



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0260; FRL-9931-27-Region 4]

Approval and Promulgation of Implementation Plans; North Carolina:

Non-interference Demonstration for Federal Low-Reid Vapor Pressure Requirement for Gaston and Mecklenburg Counties

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of North Carolina's April 16, 2015, revision to its State Implementation Plan (SIP), submitted through the North Carolina Department of Environment and Natural Resources, Division of Air Quality (DAQ), in support of the State's request that EPA change the Federal Reid Vapor Pressure (RVP) requirements for Gaston and Mecklenburg Counties. This RVP-related SIP revision evaluates whether changing the Federal RVP requirements in these counties would interfere with the requirements of the Clean Air Act (CAA or Act). North Carolina's April 16, 2015, RVP-related SIP revision also updates the State's maintenance plan and the associated motor vehicle emissions budgets (MVEBs) related to its redesignation request for the North Carolina portion of the Charlotte-Rock Hill 2008 8-hour ozone nonattainment area (Charlotte Area) to reflect the requested change in the Federal RVP requirements. EPA has determined that North Carolina's April 16, 2015, RVP-related SIP revision is consistent with the applicable provisions of the CAA.

DATES: This rule is effective [insert the date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No.

EPA-R04-OAR-2015-0260. All documents in the docket are listed on the www.regulations.gov

Web site. Although listed in the index, some information may not be publicly available, i.e.,

Confidential Business Information 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 through www.regulations.gov or in hard copy at the Air Regulatory

Management Section (formerly the Regulatory Development Section), Air Planning and

Implementation Branch (formerly 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. 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 a.m. to 4:30

p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong of the Air Regulatory

Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and

Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth

Street, SW, Atlanta, Georgia 30303-8960. Mr. Wong may be reached by phone at (404) 562-

8726 or via electronic mail at wong.richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What is the Background for this Final Action?

On May 21, 2012, EPA designated and classified areas for the 2008 8-hour ozone NAAQS that was promulgated on March 27, 2008, as unclassifiable/attainment or nonattainment for the new 8-hour ozone NAAQS. *See* 77 FR 30088. The Charlotte Area was designated as nonattainment for the 2008 8-hour ozone NAAQS with a design value of 0.079 ppm. On April 16, 2015, DAQ submitted a redesignation request and maintenance plan for the North Carolina portion of the Charlotte Area for EPA's approval. In that submittal, the State included a maintenance demonstration that estimates emissions using a 7.8 psi RVP requirement for Gaston and Mecklenburg Counties for the 2008 8-hour ozone redesignation request and maintenance plan. EPA proposed action on the aforementioned redesignation request and maintenance plan in a Federal Register document published on May 21, 2015. *See* 80 FR 29250. The final rule approving the State's redesignation request and maintenance plan was signed on July 17, 2015. The State, in conjunction with its request to redesignate the North Carolina portion of the Charlotte Area to attainment, is also requesting a change of the Federal RVP requirement from 7.8 psi to 9.0 psi.

On April 16, 2015, to support its request for EPA to change the Federal RVP requirement for Gaston and Mecklenburg Counties, DAQ submitted a SIP revision that contains a noninterference demonstration that included modeling assuming 9.0 psi for RVP for Gaston and Mecklenburg Counties and that updates the maintenance plan submission and associated MVEBs for the North Carolina portion of the Charlotte Area. In a notice of proposed rulemaking (NPR) published on May 21, 2015, EPA proposed to approve the State's noninterference demonstration

and the updates to its maintenance plan and the associated MVEBs related to the State's redesignation request for the North Carolina portion of the Charlotte Area, contingent upon EPA approval of North Carolina's redesignation request and maintenance plan for the North Carolina portion of the Charlotte Area. *See* 80 FR 29230. The details of North Carolina's submittal and the rationale for EPA's actions are explained in the NPR. EPA did not receive any comments on the proposed action.

II. Final Action

EPA is taking final action to approve the State of North Carolina's noninterference demonstration, submitted on April 16, 2015, in support of the State's request that EPA change the Federal RVP requirements for Gaston and Mecklenburg Counties from 7.8 psi to 9.0 psi. Specifically, EPA has determined that the change in the RVP requirements for Gaston and Mecklenburg Counties will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA. North Carolina's April 16, 2015, SIP revision also updates its maintenance plan and the associated MVEBs related to the State's redesignation request for the North Carolina portion of the Charlotte Area to reflect emissions changes for the requested change to the Federal RVP requirements. EPA is approving those changes to update the maintenance plan and the MVEBs.

EPA has determined that North Carolina's April 16, 2015, RVP-related SIP revision is consistent with the applicable provisions of the CAA for the reasons provided in the NPR. EPA is not taking action today to remove the Federal 7.8 psi RVP requirement for Gaston and Mecklenburg Counties. Any such action would occur in a separate and subsequent rulemaking.

In accordance with 5 U.S.C. 553(d), EPA finds that there is good cause for this action to become effective immediately upon publication. This is because a delayed effective date is unnecessary because this action approves a noninterference demonstration that will serve as the basis of a subsequent action to relieve the Area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule grants or recognizes an exemption or relieves a restriction, and section 553(d)(3), which allows an effective date less than 30 days after publication as otherwise provided by the agency for good cause found and published with the rule. The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this rule will serve as a basis for a subsequent action to relieve the Area from certain CAA requirements. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective on the date of publication of this action.

III. 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 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 action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 17, 2015.

Heather McTeer Toney,

Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart II – North Carolina

2. In §52.1770, the table in paragraph (e) is amended by adding a new entry “Supplement Maintenance Plan for the Charlotte Area, NC 2008 8-hour Ozone Maintenance Area and RVP Standard” at the end of the table to read as follows:

§52.1770 Identification of plan.

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EPA-Approved North Carolina Non-Regulatory Provisions

Provision	State effective date	EPA approval date	Federal Register citation	Explanation
**	**	**	*	
Supplement Maintenance Plan for the Charlotte Area, NC 2008 8-hour Ozone Maintenance Area and RVP Standard	4/16/2015	[insert the date of publication in Federal Register]	[insert Federal Register citation]	Provides the non-interference demonstration for revising the Federal Low-Reid Vapor Pressure

				requirement for the Charlotte Area, NC
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[FR Doc. 2015-18343 Filed: 7/27/2015 08:45 am; Publication Date: 7/28/2015]