

# Regulatory Announcement

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## **EPA Issues a Direct Final Rule to Modify Certain Provisions of the Reformulated and Conventional Gasoline Regulations Including Provisions for Butane Blenders and Attest Engagements**

*The U.S. Environmental Protection Agency (EPA) is issuing a direct final rule on several modifications to the reformulated gasoline (RFG) and conventional gasoline regulations. These modifications correct technical errors, clarify certain provisions, and codify certain guidance previously issued by the Agency. This rule also makes two minor technical corrections to the Tier 2 gasoline sulfur rule.*

### **Background**

Through the 1990 amendments to the Clean Air Act, Congress required EPA to publish rules requiring that gasoline sold in certain areas be reformulated to reduce vehicle emissions of toxic and ozone-forming compounds. This is known as reformulated gasoline, or RFG. Congress also directed EPA to establish rules for non-RFG, or conventional, gasoline. EPA published rules for the certification and enforcement of RFG and provisions for conventional gasoline on February 16, 1994.

On July 11, 1997, EPA proposed a number of modifications to the regulations relating to emissions standards, emissions models, compliance-related requirements and enforcement provisions. In final rules published on December 31, 1997, and December 28, 2001, EPA took final action on several of the proposed modifications. This direct final rule takes action on many of the remaining proposed modifications.

## **Summary of Modifications**

This Direct Final Rule makes the following modifications:

- Correction of typographical errors and minor non-substantive revisions, including technical corrections to provisions relating to the use of the Complex Model (a model used to predict the emissions performance of gasoline).
- Change in the effective dates for changes in the RFG standards due to a survey failure to allow regulated parties more time to turnover their gasoline supply to comply with the new standard.
- Correction of an oversight in the regulations to require oxygenate blenders to assign batch numbers to finished batches of RFG. This requirement comports with the current requirement for oxygenate blenders to submit batch reports.
- Non-substantive modification of certain provisions relating to the use of reformulated gasoline blendstock for oxygenate blending (RBOB) to make these provisions clearer.
- Clarification that oxygen and benzene credit transfers may be either intra-company or inter-company (intra are exchanges among the same company, inter are exchanges between different companies).
- Clarification of the compliance survey requirements relating to how the average of a series of one-week surveys should be computed.
- Modification of the compliance survey requirements to clarify that the precision requirements attach to an individual survey where the parameters being evaluated are ozone-related, and attach to the survey series for other parameters.

- Minor modifications to certain product transfer documentation provisions for purposes of clarification, and the elimination of requirements deemed unnecessary based on experience with the program.
- Addition of provisions which provide for an exemption of the RFG requirements for gasoline used for aviation and racing purposes, including procedures and requirements for obtaining an exemption. These exemptions are currently allowed pursuant to guidance issued by EPA. See "[Reformulated Gasoline and Anti-Dumping Questions and Answers, January 17, 1995](#)" (EPA420-F-95-016)
- Deletion of requirements relating to the use of renewable fuels. These requirements were deemed invalid by the Court of Appeals for the DC Circuit. (*American Petroleum Institute v. EPA*, 52 F.3rd 1113 [D.C. Cir. 1995])
- Addition of provisions which provide an alternative, more flexible approach to fulfilling the sampling and testing requirements for parties who blend butane into reformulated and conventional gasoline, based on test results from the butane supplier. This approach was proposed in the 1997 Notice of Proposed Rulemaking (NPRM) for conventional gasoline and it is currently allowed for conventional gasoline pursuant to guidance issued by EPA. "[See Reformulated Gasoline and Anti-dumping Questions and Answers, October 3, 1994](#)" (EPA420-F-94-009). Comment on extending this approach to butane blending into RFG was requested in the 1997 NPRM.
- Addition of provisions which provide flexibility for gasoline importers to treat imported gasoline as a blendstock (called "GTAB") in order to conduct remedial blending of "off-spec" imported gasoline. This flexibility was proposed in the 1997 NPRM and is currently allowed pursuant to guidance issued by EPA. "[See Reformulated Gasoline and Anti-Dumping Questions and Answers, November 12, 1996](#)."
- Addition of provisions which provide flexibility for parties who import gasoline by truck by allowing these parties to comply with an alternative method for fulfilling the sampling and testing requirements for importers under the RFG regulations. This flexibility is currently allowed pursuant to guidance issued by EPA. "[See Reformulated Gasoline and Anti-Dumping Questions and Answers, August 29, 1994](#)" (EPA420-F-94-006); Letter from Steven A. Her-

man, EPA, to Gregory M. Scott, Society of Independent Gasoline Marketers of America, January 2, 1998; Letter from Charles N. Freed, EPA, to Kevin J. Kyle, Pal Energy Corporation, April 23, 1998.

- Change in the date for submission of attest engagement reports for conventional gasoline from May 30 to May 31 to conform to the date that attest engagement reports are due for RFG.
- Codification of more efficient procedures for conducting attest engagements and phase-out of existing procedures. EPA approved the use of these procedures by [letter from EPA to the American Institute of Certified Public Accountants](#) (March 15, 1996).
- Addition of procedures for conducting attest engagements relating to the new requirements for GTAB, truck imports, and butane blending (discussed above), and for blending previously certified gasoline (requirements codified by prior rulemaking).

### **Effect on industry**

The changes made to the RFG and conventional gasoline regulations in this direct final rule will make regulatory requirements clearer and will provide industry with greater flexibility in complying with these requirements.

### **Health and Environmental Benefits**

The emissions benefits achieved from the RFG and conventional gasoline programs will not be reduced as a result of this direct final rule.

### **Public Participation Opportunities**

Most of the modifications in this rule were previously proposed on July 11, 1997. We received comments from interested parties at that time, which we have addressed in the preamble to this rule. Although we believe we have adequately addressed these comments, given the length of time since the proposal was published, we believe it is appropriate to publish this action as a direct final rule to allow interested parties further opportunity to comment. In the “Proposed Rules” section of the

*Federal Register* publication, we will be publishing a separate document that will serve as the proposal to adopt the provisions in the direct final rule if adverse comments are filed.

You may access the rule and related documents on EPA's Office of Transportation and Air Quality (OTAQ) Web site at:

[www.epa.gov/otaq/rfg\\_regs.htm](http://www.epa.gov/otaq/rfg_regs.htm)

All of the "questions and answers" guidance documents are available at:

[www.epa.gov/otaq/rfg\\_qa.htm](http://www.epa.gov/otaq/rfg_qa.htm)

### **For More Information**

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