

counties have pending requests with EPA for redesignation to attainment status, and the remaining areas intend to seek such redesignation. The State Implementation Plans for these areas do not include or rely on reformulated gasoline as a control measure. For the moderate areas in Pennsylvania, reformulated gasoline is included in the redesignation plan as a contingency measure in the maintenance plan. Allowing the areas to opt-out now would not interfere with implementing that contingency. The areas could opt into the reformulated gasoline program in the future, if necessary.

EPA's letters of December 12 and 28, 1994, to the States of New York, Pennsylvania and Maine state that reformulated gasoline will no longer be required in the specified areas effective January 1, 1995, pending completion of the rulemaking to remove the affected counties. These letters, combined with the requests from New York, Pennsylvania and Maine to opt-out, have given the industries involved in the supply, distribution and sale of reformulated gasoline to these areas notice of the Agency's intent to remove these areas from the reformulated gasoline program. This has provided time for industry to plan for the transition from reformulated gasoline to conventional gasoline in the affected areas. In a separate notice signed by the EPA Administrator on December 29, 1994, and for the reasons described therein, EPA has stayed the program in these thirty-nine counties, or portions thereof, effective January 1, 1995, until July 1, 1995. Based on this chronology, EPA proposes that these areas be removed from the reformulated gasoline program effective upon the issuance of final action in this rulemaking.

As mentioned above, on December 29, 1994, EPA issued a final rule staying the application of the reformulated gasoline regulations for certain areas that had opted in to the reformulated gasoline program. 60 FR 2696 (January 11, 1995). This stay applied to Jefferson County and the Albany and Buffalo areas of New York, the twenty eight opt-in counties in Pennsylvania, and Hancock and Waldo counties in Maine. It stayed the regulations in these areas effective January 1, 1995 until July 1, 1995. EPA now proposes to extend this stay during the pendency of this rulemaking, until the agency takes final action on the proposed opt-out for these areas. This extension of the stay is based on the reasons described in the December 29, 1994 rule, and the fact that EPA will not be able to complete the opt-out rulemaking for these areas prior to July 1, 1995.

EPA intends to take final action on the proposed extension of the stay before July 1, 1995, to avoid the serious disruption to the gasoline distribution system, the regulated industry and the public that would be caused by a temporary imposition of the reformulated gasoline requirements in these areas. Based on this potential for serious disruption, and the reasons noted by EPA when it issued the stay in December 29, 1994 (60 FR 2698, January 11, 1995), EPA has determined that there is good cause under 5 U.S.C. 553(b) and Clean Air Act section 307(d)(1) to limit the public comment period on the proposed extension of the stay to June 28, 1995, and to not provide an opportunity for a public hearing on this proposed extension. EPA finds that additional notice and public procedure would be impracticable, unnecessary, and contrary to the public interest.

IV. General Procedures for EPA's Processing of Future Opt-Out Requests

EPA is also proposing general rules to cover future opt-out requests by states. EPA's proposal would authorize the Administrator to approve a petition to opt-out all or a portion of an opt-in area. Such a petition would have to be submitted by the governor, or their authorized representative, and would need to include information describing how, if at all, reformulated gasoline has been relied upon by the state in its State Implementation Plans, revisions to such plans, or redesignation requests, both pending or already approved. This would include, for example, attainment as well as maintenance plans.

If a state did rely on reformulated gasoline as a control measure in such plans or requests, then the state would have to describe if and how it intended to replace reformulated gasoline as a control measure. In addition, the state would need to identify whether it intended to submit a revision to its Plan or request for redesignation, the current schedule for submitting any revised submission, and the current status of state action on such revised submission, and if not, the reasons for not submitting a revision. This would include, for example, the status of any legislative or administrative action, including notice and comment on such a revision.

The Administrator would have authority to establish an appropriate effective date for removal of an area from the list of covered areas defined in § 80.70 of the reformulated gasoline rule, subject to certain important limitations. For example, if reformulated gasoline was relied upon as a control measure in an approved

plan, then the opt-out would not become effective until 30 days after the Agency had approved an appropriate revision to the state plan. Likewise, if reformulated gasoline was not relied upon in an approved or pending SIP, SIP revision, or redesignation request, then the opt-out would become effective 30 days from receipt of a complete opt-out petition. If reformulated gasoline was relied upon as a control measure in a plan that had been submitted to the Agency but is still pending, and the Agency has found the plan to be complete and/or made a protectiveness finding under 40 CFR 51.448 and 93.128, then the opt-out would become effective 120 days from the date a complete petition is received. When the state has a pending plan that the Agency has determined complete and/or for which the Agency has made a protectiveness finding and the state has decided to withdraw the submission or has indicated to the Agency the state's intention to submit a revision, then the opt-out would become effective 30 days from receipt of a complete petition from the state, as described above and specified in the proposed regulatory language.

Under this proposal, the regulated community would typically have thirty days lead time to transition out of the program for that area, from the point a complete opt-out petition had been received by EPA. Where a state's approved SIP includes reformulated gasoline as a control measure, there would typically be a longer period of notice, as the opt-out would not be effective until 30 days from the effective date for EPA approval of a revised SIP which removes reformulated gasoline as a control measure. EPA's experience to date with the current opt-out requests indicates that the regulated community can, in most cases, act relatively quickly to reroute supplies and change plans. It also is clear that a short transition period will avoid problems of market uncertainty and market disruptions. Some representatives of industry have communicated to EPA their concern for sufficient lead time for affected industries to make adjustments to their infrastructure and the need for a period of public comment on each reformulated gasoline program covered area opt-out request. Some have suggested that opt-out not be effective until 90 days after a governor's request is received by EPA, while others have suggested that the opt-out timeframe be dealt with on a case-by-case basis. EPA will consider this suggestion and specifically requests comments on these issues and other suggestions.