**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2013-0564; FRL-9902-56-Region 4]**

# Approval and Promulgation of Implementation Plans; Florida: Non-interference Demonstration for Removal of Federal Low-Reid Vapor Pressure Requirement

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the State of Florida's August 15, 2013, State Implementation Plan (SIP) revision to the State's approved maintenance plans addressing the 1997 8-hour ozone national ambient air quality standards (NAAQS). Specifically, Florida's revision, including updated modeling, shows that the Southeast Florida, Tampa Bay and Jacksonville areas would continue to maintain the 1997 8-hour ozone standard if the currently applicable Federal Reid Vapor Pressure (RVP) standard for gasoline of 7.8 pounds per square inch (psi) was modified to a less stringent standard of 9.0 psi for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties (hereafter also referred to as "Maintenance Plan Areas") during the high-ozone season. Also, based on a request by the State on November 29, 2012, EPA is proposing to remove the existing SIP references related to the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas. The State has included a technical demonstration with the August 15, 2013, SIP revision which demonstrate that the less-stringent RVP standard and the absence of an inspection and maintenance program in these areas would not interfere with continued maintenance of the 1997

8-hour ozone NAAQS or any other applicable standard. Approval of this SIP revision is a prerequisite for EPA's consideration of an amendment to the regulations to remove the Maintenance Plan Areas from the list of areas that are currently subject to the Federal 7.8 psi RVP requirements. The specific elements of the maintenance plan modeling that EPA is proposing update for the Maintenance Plan Areas are the ozone maintenance plan attainment inventories, emissions projections and air quality monitoring data. The revised modeling utilizes updated models to calculate the mobile source emissions. EPA has preliminarily determined that Florida's August 15, 2013, SIP revision with respect to the changes to the modeling and associated technical demonstration associated with the State's request for the removal of the Federal RVP requirements, and with respect to the use of updated models, is consistent with the applicable provisions of the Clean Air Act (CAA or Act). Should EPA decide to remove the subject portions of the Maintenance Plan Areas from those areas subject to the 7.8 psi Federal RVP requirements, such action will occur in a subsequent rulemaking. EPA has also preliminarily determined that removal of the regulatory provisions associated with the previously-implemented inspection and maintenance programs from the Maintenance Plan Areas is consistent with the applicable provisions of the CAA.

**DATES:** Written comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R04-OAR-2013-0564 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.

2. E-mail: R4-RDS@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: EPA-R04-OAR-2013-0564, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R04-OAR-2013-0564. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you

submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at http://www.epa.gov/epahome/dockets.htm.

*Docket:* All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., 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 either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta,

Georgia 30303-8960. Mr. Lakeman may be reached by phone at (404) 562-9043, or via electronic mail at lakeman.sean@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**


**I. What is Being Proposed?**

**II. What is the Background of the Areas?**

**III. What is the History of the Gasoline Volatility Requirement?**

**IV. What is the History of the Motor Vehicle Inspection Program in the Areas?**

**V. What are the Section 110(l) Requirements?**

**VI. What is EPA's Analysis of Florida's Submittal and Request?**

**VII. Proposed Action**

**VIII. Statutory and Executive Order Reviews**


## I. What is Being Proposed?

Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas counties in Florida are currently designated attainment for the 1997 8-hour ozone NAAQS. As discussed further below, these counties were previous nonattainment areas for the 1-hour ozone NAAQS but were subsequently redesignated from nonattainment to attainment for this NAAQS, and as such, these counties were required to implement a "110(a)(1) ozone Maintenance Plan" for the 1997 8-hour ozone NAAQS.[1] This rulemaking proposes to approve a revision to the 110(a)(1) ozone

[1] Per the Phase 1 final rule to implement the 1997 8-hour Ozone standard, anti-backsliding provisions – codified at 40 CFR 51.905(a)(4) - require maintenance areas for the 1-hour ozone standard designated attainment/unclassifiable

Maintenance Plans for the Maintenance Plan Areas submitted by the Florida Department of Environmental Protection (FDEP). Specifically, EPA is proposing to approve changes to the previously-approved 110(a)(1) ozone Maintenance Plans, including updated modeling, that show that the Maintenance Plan Areas can continue to maintain the 1997 8-hour ozone standard without reliance on emissions reductions from inspection and maintenance programs previously implemented in these Areas,[2] and without the use of gasoline with an RVP of 7.8 psi in any of the Maintenance Plan Areas during the high ozone season – June 1 through September 15.[3] EPA is also proposing to conclude that the new modeling associated with these changes demonstrates that the Maintenance Plan Areas would continue to attain the 1997 8-hour ozone NAAQS without the implementation of an inspection and maintenance program and with the use of gasoline with an RVP of 9.0 psi throughout the Maintenance Plan Areas during the high ozone season. Consistent with section 110(l) of the Act, EPA also proposes to conclude that the removal of the regulatory references in the Florida SIP to the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas, and the use of gasoline with an RVP of 9.0 psi throughout the Maintenance Plan Areas during the high ozone season would not interfere with other applicable requirements.

