

storage infrastructure in the villages generally consists of a limited number of small community storage tanks. The fuel must last during the entire winter season when fuel deliveries may not be possible. There is currently only one distillate fuel that is delivered and stored for all distillate purposes in the villages, including home heating, power generation, vehicles, marine engines and possibly some nonroad engines and equipment. Modifications to permit the segregation of small amounts of low sulfur or ultra low-sulfur distillate fuel for highway and/or NRLM use or switching to low sulfur or ultra low-sulfur fuel for all purposes would be an economic hardship for the villages.

Furthermore, as discussed above, for areas not served by the Federal Aid Highway System, the State of Alaska is considering an alternative implementation plan for the 15 ppm and 500 ppm highway standards. One option under consideration by the State would be to not apply these standards in these areas. Rather, the 15 ppm fuel would be provided based on demand to 2007 and later model year vehicles that must be operated on 15 ppm fuel as they enter the fleet. Since the vehicle turnover rate in rural villages is typically very low, and many of the replacement vehicles are pre-owned vehicles themselves, some villages may not obtain their first 2007 or later model year diesel highway vehicle until long after 2010. If such a highway plan would be finalized and EPA subsequently incorporated it into the regulations, the proposed NRLM low-sulfur diesel fuel program, without similar provisions, would require 500 ppm diesel fuel solely for the NRLM market in rural areas beginning June 1, 2007, and 15 ppm sulfur solely for the nonroad market beginning June 1, 2010. Since the demand for new nonroad engines and equipment with aftertreatment (model year 2011 and later) is expected to be nonexistent or very low in the early years in rural Alaska, we believe the best approach is to propose no sulfur or other content requirements for areas of Alaska not served by the FAHS. EPA can revisit this when it receives and takes action on Alaska's highway implementation plan. This will allow for coordination between the highway and NRLM fuel requirements. As proposed, this would allow rural Alaska to limit the volume of 15 ppm sulfur diesel fuel to that which is sufficient to meet the demand from the small number of new nonroad diesel engines and equipment that would be certified to the Tier 4 nonroad

standards proposed today beginning with the 2011 model year.

Our goal in proposing this approach is to allow rural Alaska to transition to the low sulfur fuel program in a manner that minimizes costs while still ensuring that the model year 2011 and later nonroad engines and equipment with aftertreatment receive the 15 ppm diesel fuel they need. Similar to the flexibility being considered under the highway program, the flexibility offered by this proposal would likely result in a delay of some sulfate emission reduction benefits in the rural areas of Alaska. The sulfate emissions of NRLM engines and equipment in Alaska would remain at current levels for as long as high-sulfur diesel fuel is used.

2. American Samoa, Guam, and the Commonwealth of Northern Mariana Islands

a. What Provisions Apply in American Samoa, Guam, and the Commonwealth of Northern Mariana Islands?

We are proposing to exclude American Samoa, Guam and the Commonwealth of the Northern Mariana Islands from the proposed NRLM diesel fuel sulfur standard of 500 ppm sulfur in 2007 and 15 ppm sulfur nonroad standard in 2010, as well as the cetane index and aromatics requirements. We also propose to exclude these territories from the Tier 4 nonroad vehicle, engine and equipment emissions standards, and other requirements associated with those emission standards. The territories will continue to have access to new nonroad diesel engines and equipment using pre-Tier 4 technologies, at least as long as manufacturers choose to market those technologies. We will not allow the emissions control technology in the territories to backslide from those available in 2010. If, in the future, manufacturers choose to market only nonroad diesel engines and equipment with Tier 4 emission control technologies, we believe the market will determine if and when the territories will make the investment needed to obtain and distribute the diesel fuel necessary to support these technologies.

We are also proposing to require that all nonroad diesel engines and equipment for these territories be certified and labeled to the applicable requirements—either to the 2010 model year standards and associated requirements under this proposed exclusion, or to the 2011 and later standards and associated requirements applicable for the model year of production under the nationwide requirements of this proposal—and warranted, as otherwise required under

the Clean Air Act and EPA regulations. Special recall and warranty considerations due to the use of excluded high sulfur fuel would be the same as those for Alaska during its exemption and transition periods for highway diesel fuel and for these territories for highway diesel fuel (*see* 66 FR 5086, 5088, January 18, 2001).

To protect against this exclusion being used to circumvent the emission requirements applicable to the rest of the United States, we are restricting the importation of nonroad engines and equipment from these territories into the rest of the United States. After the 2010 model year, nonroad diesel engines and equipment certified under this exclusion to meet the 2010 model year emission standards for sale in American Samoa, Guam and the Commonwealth of the Northern Mariana Islands will not be permitted entry into the rest of the United States.

b. Why Are We Treating These Territories Uniquely?

Like Alaska, these territories are currently exempt from the 500 ppm sulfur standard for highway diesel fuel. Unlike Alaska and the rest of the nation, they are also exempt from the new highway diesel fuel standard effective in 2006 and the new highway vehicle and engine emission standards effective beginning in 2007 (*see* 66 FR 5088, January 18, 2001).

Section 325 of the CAA provides that upon request of Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, we may exempt any person or source, or class of persons or sources, in that territory from any requirement of the CAA, with some specific exceptions. The requested exemption could be granted if we determine that compliance with such requirement is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of the territory, or other local factors as we consider significant. Prior to the effective date of the current highway diesel sulfur standard of 500 ppm, the territories of American Samoa, Guam and the Commonwealth of Northern Mariana Islands petitioned us for an exemption under section 325 of the CAA from the sulfur requirement under section 211(i) of the CAA and associated regulations at 40 CFR 80.29. We subsequently granted the petitions.²⁵⁴ We recently determined that the 2007 heavy-duty emission standards and 2006 diesel fuel sulfur

²⁵⁴ *See* 57 FR 32010, July 20, 1992 for American Samoa; 57 FR 32010, July 30, 1992 for Guam; and 59 FR 26129, May 19, 1994 for CNMI.