



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2015-0208; FRL-9931-94-OAR]

RIN 2060-AS64

Approval of North Carolina's Request to Relax the Federal Reid Vapor Pressure Gasoline Volatility Standard for Mecklenburg and Gaston Counties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a request from the state of North Carolina for the EPA to relax the Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year for Mecklenburg and Gaston counties. Specifically, the EPA is approving amendments to the regulations to allow the RVP standard for the two counties to rise from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline. The EPA has determined that this change to the federal RVP regulation is consistent with the applicable provisions of the Clean Air Act (CAA). This action is being taken without prior proposal because the EPA believes that this rulemaking is noncontroversial for the reasons set forth in this preamble, and due to the limited scope of this action.

DATES: This rule is effective on [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**] without further notice, unless EPA receives adverse comment by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. If EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2015-0208, to the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Patty Klavon, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, Michigan, 48105; telephone number: (734) 214-4476; fax number:

(734) 214-4052; e-mail address: klavon.patty@epa.gov.

SUPPLEMENTARY INFORMATION:

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

- I. General Information
- II. Action Being Taken
- III. History of the Gasoline Volatility Requirement
- IV. The EPA's Policy Regarding Relaxation of Gasoline Volatility Standards in Ozone Nonattainment Areas That Are Redesignated as Attainment Areas
- V. North Carolina's Request to Relax the Federal Gasoline RVP Requirement for Mecklenburg and Gaston Counties
- VI. Final Action
- VII. Statutory and Executive Order Reviews
- VIII. Legal Authority and Statutory Provisions

I. General Information

A. Why Is the EPA Issuing a Direct Final Rule?

The EPA is making this revision as a direct final rule without prior proposal because the EPA views this revision as noncontroversial and anticipates no adverse comment. The rationale for this rulemaking is described in detail below. In the Proposed Rules section of this Federal Register, the EPA is publishing a separate document that will serve as the proposal to approve this revision to the RVP gasoline standard that applies in Mecklenburg and Gaston counties should adverse comments be filed. If the EPA receives no adverse comment, the EPA will not take further action on the proposed rule. If the EPA receives adverse comment on this rule or any portion of this rule, the

EPA will withdraw the direct final rule or the portion of the rule that received adverse comment. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rulemaking. Any parties interested in commenting must do so at this time.

B. Does This Action Apply to Me?

Entities potentially affected by this rule are fuel producers and distributors who do business in North Carolina.

| Examples of Potentially Regulated Entities | NAICS ¹ Codes |
|--|--------------------------|
| Petroleum refineries | 324110 |
| Gasoline Marketers and Distributors | 424710 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 the EPA is aware that potentially could be affected by this rule. Other types of entities not listed on the table could also be affected by this rule. To determine whether your organization could be affected by this rule, you should carefully examine the regulations in 40 CFR 80.27. If you have questions regarding the applicability of this action to a particular entity, call the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

C. What Should I Consider as I Prepare My Comments?

¹ North American Industry Classification System

1. Submitting CBI

Do not submit CBI to the EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions – The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

3. Docket Copying Costs

You may be required to pay a reasonable fee for copying docket materials.

II. Action Being Taken

This direct final rule approves a request from the state of North Carolina to change the summertime gasoline RVP standard for Mecklenburg and Gaston counties from 7.8 psi to 9.0 psi by amending the EPA's regulations at 40 CFR 80.27(a)(2). In a previous rulemaking, the EPA approved a redesignation request and maintenance plan for the Charlotte-Gastonia-Salisbury, North Carolina 2008 ozone area ("the Charlotte area") and a CAA section 110(l) non-interference demonstration that relaxing the federal RVP gasoline requirement from 7.8 psi to 9.0 psi for gasoline sold from June 1 to September 15 of each year in Mecklenburg and Gaston counties would not interfere with maintenance of the national ambient air quality standards (NAAQS) in the Charlotte area. Mecklenburg and Gaston counties are part of the Charlotte area. For more information on North Carolina's redesignation request and maintenance plan for the Charlotte area, please refer to Docket ID. No. EPA-R04-OAR-2015-0275 for the rulemaking that was signed on July 17, 2015. The preamble for this rulemaking is organized as follows: Section III. provides the history of the federal gasoline volatility regulation. Section IV. describes the policy regarding relaxation of volatility standards in ozone nonattainment areas that are redesignated as attainment areas. Section V. provides information specific

to North Carolina's request for Mecklenburg and Gaston counties. Finally, Section VI. presents the final action in response to North Carolina's request.