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for the 1997 8-hour ozone standard to submit a maintenance plan under section 110(a)(1) of the CAA demonstrating maintenance out to 10 years after designation. *See* 69 FR 23996 (Apr. 30, 2004).

[2] On August 2, 2001 (66 FR 40137), and August 15, 2002 (67 FR 53314), EPA removed the emission reductions attributable to the Motor Vehicle Inspection Program in the ozone maintenance plans for the Jacksonville (i.e., Duval County), Southeast Florida (i.e., Broward, Dade and Palm Beach Counties) and Tampa (i.e,. Hillsborough and Pinellas Counties) areas. However, in those rulemakings, EPA did not remove Florida Code Annotated Section 62-242 from the table of EPA-approved rules at 40 CFR 52.520. EPA is now proposing to remove these rules from the Florida SIP.

[3] As discussed further below, a separate rulemaking is required for relaxation of the current requirement to use gasoline with an RVP of 7.8 psi in the Area. While EPA evaluates the approvability of Florida's revision to the maintenance plan pursuant to section 110(l), the decision regarding removal of Federal RVP requirements pursuant to section 211(h) in the Area is made at the discretion of the Administrator.

Specifically, the new modeling conducted by Florida to account for the proposed relaxation of the applicable RVP standard in the Maintenance Plan Areas results in changes to the on-road mobile and non-road emissions associated with the maintenance plans.[4] This modeling also accounts for the absence of the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas. As such, the Florida SIP revision updates the on-road mobile and non-road source emissions for the Areas. EPA is also proposing approval of these changes.

This preamble is hereafter organized into six parts. Section II provides the background of the designation status for the Maintenance Plan Areas with respect to the various ozone NAAQS. Section III describes the applicable history of Federal gasoline regulation. Section IV includes the history of the inspection and maintenance programs in the Maintenance Areas. Section V provides the Agency's policy regarding relaxation of the volatility standards. Section VI provides EPA's analysis of the information submitted by Florida to support: (1) the removal of the regulatory references to the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas, and a relaxation of the more stringent volatility standard in the Areas; (2) changes to the on-road mobile and non-road source emissions associated with the 110(a)(1) Maintenance Plan for the Areas; and (3) provides EPA's analysis regarding the proposed change.

[4] In addition to a less stringent RVP standard, the new modeling also utilizes updated models for on-road and off-road mobile emission sources.

## II. What is the Background of the Areas?

On November 6, 1991 (56 FR 56694), EPA designated the Southeast Florida area (i.e., Broward, Dade and Palm Beach counties) as Moderate; the Jacksonville area (i.e., Duval County) as Transitional; and the Tampa area (i.e., Hillsborough and Pinellas counties) as Marginal nonattainment areas for the 1-hour ozone NAAQS. Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain volatility standards (known as Reid Vapor Pressure or RVP) for gasoline sold commercially. *See* 55 FR 23658 (June 11, 1990). As discussed in greater detail below, as part of the RVP requirements associated with its nonattainment designation, gasoline sold in the 1-hour ozone nonattainment areas could not exceed 7.8 psi RVP during the high-ozone season months.

Following implementation of the 7.8 psi RVP requirement in the Southeast Florida, Jacksonville and Tampa areas, each area was redesignated to attainment for the 1-hour ozone NAAQS (60 FR 41 (January 3, 1995); 60 FR 10326 (February 24, 1995); and 60 FR 62748 (December 7, 1995), respectively).

Included with Florida's redesignation requests, the State submitted the required 1-hour ozone monitoring data and maintenance plans ensuring that these areas would remain in attainment of the 1-hour ozone standard for at least a period of 10 years (consistent with CAA 175A(a)). The maintenance plans submitted by Florida followed EPA guidance for maintenance areas subject to section 175A of the CAA. Florida later updated all three maintenance plans, in accordance with section 175(A)(b) to extend the maintenance plans to cover additional years such that the entire maintenance period was for at least 20 years after the initial redesignation of these areas to attainment for the 1-hour ozone NAAQS.

These 1-hour ozone maintenance plan requirements remained in place for the Maintenance Plan Areas when they were subsequently designated unclassifiable/attainment for the subsequent 1997 8-hour ozone NAAQS[5] and then designated unclassifiable/attainment for the revised 2008 8-hour ozone NAAQS. *See* 77 FR 30088, May 21, 2012. However, the Maintenance Plan Areas were required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA for the 1997 ozone NAAQS.[6] As required, these 110(a)(1) maintenance plans provide for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of these areas' designation as attainment for the 1997 8-hour ozone NAAQS. These plans also include components demonstrating how each area will continue to attain the 1997 8-hour ozone NAAQS, and provide contingency measures should an area violate the NAAQS. Florida's ozone redesignation requests and maintenance plans for the Maintenance Plan Areas did not remove the 7.8 psi RVP standard, and as such, these areas remain subject to the 7.8 psi RVP standard per the terms of their approved respective 110(a)(1) maintenance plans. However, Florida did submit, and EPA subsequently approved, maintenance plans to remove the emission reductions attributable to the previously-implemented inspection and maintenance in the Maintenance Plan Areas. More discussion on the history of the gasoline volatility requirement, and the history of the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas, is provided below.

