



US Environmental Protection Agency  
Air and Radiation  
Office of Transportation and Air Quality

FACT SHEET  
JUNE 21, 1996

FINAL RULE OUTLINING REFORMULATED GASOLINE PROGRAM OPT-OUT  
PROCEDURES AND FINALIZATION OF SPECIFIC OPT-OUT REQUESTS FROM  
MAINE, NEW YORK AND PENNSYLVANIA

TODAY'S ACTION

- The Environmental Protection Agency (EPA) is issuing a final rule today to provide criteria and procedures for states with voluntary reformulated gasoline (RFG) programs to withdraw or opt-out areas from the federal RFG program. This action provides the states with the flexibility of choosing other control measures to reduce ozone levels while maintaining the air quality standards required under the Clean Air Act Amendments (Act).
- This final rule applies to ozone non-attainment areas (i.e. areas with ozone or "smog" problems) where the state voluntarily opted into the program and subsequently decides to withdraw from the RFG program, an action referred to as "opt-out." This rule describes the process a state must follow to request withdrawal from the program, the criteria used by EPA to evaluate a request, and the transition period before the opt-out becomes effective.
- As requested by the states' Governors, this final rule also officially removes twenty-eight counties in Pennsylvania, nine counties in New York, and two counties in Maine from the federal list of areas in the RFG program. Effectively these areas have never sold RFG since, upon the state's request, they received an exemption (via a stay, or temporary suspension of the regulatory requirements) before the program began in 1995. This exemption from the program's requirements was effective until today's final rule was signed.

BACKGROUND

- The RFG program is designed to reduce ozone levels in the largest metropolitan areas of the U.S. with the worst ground-level ozone or "smog" problems by reducing vehicle emissions of compounds that form ozone, specifically volatile organic compounds (VOC).
- The 1990 amendments of the Act requires RFG in the ten areas

of the country with the highest levels of ozone (i.e. Philadelphia, Los Angeles, San Diego, Hartford, New York, Chicago, Baltimore, Houston, Milwaukee, and Sacramento\* areas). Congress also provided the opportunity for states to voluntarily enter into (i.e. opt-in) the RFG program for their ozone nonattainment areas not already mandated.

- EPA issued final rules establishing requirements for RFG on December 15, 1993. The regulation did not include procedures for withdrawing or opting out of the RFG program. However, the Agency did indicate that it intended to propose such procedures in a separate rule.
- The Administrator signed a final rule in December 1994 temporarily staying, or suspending the RFG program requirements for the nine counties in New York, twenty-eight counties in Pennsylvania, and two counties in Maine from the RFG program.
- On June 14, 1995, EPA published a notice of proposed rulemaking proposing procedures for states to opt areas out of the RFG program as well as proposing to opt-out the 39 counties from the program.

#### WHAT IS THE OPT-OUT PROCESS?

- This final rule requires the Governor or the Governor's authorized representative to submit a request (i.e. a petition) to opt out of the RFG program. The petition must include specific information on how, if at all, RFG has been relied upon by the state in its pending or approved air quality plans to reduce ozone levels.
- Under this rule, the EPA's Administrator is authorized to approve a state's request to opt out all or a portion of a voluntary area from the RFG program.
- EPA will review the opt-out petition to ensure it contains all the required elements or information, and will quickly notify the state in writing and through notification in the Federal Register when the opt-out request has been approved. The notification will also announce the effective date that the area is removed from the RFG program.
- The effective date of the opt-out from the RFG program is dependent on how the RFG program is used by a state in its air quality plan(s) for attaining the national ambient air quality standards (NAAQS):

If RFG was included as a control measure in an approved State Implementation Plan (e.g. to demonstrate attainment of NAAQS and continued maintenance of such standards), then the opt-out would become effective 90 days after the Agency approves a revision to the state plan removing reformulated gasoline as a control.

If RFG was relied upon in a plan pending EPA approval, then the opt-out would become effective 90 days from the date EPA

provides written notification to the state that the petition has been approved.

If the state does not have a plan, or did not rely on RFG in a pending plan, then the effective date is 90 days from the date EPA provides written notification to the state that the petition has been approved.

#### WHAT ARE THE HEALTH AND ENVIRONMENTAL CONSEQUENCES

- The rule has little or no adverse health and environmental effects because:

The opt-out procedures outlined in this final rule are designed to encourage states to assess the air quality ramifications of withdrawing from the program. EPA recognizes that states have the primary responsibility to meet the NAAQS and should have the flexibility in determining the mix of control measures needed to attain their goals.

Although areas that opt out of the RFG program will not receive the reductions in volatile organic compounds (VOCs), oxides of nitrogen (NOx), and air toxics that are expected from the program, these areas will not be relieved from their responsibility of meeting the federal air quality standards

The 39 counties mentioned above which are officially opting-out never sold RFG (i.e. not required) and thus will not lose any environmental and health benefits of the RFG program.

#### HOW WILL THE REGULATION AFFECT INDUSTRY?

- This final rule is expected to decrease compliance costs to the industry and decrease costs to consumers in the affected areas, and is not expected to result in any additional compliance cost to regulated parties.

#### HOW DOES THE FINAL RULE ASSIST STATES?

- EPA is committed to ensuring that areas around the country attain the NAAQS, including the ozone standard. EPA recognizes, however, that under the Act the states play a primary role in attaining the NAAQS, including choosing those control measures they prefer to include in its plans to attain and maintain the NAAQS.
- Today's action maintains the flexibility that states have in air quality planning by honoring their right to opt out (except in the nine mandatory RFG areas) and substitute alternative control measures where the state considers appropriate. EPA believes that the state should retain flexibility to revise the air quality plans (i.e. State Implementation Plans) by selecting control measures it desires to include in its plan as long as it makes the necessary demonstrations required under the Act.

DOES THE RULE ADDRESS OPT-INS FOR ATTAINMENT AREAS?

- In the notice of proposed rulemaking EPA solicited comments on whether section 211(k) of the Act provides the Agency with the discretion to allow attainment areas to opt-in to this federal program.
- Although EPA has received comments on this question and is reviewing options that would permit opt-in opportunities to be expanded, the Agency is not taking action today on this issue. EPA anticipates announcing a policy shortly.

FOR FURTHER INFORMATION...

- For further information, feel free to contact one of the following people: Mark Coryell (202-233-9014), Christine Hawk (202-233-9672), or Pat Childers (202-233-9415).
- A copy of this final rule is available on the OAQPS Technology Transfer Network Bulletin Board System (TTNBBS). The TTNBBS can be accessed with a dial-in phone line and a high-speed modem. The phone number is ( 919) 541-5742.

\* Note under Background': Sacramento, CA was reclassified from Serious to Severe effective June 1, 1995. Thus, as of June 1, 1996, Sacramento is considered a required area under Section 211(10)(D) of the Act.