

EPA Issues Final Rule for the Regulation of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to Maine's Southern Counties

The EPA is extending the Clean Air Act (CAA) prohibition against the sale of conventional gasoline in reformulated gasoline (RFG) areas to the southern Maine counties of York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, and Lincoln (the “Southern Maine Counties”). This final rule is based on a request from the Governor of the State of Maine for areas within the ozone transport region established under CAA section 184. The scope of the EPA’s discretion is limited to establishing the date that the prohibition commences. Consistent with the Governor’s request, this prohibition will commence in the affected RFG area as of May 1, 2015 for refiners, importers, and distributors and as of June 1, 2015 for retailers and wholesale purchaser-consumers.

The EPA has updated its RFG opt-out rules to add a provision reflecting that there is a four-year minimum opt-in period for areas that opt into the RFG program on the basis of their location within the ozone transport zone. This clarification aligns the federal regulation for RFG opt-out requirements with the CAA.

Key Elements of the Final Rule

- The EPA is extending the CAA prohibition against the sale of conventional gasoline in RFG areas to the Southern Maine Counties to commence as of May 1, 2015 for refiners, importers, and distributors, and as of June 1, 2015 for retailers and wholesale purchaser-consumers. Only RFG may be sold to consumers in the Southern Maine Counties as of June 1, 2015.
- In its August 28, 2014 proposed rule (79 FR 51288), the EPA requested comment regarding whether there would be sufficient capacity to supply RFG to these seven counties as of May 1, 2015 for entities other than retailers and

wholesale purchaser-consumers and as of June 1, 2015 for retailers and purchaser-consumers. No comments were received in response to the proposed rule, and the EPA is finalizing the rule as proposed.

- Finally, the EPA has updated its RFG opt-out regulation to align it with the CAA prohibition against opting out of the RFG program for four years after the commencement date of the opt-in. This statutory requirement is based on an area's location within the ozone transport region.

Background

The purpose of the federal RFG program is to improve air quality in certain areas through the use of gasoline that is reformulated to reduce motor vehicle emissions of tropospheric ozone-forming compounds, as set forth in CAA section 211(k)(1). The EPA first published regulations for the federal RFG program on February 16, 1994. (59 FR 7716).

CAA section 211(k)(6)(B) provides that when the Governor of a State petitions the EPA to opt into the federal RFG program any area of the state that is in the ozone transport region established under CAA section 184, the EPA is to apply the prohibition against selling or dispensing of conventional gasoline in the subject area. However, CAA section 211(k)(6)(B)(iii) gives the EPA discretion in extending the commencement date by one year with the option to renew that extension for two additional one-year periods if the EPA determines that there is insufficient capacity to supply RFG to the area.

In 2013, the State of Maine enacted a law establishing the use of RFG in the Southern Maine Counties beginning May 1, 2014. On July 23, 2013, the Governor of Maine formally requested that the EPA extend the requirement for the sale of RFG to these counties beginning on May 1, 2014.

The Maine legislature subsequently enacted an emergency law, effective March 6, 2014 to postpone the requirement for the sale of RFG in the Southern Maine Counties until June 1, 2015. Pursuant to that legislation, the Commissioner for the State of Maine modified Maine's request for the implementation date for the sale of RFG in these counties to coincide with June 1, 2015.

Consistent with the Governor's request, in an August 28, 2014 Federal Register notice (79 FR 51288), the EPA proposed to extend the CAA prohibition against the sale of conventional gasoline in RFG areas to the Southern Maine Counties to commence as of May 1, 2015 for refiners, importers, and distributors, and as of June 1, 2015 for retailers and wholesale purchaser-consumers. No comments were received in response to this Federal Register notice. Thus, the EPA is finalizing the rule as proposed.

The EPA has also updated its RFG opt-out regulation at 40 CFR 80.72 to add a provision aligning it with the CAA section 211(k)(6)(B)(ii)(II) prohibition against opting out of the RFG program for four years after the commencement date of the opt-in. This statutory requirement is based on an area's location within the ozone transport region.

For More Information

You can access the proposed and final rule and related documents on the EPA's Office of Transportation and Air Quality Web site at:

www.epa.gov/otaq/fuels/gasolinefuels/rfg/regulations.htm

For further information on this final rule, please contact:

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