[5] Effective June 15, 2004, Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties in Florida were designated unclassifiable/attainment for the 1997 8-hour ozone NAAQS. *See* 69 FR 23857. The same counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088.

[6] As noted above, maintenance areas for the 1-hour ozone standard designated attainment/unclassifiable for the 1997 8-hour ozone standard are required to submit a maintenance plan under section 110(a)(1) of the CAA demonstrating maintenance out to 10 years after designation. *See* 69 FR 23996 (Apr. 30, 2004).

## III. What is the History of the Gasoline Volatility Requirement?

On August 19, 1987 (52 FR 31274), EPA determined that gasoline nationwide had become increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as volatile organic compounds (VOC), are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function (thereby aggravating asthma or other respiratory conditions), increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Under section 211(c) of CAA EPA promulgated regulations on March 22, 1989 (54 FR 11868), that set maximum limits for the RVP of gasoline sold during the high ozone season. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of commercial gasoline during the high ozone season. On June 11, 1990 (55 FR 23658), EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the State, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS during the high ozone season).

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. Section 211(h) prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that we

may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658).

As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, EPA will rely on states to initiate changes to EPA's volatility program that they believe will enhance local air quality and/or increase the economic efficiency of the program within the limits of CAA section 211(h).[7] In those rulemakings, EPA explained that the Governor of a State may petition EPA to set a volatility standard less stringent than 7.8 psi for some month or months in a nonattainment area. The petition must demonstrate such a change is appropriate because of a particular local economic impact and that sufficient alternative programs are available to achieve attainment and maintenance of the 1-hour ozone NAAQS. A current listing of the RVP requirements for states can be found on EPA's website at: http://www.epa.gov/otaq/fuels/gasolinefuels/volatility/standards.htm.

As explained in the December 12, 1991 (56 FR 64704), Phase II rulemaking, EPA believes that relaxation of an applicable RVP standard in a nonattainment area is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, section 107(d)(3) of the Act requires

[7] See 55 FR 23658 (June 11, 1990), 56 FR 24242 (May 29, 1991) and 56 FR 64704 (Dec. 12, 1991).

the state to make a showing, pursuant to section 175A of the Act, that the area is capable of maintaining attainment for the ozone NAAQS for ten years after redesignation. Depending on the Area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, EPA will not relax the volatility standard unless the state requests a relaxation and the maintenance plan demonstrates, to the satisfaction of EPA, that the area will maintain attainment for ten years without the need for the more stringent volatility standard. As noted above, however, Florida did not request relaxation of the applicable 7.8 psi RVP standard when the Area was redesignated to attainment for the 1-hour ozone NAAQS. Rather, Florida is now seeking to relax the 7.8 psi RVP standard after the Area has been redesignated to attainment for the 1-hour ozone NAAQS. Accordingly, the original modeling and maintenance demonstration supporting the section 110(a)(1) ozone maintenance plans must be revised to reflect continued attainment under the relaxed 9.0 psi RVP standard that the State has requested.

## IV. What is the History of the Motor Vehicle Inspection Program in the Areas?

The State of Florida previously implemented a motor vehicle inspection and maintenance program in the Jacksonville, Southeast Florida and Tampa areas as part of the State's strategy to meet the 1-hour ozone NAAQS. This program was referred to as the Motor Vehicle Inspection Program (MVIP). On July 1, 2000, the Florida legislature terminated the MVIP for Jacksonville, Southeast Florida and Tampa, and removed the program's statutory authority. As a consequence of this repeal, FDEP developed and submitted SIP revisions to remove the emissions reductions

attributable to this program in the aforementioned areas from the Florida SIP. Specifically, on December 10, 1999, FDEP submitted a revision to the SIP for the ozone air quality maintenance plans for the Jacksonville and Southeast Florida areas, and on August 29, 2000, for the Tampa, Florida area. FDEP's submissions requested the removal of the emission reduction credits attributable to the MVIP from the future year emission projections contained in those plans and provided a demonstration that such removals would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. At the time, however, Florida did not also explicitly request removal from its SIP of the regulatory references to the MVIP program. Subsequently, in EPA's final rulemakings, published August 2, 2001 (66 FR 40137), and August 15, 2002 (67 FR 53314), the Agency approved the SIP revisions removing the emissions reductions that were attributable to the inspection and maintenance program in the Maintenance Plan Areas, but the regulatory references to the MVIP program remained.

