ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1090

[EPA–HQ–OAR–2022–0398; FRL 9847–01–OAR]

RIN 2060–AV75

Removal of the Reformulated Gasoline Program From the Southern Maine Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this final action, the Environmental Protection Agency (EPA) is amending its reformulated gasoline (RFG) regulations to reflect that York, Cumberland, Androscoggin, Sagadahoc, Kennebec, Knox and Lincoln counties in Maine (the Southern Maine Area) are no longer Federal RFG covered areas as of September 30, 2021. EPA previously approved a petition from Maine to opt out of the Federal RFG program and removed the requirement to sell Federal RFG in the Southern Maine Area as of September 30, 2021. This effective date applied to retailers, wholesale purchaser-consumers, refiners, importers, and distributors. This rule merely updates the list of RFG-covered areas in the Federal regulations to reflect the effective date of the opt-out for the Southern Maine Area.

DATES: This final rule is effective August 26, 2022.

FOR FURTHER INFORMATION CONTACT: Mark Coryell, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, MI 48105; email address: *coryell.mark@epa.gov* or Rudy Kapichak, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, MI 48105; email address: *kapichak.rudolph@epa.gov.*

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. General Information
II. Action
III. Background
IV. Public Participation
V. Statutory and Executive Order Reviews
VI. Legal Authority and Statutory Provisions

I. General Information

A. Does this action apply to me?

Entities potentially affected by this final action are fuel producers and distributors who do business in the Southern Maine Area.

Examples of potentially regulated entities	NAICS [1] codes
Petroleum refineries	324110 424710
Gasoline Marketers and Distributors	424720
Gasoline Retail Stations	447110
Gasoline Transporters	484220 484230

The above table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. The table lists the types of entities of which EPA is aware that potentially could be affected by this final action. Other types of entities not listed on the table could also be affected. To determine whether your organization could be affected by this final action, you should carefully examine the regulations in 40 CFR part 1090. If you have questions regarding the applicability of this action to a particular entity, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2022–0398. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *www.regulations.gov.*

II. Action

In this rule, EPA is amending 40 CFR 1090.285(d) to reflect that the Southern Maine Area (York, Cumberland, Androscoggin, Sagadahoc, Kennebec, Knox and Lincoln counties) [2] is no longer a Federal RFG covered area. This final rule merely conforms the applicable regulations with EPA's prior approval of the Maine petition.

III. Background

On July 23, 2013, the Governor of Maine requested that EPA approve a request to voluntarily opt York, Cumberland, Androscoggin, Sagadahoc, Kennebec, Knox and Lincoln counties (the Southern Maine Area) into the Federal RFG program with an effective date of May 1, 2014. EPA approved that request on February 6, 2015 (80 FR 6658) with a commencement date for the RFG program of May 1, 2015.

On August 20, 2020, Maine submitted a petition to the EPA Administrator requesting to opt-out from the Federal RFG program for the Southern Maine Area.[3] In order to fulfill the requirements of the RFG opt-out regulations [4] and to support its initial request, on August 20, 2020, Maine submitted revisions to its maintenance plans for the Portland and Midcoast ozone maintenance areas for the 1997 ozone national ambient air quality standard (NAAQS). The revisions to the maintenance plans removed the emissions reductions associated with the use of RFG in these areas and demonstrated that the RFG opt-out would not interfere with the areas' ability to attain or maintain the 1997, 2008 and 2015 ozone NAAQS and any other NAAQS as required by CAA section 110(l). (*See* 40 CFR 1090.290(d)(1).) EPA published a proposed approval of the SIP revision on March 25, 2021 (86 FR 15844) and a final approval of the SIP revision on June 2, 2021 (86 FR 29520), with an effective date of July 2, 2021.

By letter dated July 12, 2021, EPA informed Maine of the grant of its petition as required by the RFG opt-out regulations. (*See* 40 CFR 1090.290(d)(2)(ii).) EPA also indicated that the effective date of the RFG opt-out for the Southern Maine Area would be September 30, 2021, which is 90 days after the effective date of EPA's approval of the maintenance plan revision and CAA section 110(l) analysis, as required by 40 CFR 1090(d)(2)(ii). The September 30, 2021, opt-out effective date is the date for the removal of the prohibition on the sale of conventional gasoline in the Southern Maine Area and applied to retailers, wholesale purchasers-

[1] North American Industry Classification System.

