an issue in the 1995 and earlier time frame, because only relatively few motorcycles were equipped with catalytic converters, and thus, only relatively few required tank inlet restrictors. However, a significant number of 2001 model year motorcycles have been equipped with catalytic converters.

## III. Final EPA Action

Today's direct final rule revises 40 CFR 80.24(b) to exempt motorcycles equipped with an emission control device that will be affected by the use of leaded gasoline, such as a catalytic converter, from having to be equipped with a fuel tank inlet restrictor.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial action and anticipate no adverse comment. This rulemaking is very narrow in scope and exempts motorcycles from a requirement that, when applied to motorcycles, generally has no air quality benefits and that, in fact, could cause increased evaporative emissions from motorcycles during refueling. In the ''Proposed Rules'' section of today's **Federal Register**, however, we are publishing a separate document that will serve as the proposal to exempt motorcycles from having to be equipped with a tank filler inlet restrictor if adverse comments are filed. This direct final rule will be effective on December 31, 2001 without further notice unless we receive adverse comment by November 30, 2001. If EPA receives adverse comment, we will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on today's proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

## IV. Administrative Requirements

### *A. Executive Order 12866*

Under Executive Order 12866 (58 FR 51735 (Oct. 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 entitlement, 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 rule is not a ''significant regulatory action'' under the terms of EO 12866 and is therefore not subject to OMB review.

### *B. Paperwork Reduction Act*

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and therefore is not subject to these requirements.

[2] Conversation with Catlow on April 3, 2001.

[3] Ibid

[4] Also, for those motorcycles where the filler cap is attached to the gas tank by a hinge, the rubber boot of a ''balance'' type of vapor recovery nozzle would not seat correctly anyway, and the insertion pressure required to compress the boot may damage the gas cap, hinge, and tank finish.

*C. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's rule exempts motorcycles from a current provision that requires them, under certain circumstances, to be equipped with fuel inlet restrictors, and thus avoids the costs imposed by the existing Federal regulations. Today's rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As discussed above, the rule is a deregulatory action and affects only motorcycle manufacturers.

*D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, Apr. 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. EPA reduced the content of lead in leaded gasoline, because EPA found that lead particle emissions from motor vehicles presented a significant risk of harm to the health of urban populations, especially children (38 FR 33734, Dec. 6, 1973). Congress ultimately banned the use of leaded gasoline in motor vehicles after 1995. 42 U.S.C. 7545(n). Gasoline tank filler inlet restrictors were related to the phase-out of leaded gasoline to prevent a motor vehicle with an emission control device, such as a catalytic converter, from using leaded gasoline. Leaded gasoline can damage such emission control devices. Today there is relatively little risk of misfueling a motorcycle with an emission control device that could be damaged by the use of leaded gasoline, because leaded gasoline has now been banned from use in all motor vehicles for over five years and is generally no longer available for sale at gasoline filling stations.

*E. Executive Order 13132 (Federalism)*

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, Aug. 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. Today's rule eliminates the existing requirement that manufacturers of motorcycles must equip certain motorcycles with fuel tank filler inlet restrictors. Thus, Executive Order 13132 does not apply to this rule.

*F. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub L. No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*G. Congressional Review*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. A ''major rule'' cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(a).

*H. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.*

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. We have therefore concluded that today's final rule will relieve regulatory burden for all small entities affected by this rule.

Today's rule is a deregulatory action and affects all motorcycle manufacturers. It eliminates the existing requirement that manufacturers of motorcycles must equip certain motorcycles with fuel tank filler inlet restrictors. We have therefore concluded that today's rule will relieve regulatory burden for any small entity.

*I. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

On January 1, 2001, Executive Order 13084 was superseded by Executive Order 13175. However, this rule was developed during the period when Executive Order 13084 was still in force, and so tribal considerations were addressed under Executive Order 13084. Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, Nov. 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

Today's rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. The rule affects the applicability of the fuel tank filler inlet restrictor to motorcycles. It therefore affects only manufacturers of motorcycles. Thus, Executive Order 13175 does not apply to this rule.

*J. Executive Order 13211 (Energy Effects)*

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

*K. Electronic Copies of Rulemaking*

A copy of this action is available on the Internet at *http://www.epa.gov/otaq* under the title: ''Direct Final Rule—Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption for Motorcycles.''

*L. Statutory Authority*

Authority for this action is in sections 211, and 301(a) of the Clean Air Act, 42 U.S.C. 7545, 7601(a).

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

Environmental protection, Air pollution control, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties.

Dated: October 24, 2001.

**Christine Todd Whitman,**

*Administrator.*

For the reasons set forth in the preamble, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 80—REGULATIONS OF FUELS AND FUEL ADDITIVES

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

**Authority:** 42 U.S.C. 7414, 7545 and 7601(a).

2. Section 80.24 is amended by adding paragraph (c) to read as follows:

### § 80.24 Controls applicable to motor vehicle manufacturers.

* * * * *

(c) A motorcycle, as defined at 40 CFR 86.402 for the applicable model year, is exempt from to the requirements of paragraph (b) of this section.

[FR Doc. 01–27378 Filed 10–30–01; 8:45 am]

BILLING CODE 6560–50–P