In summary, Florida's December 10, 1999, and August 29, 2000, SIP revisions demonstrated that the Maintenance Plan Areas could maintain the ozone NAAQS without the implementation of the MVIP. EPA reviewed the State's emissions inventory and modeling analyses and found that they met the applicable guidance and requirements. Therefore, the State made the necessary demonstration that the MVIP was not necessary to maintain the ozone NAAQS and that attainment of the NAAQS for any other pollutant would not be affected by removing the MVIP from the SIP. However, in EPA's final rulemakings related to Florida's December 10, 1999, and August 29, 2000, SIP revisions, EPA did not remove Florida Code Annotated Section 62-242 from the table of EPA-approved rules at 40 CFR 52.520. On November 29, 2012, FDEP submitted a letter to EPA requesting that EPA remove Rules 62-

242.100 through 62.242.900 (i.e., entire Chapter 62-242) from the Florida SIP. In its letter, the State noted that these rules relate to the defunct MVIP, and also noted EPA's previous rulemakings to remove the emissions reductions attributable to this program in its SIP. Today's proposed action is being taking in response to FDEP's request in the November 29, 2012, letter.

EPA notes that the MVIP was terminated over 12 years ago and as mentioned above, on August 15, 2013, FDEP submitted revisions to the 110(a)(1) maintenance plans for the same counties formerly subject to the MVIP. EPA also notes that Florida's August 15, 2013, SIP revision included a technical demonstration supporting the State's request to relax the applicable RVP standard in the Maintenance Plan Areas. That demonstration provides that, were the Maintenance Plan Areas subject to the less stringent RVP standard, continued maintenance is demonstrated and the ambient air quality standard should not be violated in the future. This demonstration of continued maintenance is premised upon the absence of the previously-implemented MVIP in the Maintenance Plan Areas, and as such, is consistent with the previous analysis demonstrating that discontinuing the MVIP in the Maintenance Plan Areas would not interfered with the continued maintenance in these Areas.

## V. What are the Section 110(l) Requirements?

Section 110(l) of the CAA requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) (as defined in section 171), or any other applicable requirement of the Act. EPA's criterion for determining the approvability of Florida's August 15, 2013, SIP revision is whether the requested action complies with section 110(l) of the CAA. Because the modeling associated with the current maintenance plans for Florida are premised in part upon the 7.8 psi RVP requirements, a request

to revise the maintenance plan modeling to no longer rely on the 7.8 psi RVP requirement is subject to the requirements of CAA section 110(l). Therefore, the State must demonstrate that its August 15, 2013, SIP revision will not interfere with the attainment or maintenance of any of the NAAQS or any other applicable requirement of the CAA. As discussed above, it should also be noted that Florida's technical demonstration in its August 15, 2013, SIP revision accounts for the absence of the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas.

The section 110(l) non-interference demonstration is a case-by-case determination based upon the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated, but for which the EPA has not yet made designations. The specific elements of the 110(l) analysis contained in the SIP revision depend on the circumstances and emissions analyses associated with that revision. EPA's analysis of Florida's August 15, 2013, SIP revision, including review of section 110(l) requirements, is provided below.

Finally, EPA notes that this rulemaking is only proposing to approve the State's revision to its existing maintenance plans for the Maintenance Plan Areas showing that the areas can continue to maintain the standard without the emission reductions attributable to the previously-implemented inspection and maintenance program, and without relying upon gasoline with an RVP of 7.8 psi being sold in the Areas during the high ozone season. Consistent with CAA section 211(h) and the Phase II volatility regulations, a separate rulemaking is required for relaxation of the current requirement to use gasoline with an RVP of 7.8 psi in the Area.

## VI. What is EPA's Analysis of Florida's Submittal and Request?

### a. Overall Preliminary Conclusions for Non-interference Analyses for Florida's Request for Removal of the Federal RVP Requirement.

On August 15, 2013, FDEP submitted revisions to the 110(a)(1) maintenance plans for the Maintenance Plan Areas. The submission modifies the existing 110(a)(1) maintenance plans to account for a less stringent applicable RVP gasoline requirement of 9.0 psi for these areas. Florida's August 15, 2013, SIP revision includes an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the 1997 and 2008 ozone standards and on other the applicable NAAQS. Florida's August 15, 2013, SIP revision also includes an update to the attainment inventory, emissions projections and air quality data which continues to account for the absence of the previously-implemented inspection and maintenance programs, and the 7.8 psi RVP requirements for the Maintenance Plan Areas.

For the purposes of these changes, EPA is making the preliminary determination that the applicable NAAQS[8] of interest for the non-interference demonstration required by section 110(l) of the CAA are the ozone, particulate matter and nitrogen dioxide ($NO_2$) standards. VOC and NOx emissions are precursors for ozone and particulate matter (PM), and $NO_2$ is a component of NOx. There are no emissions reductions attributable to the emissions of lead, sulfur dioxide ($SO_2$), or carbon monoxide (CO) from RVP requirements. As a result, there is no information indicating the proposed SIP revision would have any impact on those NAAQS. Therefore, EPA's analysis below focuses on the impact of Florida's changes to the RVP requirements on the ozone, particulate matter and $NO_2$ NAAQS.