[2] The Southern Maine Area is part of the Portland and Midcoast ozone maintenance areas for the 1997 ozone national ambient air quality standard (NAAQS).

[3] The Commissioner of Maine's Department of Environmental Protection submitted the opt-out petition on behalf of the State of Maine. A copy of the petition is included in the docket.

[4] The RFG opt-out regulations (40 CFR 1090.290(b) and (d)—*Opting out of RFG* and *Procedure for opting out of RFG,* respectively) provide the process and criteria for a reasonable transition out of the Federal RFG program if a state decides to opt-out. Pursuant to CAA sections 211(c) and (k) and 301(a), EPA promulgated regulations at 40 CFR 80.72 to provide criteria and general procedures for states to opt-out of the RFG program where the state had previously voluntarily opted into the program. The regulations were initially adopted on July 8, 1996 (61 FR 35673) (the RFG "Opt-out Rule"); and were revised on October 20, 1997 (62 FR 54552). On December 4, 2020, these regulations were redrafted into 40 CFR 1090.290 as a part of EPA's Fuels Streamlining Rule (85 FR 78412).

consumers, refiners, importers, and distributors of gasoline.

On July 16, 2021, EPA published the **Federal Register** document required by 40 CFR 1090.290(d)(4) that informed the public of the September 30, 2021, effective date and indicated that EPA would publish a final rule later to remove the Southern Maine Area from the list of RFG covered areas in 40 CFR 1090.285 after the effective date of the opt-out.

IV. Public Participation

EPA is issuing this final action without prior notice and comment. The rulemaking procedures provided in CAA section 307(d) do not apply when the Agency for good cause finds that notice-and-comment procedures are impracticable, unnecessary, or contrary to the public interest pursuant to section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B). This is a ministerial action that amends 40 CFR 1090.285(d) to reflect the prior EPA approval of Maine's opt-out petition, which was based on criteria in EPA regulations for opting out of the Federal RFG program. EPA's RFG opt-out regulations provide a petition process that addresses, on a case-by-case basis, future individual state requests to opt out of the RFG program. (*See* 40 CFR 1090.290(d)(1).). The regulations established clear and objective criteria for EPA to apply that include criteria for when a state's petition is complete and the appropriate transition time for opt-out of the RFG program. Further, at the time of promulgation of those regulations, EPA explained that the application of these regulatory criteria on a case-by-case basis to individual opt-out requests would not require notice-and-comment rulemaking, either under CAA section 307(d) or the Administrative Procedure Act. (*See* 61 FR 35673, July 8, 1996; and 62 FR 54552, October 20, 1997.)

Here, EPA is simply revising the list of RFG covered areas in 40 CFR 1090.285(d) to conform with EPA's prior approval of Maine's request, which was effective on September 30, 2021. That approval was a separate action, which was based on criteria in EPA's regulations for opting out of the Federal RFG program and is not the subject of this rule. For these reasons, EPA finds that notice-and-comment procedures under CAA section 307(d)(1) are unnecessary.

This final rule is effective immediately upon publication. Section 553(d)(1) of the Administrative Procedure Act, 5 U.S.C. 553(d)(1), provides that final rules shall not become effective until 30 days after publication in the **Federal Register** ''except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction.'' The purpose of this provision is to ''give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' *Omnipoint Corp.* v. *Fed. Commc'n Comm'n,* 78 F.3d 620, 630 (D.C. Cir. 1996); *see also United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when the agency finalizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the affect is not adverse. EPA has determined that the finalized rule does not change any regulatory obligations and merely revises the list of covered areas in 40 CFR 1090.285(d) to reflect EPA's prior action on July 16, 2021, which relieved a restriction (the requirement of the Federal RFG program) in the Southern Maine Area. For these reasons, this rule will be effective immediately upon publication.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and therefore was not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any information collection burden under the PRA, because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements because the Agency has invoked the APA ''good cause'' exemption under 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act (UMRA)

This final rule does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action and the earlier approval of Maine's request to opt the seven counties in the Southern Maine Area out of the Federal RFG program removed a requirement for the sale of Federal RFG in the area as provided for in CAA section 211(k) and EPA's regulations at 40 CFR 1090.290(b) and (d).

E. Executive Order 13132: Federalism

This action 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.