[8] The six NAAQS for which EPA establishes health and welfare based standards are CO, lead, $NO_2$, ozone, PM, and $SO_2$.

Florida's August 15, 2013, SIP revision, includes revised mobile source emissions modeling using EPA's approved models - Motor Vehicle Emissions Simulator (MOVES) and NONROAD2008 - to support the request to modify the RVP gasoline requirement from 7.8 psi to 9.0 psi, and accounts for the removal of the previously-implemented inspection and maintenance program for the Areas. In that technical demonstration, FDEP provided information regarding the emissions trends from the maintenance plans for the 1997 8-hour ozone NAAQS. To determine these emissions, FDEP's maintenance demonstration compared the 2002 baseline emissions inventory to the 2018 projected emissions inventory for each Maintenance Plan Area. FDEP used 7.8 RVP for model years 2002, 2009 and 2011 and 9.0 RVP for model year 2014 and 2018, and did not include inspection and maintenance programs in any of the Areas. FDEP concluded that if projected emissions remain at or below the baseline emissions, continued maintenance is demonstrated and the ambient air quality standard should not be violated in the future. In addition to comparing the final year of the plan, all of the interim years are compared to the 2002 baseline to demonstrate that these years are also expected to show continued maintenance of the 8-hour ozone NAAQS as shown below in tables 1 and 2.

While the remainder of this rulemaking is focused on the emission impacts related to the potential relaxation of the Federal RVP requirements from 7.8 psi to 9.0 psi in the Maintenance Plan Areas, it should be noted that since the time that EPA removed the emission reductions attributable to the previously-implemented inspection and maintenance programs in the areas, no credit for inspection and maintenance programs has been taken in the Florida SIP. Only the residual regulatory citation and language remained in the Florida SIP. Today's action is proposing to remove this residual regulatory citation and language from the Florida SIP based on

the technical demonstration that accounts for the absence of the inspection and maintenance programs in the Maintenance Plan Areas.

Relaxation of the RVP standard from 7.8 to 9.0 psi revealed a slight increase in NOx and VOC emissions. Notwithstanding this slight increase, EPA believes the most appropriate analysis for purposes of evaluating non-interference is whether total area emissions in the future years would remain at or below the level determined to be consistent with maintenance of the NAAQS. The State's emission analysis is comprised of two different man-made emission inventory source classifications; 1) on-road mobile and 2) off-road mobile, which are each discussed below.

On-road mobile sources are those vehicles that travel on the roadways. The MOVES model uses the road class vehicle miles traveled (VMT) and other operating conditions as input parameters to generate an output file that contain estimated emissions. For the projected years' inventories, the on-road mobile sources emissions are calculated using the MOVES mobile model for the future year with the projected VMT to generate emissions that take into consideration expected Federal tailpipe standards, fleet turnover and new fuel standards.

Off-road mobile sources are equipment that can move but do not use the roadways (i.e., lawn mowers, construction equipment, railroad locomotives, aircraft). With the exception of the railroad locomotives and aircraft engines, the emissions from this category are calculated using the EPA's NONROAD2008 non-road mobile model. The railroad locomotive and aircraft engine emissions are estimated by taking an activity and multiply by an emission factor. Total off-road mobile source emissions represent the sum of emissions generated by the NONROAD 2008 model and emissions calculated for aircraft and railroad locomotives.

As noted above, although the revised emissions analysis showed slight increases in NOx and VOC emissions for on-road and off-road mobile sources when the less-stringent RVP standard was used, the Maintenance Plan Areas nonetheless continue to demonstrate a downward trend in NOx and VOC emissions through all future years. Tables 1 and 2 below provide the emission analysis results for total on-road, area, point and non-road emissions in the Maintenance Plan Areas using a less-stringent RVP standards of 9.0 psi for years 2014 and 2018. Tables 3 and 4 below show a comparison of VOC and NOx estimates for 2009 and projected emissions for 2018 if the 7.8 psi RVP remained in place.

**Table 1 Total Man-Made VOC Emissions *(tons per day (tpd))* for the Maintenance Plan Areas**

| County | 2002 | 2005 | 2008 | 2011 | 2014 | 2018 |
|---|---|---|---|---|---|---|
| ***Jacksonville Area*** | | | | | | |
| Duval | 138.9 | 127.4 | 116.0 | 107.3 | 104.2 | 103.9 |
| ***Southeast Florida Area*** | | | | | | |
| Broward | 207.6 | 191.6 | 175.6 | 165.6 | 162.4 | 165.2 |
| Dade | 276.7 | 257.4 | 238.0 | 224.4 | 218.7 | 219.9 |
| Palm Beach | 180.1 | 164.1 | 148.1 | 136.6 | 131.0 | 129.6 |
| ***Tampa Area*** | | | | | | |
| Hillsborough | 165.1 | 152.2 | 139.3 | 129.5 | 125.8 | 125.3 |
| Pinellas | 135.1 | 124.7 | 114.3 | 106.7 | 104.3 | 104.8 |

**Table 2 Total Man-Made NOx Emissions *(tpd)* for the Maintenance Plan Areas**

| County | 2002 | 2005 | 2008 | 2011 | 2014 | 2018 |
|---|---|---|---|---|---|---|
| ***Jacksonville Area*** | | | | | | |
| Duval | 259.4 | 188.2 | 127.1 | 90.5 | 64.3 | 62.3 |
| ***Southeast Florida Area*** | | | | | | |
| Broward | 263.4 | 208.3 | 153.2 | 112.5 | 88.9 | 67.7 |
| Dade | 294.3 | 247.8 | 201.3 | 160.3 | 131.6 | 102.5 |
| Palm Beach | 189.7 | 154.1 | 118.5 | 89.1 | 71.2 | 56.5 |
| ***Tampa Area*** | | | | | | |
| Hillsborough | 315.5 | 230.4 | 145.2 | 99.0 | 82.5 | 66.4 |
| Pinellas | 152.4 | 122.0 | 91.6 | 68.1 | 55.3 | 44.6 |

**Table 3 Total Man-Made VOC Emissions *(tons per summer day)* for the Maintenance Plan Areas**

| County | 2009 | 2018 | |
|---|---|---|---|
| | 7.8 RVP | 7.8 RVP | 9.0 RVP |
| ***Jacksonville Area*** | | | |
| Duval | 112.1 | 103.1 | 103.9 |
| ***Southeast Florida Area*** | | | |
| Broward | 170.1 | 164.1 | 165.2 |
| Dade | 231.6 | 218.3 | 219.9 |
| Palm Beach | 142.9 | 128.3 | 129.6 |
| ***Tampa Area*** | | | |
| Hillsborough | 135.0 | 124.3 | 125.3 |
| Pinellas | 110.9 | 103.9 | 104.8 |

**Table 4 Total Man-Made NOx Emissions *(tons per summer day)* for the Maintenance Plan Areas**

| County | 2009 | 2018 | |
|---|---|---|---|
| | 7.8 RVP | 7.8 RVP | 9.0 RVP |
| ***Jacksonville Area*** | | | |
| Duval | 106.6 | 62.2 | 62.3 |
| ***Southeast Florida Area*** | | | |
| Broward | 134.8 | 67.6 | 67.7 |
| Hillsborough | 116.8 | 66.3 | 66.4 |
| Dade | 185.8 | 102.3 | 102.5 |
| Palm Beach | 106.6 | 56.4 | 56.5 |
| ***Tampa Area*** | | | |
| Hillsborough | 116.8 | 66.3 | 66.4 |
| Pinellas | 81.4 | 44.5 | 44.6 |

As Tables 1 and 2 indicate, NOx and VOC emissions in the Maintenance Plan Areas will continue to decrease, even with the increase in high ozone season fuel RVP to 9.0 psi. The slight increase in emissions as shown in Tables 3 and 4 is being mitigated area-wide by a steady decrease in tailpipe emissions, which is the result of a cleaner new vehicle fleet replacing the older fleet and other Federal and State emissions reduction programs. As discussed below, based on this data, together with air quality data, and maintenance demonstrations and attainment designations for the NAAQS, EPA is making the preliminary determination that the slight

increase in NOx and VOC emissions resulting from this change will not interfere with the Maintenance Plan Areas' ability to maintain the NAAQS, or any other applicable requirement. More details on the individual non-interference analyses for the ozone, PM, and $NO_2$ NAAQS are provided below.

**b. Non-interference Analysis for the Ozone NAAQS**

As described above, each of the Maintenance Plan Areas was redesignated to attainment for purposes of the 1-hour ozone NAAQS. These redesignations were based upon Florida redesignation requests for each Maintenance Plan Area which included the required 1-hour ozone monitoring data and maintenance plans ensuring the areas would remain in attainment of the 1-hour ozone NAAQS for at least a period of 10 years (consistent with CAA 175A(a)). These maintenance plan requirements remained in place for the counties when they were subsequently designated unclassifiable/attainment on April 30, 2004, for the 1997 8-hour ozone NAAQS (69 FR 23858) effective June 15, 2004. However, because these 1997 8-hour ozone unclassifiable/attainment areas had existing maintenance plans pursuant to the 1-hour ozone NAAQS, they were required to submit a 10-year 110(a)(1) maintenance plan for purposes of the 1997 8-hour ozone NAAQS. As required, 110(a)(1) maintenance plans provide for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of these areas' designation as unclassifiable/attainment for the 1997 8-hour ozone NAAQS. As a previous 1-hour ozone nonattainment areas, the Maintenance Plan Areas were already subject to the Federal RVP requirements for high ozone season gasoline. Although originally implemented for the 1-hour ozone NAAQS, these Federal RVP requirements

continued to apply to the Maintenance Plan Areas per the 110(a)(1) maintenance plans required to show continued attainment and maintenance of the 1997 8-hour ozone NAAQS.