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

This action does not have tribal implications, as specified in Executive Order 13175. This final rule and earlier approval of Maine's request to opt the seven counties in the Southern Maine Area out of the Federal RFG program affect only those refiners, importers or blenders of gasoline that chose to produce or import gasoline that met Federal RFG program requirements for sale in the Southern Maine Area and gasoline distributers and retail stations in the Area. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. EPA has no reason to believe that this action will disproportionately affect children since Maine has provided evidence that opt-out from the Federal RFG gasoline program will not interfere with its attainment of the ozone NAAQS, or any other applicable CAA requirement.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a

significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rule does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action does not have potential disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994), because it does not affect the applicable ozone NAAQS which establish the level of protection provided to human health or the environment. This rule and the earlier approval of Maine's request to opt the seven counties in the Southern Maine Area out of the Federal RFG program removes the Federal RFG gasoline program requirements for the Southern Maine Area. EPA has concluded that the Federal RFG opt-out will not cause a measurable increase in ozone concentrations that would result in a violation of any ozone NAAQS including the 1997, 2008 ozone NAAQS and the more stringent 2015 ozone NAAQS. Therefore, disproportionately high and adverse human health or environmental effects on minority or low-income populations are not an anticipated result. The results of this evaluation are contained in EPA's proposed and final rules for Maine's non-interference demonstration. A copy of EPA's approval on July 2, 2021, of Maine's SIP revision has been placed in the public docket for this action.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in section IV, including the basis for that finding.

VI. Legal Authority and Statutory Provisions

The statutory authority for this action is granted to EPA by sections 211(k) and 301(a) of the Clean Air Act, as amended; 42 U.S.C. 7545(h) and 7601(a).

List of Subjects in 40 CFR Part 1090

Environmental protection, Administrative practice and procedures, Air pollution control, Fuel additives, Gasoline, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, EPA amends 40 CFR part 1090 as follows:

PART 1090—REGULATION OF FUELS, FUEL ADDITIVES, AND REGULATED BLENDSTOCKS

■ 1. The authority citation for part 1090 continues to read as follows:

Authority: 42 U.S.C. 7414, 7521, 7522–7525, 7541, 7542, 7543, 7545, 7547, 7550, and 7601.

Subpart C—Gasoline Standards

■ 2. Section 1090.285 is amended by revising paragraph (d) to read as follows:

§ 1090.285 RFG covered areas.

* * * * *

(d) RFG covered areas located in the ozone transport region established by 42 U.S.C. 7511c(a) that a state has requested to opt into RFG under 42 U.S.C. 7545(k)(6)(B)(i)(I).

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 215

[Docket DARS–2022–0001]

Defense Federal Acquisition Regulation Supplement; Technical Amendment

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule; technical amendment.

SUMMARY: DoD is making a needed technical amendment to update the Defense Federal Acquisition Regulation Supplement (DFARS).

DATES: Effective August 26, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, Defense Acquisition Regulations System, telephone 703–717–8226.

SUPPLEMENTARY INFORMATION: This final rule amends DFARS 215.300 to provide an updated notice to contracting officers to see DFARS Procedures, Guidance, and Information (PGI) for additional guidance when conducting negotiated, competitive acquisition utilizing Federal Acquisition Regulation part 15 procedures.

List of Subjects in 48 CFR Part 215

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR part 215 is amended as follows:

PART 215—CONTRACTING BY NEGOTIATION

■ 1. The authority citation for 48 CFR part 215 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Revise section 215.300 to read as follows:

215.300 Scope of subpart.

When conducting negotiated, competitive acquisitions utilizing FAR part 15 procedures, contracting officers shall follow the principles and procedures in the Director, Defense Pricing and Contracting memorandum provided at PGI 215.300.

[FR Doc. 2022–18410 Filed 8–25–22; 8:45 am]

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DEPARTMENT OF JUSTICE

48 CFR Chapter 28

[Docket No. JMD 155]

RIN 1105–AB54

Streamlining DOJ Acquisition Regulations (JAR); Corrections

AGENCY: Justice Management Division, Department of Justice.

ACTION: Final rule; corrections.

SUMMARY: The Department of Justice (''Department'' or ''DOJ'') is correcting a final rule that was published in the **Federal Register** on August 2, 2022, with an effective date of September 2, 2022. The final rule revised the Justice Acquisition Regulations (''JAR'') in its entirety in order to update and streamline agency procurement actions consistent with the Federal Acquisition Reform Act and the Federal Acquisition Streamlining Act. The text of the final