The Maintenance Plan Areas are continuing to meet the 1-hour and 1997 8-hour ozone NAAQS,[9] and are meeting the 2008 8-hour ozone NAAQS, based on recent air quality monitoring data. The 2008 ozone NAAQS is met when the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years is 0.075 parts per million (ppm) or less. The current design values for ozone for the Maintenance Plan Areas are shown in Table 5 with the highest design value in the Area being 0.072 ppm in 2012. EPA also evaluated the potential increase in the VOC and NOx precursor emissions, and whether it is reasonable to conclude that the requested change to RVP requirements in the Areas during the high ozone season would cause the Maintenance Plan Areas to be out of compliance with the 2008 8-hour ozone NAAQS.

Table 5 below show the design value (DV) for the Maintenance Plan Areas currently show attainment of the 2008 8-hour NAAQS based upon the most recent design values.

**Table 5 Area Design Values**

| County | 2005-2007 DV (ppm) | 2006-2008 DV (ppm) | 2007-2009 DV (ppm) | 2008-2010 DV (ppm) | 2009-2011 DV (ppm) | 2010-2012 DV (ppm) |
|---|---|---|---|---|---|---|
| ***Jacksonville Area*** | | | | | | |
| Duval | 0.077 | 0.075 | 0.070 | 0.068 | 0.067 | 0.065 |
| ***Southeast Florida Area*** | | | | | | |
| Broward | 0.067 | 0.068 | 0.063 | 0.062 | 0.060 | 0.059 |
| Dade | 0.074 | 0.074 | 0.069 | 0.068 | 0.065 | 0.065 |
| Palm Beach | 0.065 | 0.067 | 0.065 | 0.065 | 0.063 | 0.063 |
| ***Tampa Area*** | | | | | | |

[9] The air quality design value for the 8-hour ozone NAAQS is the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentration. The level of the 2008 8-hour ozone NAAQS is 0.075 ppm. The 2008 8-hour ozone NAAQS is not met when the design value is greater than 0.075 ppm.

| | | | | | | |
|---|---|---|---|---|---|---|
| Hillsborough | 0.081 | 0.081 | 0.079 | 0.075 | 0.073 | 0.072 |
| Pinellas | 0.072 | 0.072 | 0.069 | 0.067 | 0.066 | 0.067 |

In light of the current designations, monitoring and emissions trend data showing attainment and the submitted modeling, including the fact that the NOx emissions inventories are projected to continue to significantly decrease,[10] EPA has preliminarily determined that the revised modeling associated with Florida's technical demonstration related to the State's request to change to the RVP requirement for the Maintenance Plan Areas will not interfere with continued attainment of the ozone NAAQS.

**c. Non-interference Analysis for the PM NAAQS**

The precursors for fine particulate matter less than 2.5 micrometers ($PM_{2.5}$) are NOx, $SO_2$, VOC and ammonia. As mentioned earlier in this rulemaking, the RVP requirements result in emissions benefits for VOC and NOx, accordingly EPA focused on these precursors for the analysis of the potential impact of Florida's requested SIP change.

On July 18, 1997 (62 FR 36852), EPA established an annual $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter ($\mu g/m^3$) based on a 3-year average of annual mean $PM_{2.5}$ concentrations. At that time, EPA also established a 24-hour NAAQS of 65 $\mu g/m^3$. *See* 40 CFR 50.7. On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $PM_{2.5}$ NAAQS at 15.0 $\mu g/m^3$ based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and promulgated a new 24-hour NAAQS of 35 $\mu g/m^3$ based on a 3-year average of the 98th percentile of 24-hour concentrations. On January 15, 2013 (78 FR 3086), EPA established an annual primary $PM_{2.5}$ NAAQS at 12.0 $\mu g/m^3$ based on a 3-year average of annual mean $PM_{2.5}$ concentrations. At that

[10] Future decreases in the inventory are an order of magnitude greater than the increases associated with the change in RVP.

time, EPA retained the 2006 24-hour NAAQS at 35 μg/m$^3$ based on a 3-year average of the 98th percentile of 24-hour concentrations.[11]

On January 5, 2005 (70 FR 944), all counties in the Maintenance Plan Areas were designated unclassifiable/attainment for the 1997 annual $PM_{2.5}$ standards, and on November 13, 2009 (74 FR 58688), all counties in the Areas were designated unclassifiable/attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. As Table 6 indicates the $PM_{2.5}$ annual and 24-hour design values demonstrate attainment of the respective NAAQS for the Maintenance Plan Areas.

**Table 6 $PM_{2.5}$ Design Values**

| Year | 2007-2009 | 2008-2010 | 2009-2011 | 2010-2012 |
|---|---|---|---|---|
| **Annual Design Value** | | | | |
| ***Jacksonville Area*** | | | | |
| Duval | 9.0 | 8.6 | 8.4 | 8.1 |
| ***Southeast Florida Area*** | | | | |
| Broward | 7.3 | 7.0 | 6.8 | 6.7 |
| Dade | 8.0 | 7.8 | 7.5 | 7.5 |
| Palm Beach | 6.5 | 6.3 | 6.3 | 7.1 |
| ***Tampa Area*** | | | | |
| Pinellas | 8.2 | 7.9 | 7.7 | 7.5 |
| **24-hour Design Value** | | | | |
| ***Jacksonville Area*** | | | | |
| Duval | 21 | 18 | 22 | 21 |
| ***Southeast Florida Area*** | | | | |
| Broward | 18 | 16 | 15 | 15 |
| Dade | 18 | 16 | 14 | 14 |
| Palm Beach | 17 | 14 | 14 | 16 |
| ***Tampa Area*** | | | | |
| Pinellas | 18 | 16 | 16 | 16 |

[11] EPA also retained the 1997 annual $PM_{2.5}$ NAAQS of 15.0 μg/m$^3$ as a secondary NAAQS to protect against certain welfare effects and EPA retained the 1997 24-hour $PM_{2.5}$ NAAQS of 65 μg/m$^3$.

As noted above, although the revised emissions analysis showed slight increases in the PM precursor emissions (NOx and VOC) associated with the less-stringent RVP standard, the Maintenance Plan Areas nonetheless continue to demonstrate a downward trend in NOx and VOC emissions through all future years. Therefore, EPA does not expect the RVP revision to have a significant effect on continued maintenance of the PM NAAQS. EPA has preliminarily determined that a change to the Federal RVP requirement the Areas will not interfere with the Areas maintaining the 1997 $PM_{2.5}$ annual or the 2006 24-hour $PM_{2.5}$ NAAQS.

**d. Non-interference Analysis for the 2010 $NO_2$ NAAQS**

On February 17, 2012 (77 FR 9532), EPA finalized designations for the 2010 $NO_2$ NAAQS. All counties in Florida, were designated unclassifiable/attainment for the 2010 $NO_2$ NAAQS. Based on Florida's August 15, 2013, SIP revision, EPA has evaluated the potential increase in the NOx emissions (between June 1$^{st}$ and September 15$^{th}$) associated with the proposed less-stringent 9.0 psi RVP requirement to determine whether this change would cause the Maintenance Plan Areas to violate the 2010 $NO_2$ NAAQS. This evaluation indicates that the slight increase in NOx emissions associated with the less-stringent RVP requirement would be mitigated by a steady decrease in tailpipe emissions, which is the result of cleaner new light- and heavy-duty vehicle fleets replacing the older fleets. See Tables 2 and 4 above.

In light of the current designation, including the fact that NOx emissions inventories are projected to continue to significantly decrease, EPA has preliminarily determined that a change to the Federal RVP requirements for the Maintenance Plan Areas would not interfere with the continued decline in NOx emissions, nor with attainment or maintenance of the 2010 $NO_2$ NAAQS.

## VII. Proposed Action

First, EPA is proposing to approve the State of Florida's August 15, 2013, SIP revision to its 1997 8-hour ozone NAAQS 110(a)(1) Maintenance Plans for the Maintenance Plan Areas. Specifically, EPA is proposing to approve the State's showing that the Maintenance Plan Areas can continue to maintain the 1997 ozone standard without emissions reductions associated with both the previously-implemented MVIP, and the use of gasoline with an RVP of 7.8 psi during the high ozone season – June 1 through September 15 in the Maintenance Plan Areas. Second, EPA is proposing to approve updated attainment inventories, emissions projections and air quality monitoring which are associated with updated and revised modeling related to the proposed change in the applicable RVP standard, and the absence of the previously-implemented inspection and maintenance programs for the Maintenance Plan Areas. The models used to calculate these projections for mobile sources also have been updated to the most currently-approved versions. Third, EPA is proposing to remove the Florida Code Annotated Section 62-242, which pertains to the previously-implemented MVIP, from the Florida SIP.

EPA has preliminarily determined that Florida's August 15, 2013 SIP revision, including the technical demonstration associated with the State's request for the removal of the Federal RVP requirements, and the updated attainment inventory, emissions projections and air quality monitoring data, are consistent with the applicable provisions of the CAA. Should EPA decide to remove the subject portions of the Maintenance Plan Areas from those areas subject to the 7.8 psi Federal RVP requirements, such action will occur in a separate, subsequent rulemaking.

## VIII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submittal that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, October 7, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq*.

Dated: October 28, 2013.

Beverly H. Banister,

Acting Regional Administrator,

Region 4.

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