III. History of the Gasoline Volatility Requirement

On August 19, 1987 (52 FR 31274), the EPA determined that gasoline nationwide was becoming 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 and 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 CAA section 211(c), the EPA promulgated regulations on March 22, 1989 (54 FR 11868) that set maximum limits for the RVP of gasoline sold during the regulatory control periods that were established on a state-by-state basis in the final rule. The regulatory control periods addressed the portion of the year when peak ozone concentrations were expected. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of gasoline during the high ozone season. On June 11, 1990 (55 FR 23658), the EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum gasoline 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.)

The 1990 CAA Amendments established a new section 211(h) to address fuel volatility. CAA section 211(h) requires the 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. CAA section 211(h) also prohibits the EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that the EPA may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), the EPA modified the Phase II volatility regulations to be consistent with CAA section 211(h). The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, effective January 13, 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658), which included the 7.8 psi ozone season limitation for certain areas. As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, the EPA will rely on states to initiate changes to their respective volatility programs. The EPA's policy for approving such changes is described below in Section IV. of this action.

The state of North Carolina has initiated this change by requesting that the EPA relax the 7.8 psi gasoline RVP standard to 9.0 psi for Mecklenburg and Gaston counties, which are subject to the 7.8 gasoline RVP requirement during the summertime ozone season. Accordingly, the state of North Carolina provided a technical demonstration showing that relaxing the federal gasoline RVP requirements in the two counties from 7.8

psi to 9.0 psi would not interfere with maintenance of the NAAQS in the Charlotte area or with any other applicable CAA requirement.

IV. The EPA's Policy Regarding Relaxation of Gasoline Volatility Standards in Ozone Nonattainment Areas That Are Redesignated as Attainment Areas

As stated in the preamble for the EPA's amended Phase II volatility standards (56 FR 64706), any change in the volatility standard for a nonattainment area that was subsequently redesignated as an attainment area must be accomplished through a separate rulemaking that revises the applicable standard for that area. Thus, for former 1-hour ozone nonattainment areas where the EPA mandated a Phase II volatility standard of 7.8 psi RVP in the December 12, 1991 rulemaking, the federal 7.8 psi RVP gasoline requirement remains in effect, even after such an area is redesignated to attainment, until a separate rulemaking is completed that relaxes the federal RVP gasoline standard in that area from 7.8 psi to 9.0 psi.

As explained in the December 12, 1991 rulemaking, the EPA believes that relaxation of an applicable gasoline RVP standard is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, CAA section 107(d)(3) requires the state to make a showing, pursuant to CAA section 175A, that the area is capable of maintaining attainment for the ozone NAAQS for ten years. 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 gasoline volatility standard or that the more stringent gasoline 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, the EPA will not relax the gasoline volatility standard unless the state requests a relaxation and the maintenance plan demonstrates to the satisfaction of the EPA that the area will maintain attainment for ten years without the need for the more stringent volatility standard.

North Carolina requested relaxation of the federal RVP gasoline standard from 7.8 psi to 9.0 psi for Mecklenburg and Gaston counties concurrent with its request that the EPA approve a redesignation request and maintenance plan for the Charlotte area for the 2008 ozone NAAQS.

V. North Carolina's Request to Relax the Federal Gasoline RVP Requirement for Mecklenburg and Gaston Counties

On March 11, 2015, the state of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR), submitted a redesignation request and maintenance plan for the Charlotte area, which was classified as Marginal for the 2008 ozone NAAQS. Mecklenburg and Gaston counties are part of the Charlotte area. Additionally, the state submitted a CAA section 110(l) non-interference demonstration that removal of the federal RVP requirement of 7.8 psi for gasoline during the summertime ozone season in Mecklenburg and Gaston counties would not interfere with maintenance of any NAAQS, including the 2008 ozone NAAQS. Specifically, the state provided a technical demonstration showing that relaxing the federal gasoline RVP requirement in the two counties from 7.8 psi to 9.0 psi would not interfere with maintenance of the ozone NAAQS in the Charlotte area or with any other applicable requirement of the CAA.

In a rulemaking that was signed on July 17, 2015, the EPA evaluated and approved North Carolina's March 11, 2015 redesignation request and maintenance plan for the Charlotte area. See Docket ID. No. EPA-R04-OAR-2015-0275. In a separate rulemaking signed on July 17, 2015, the EPA approved North Carolina's non-interference demonstration for Mecklenburg and Gaston counties. See Docket ID. No. EPA-R04-OAR-2015-0260.²

Both rulemakings were subject to public notice-and-comment. The EPA received two comments on the redesignation request and maintenance plan rulemaking, and those comments were addressed in the final rule for that rulemaking. The comments received can be found in the docket for that rulemaking (Docket ID. No. EPA-R04-OAR-2015-0275). No comments were received on the non-interference demonstration for Mecklenburg and Gaston counties (Docket ID. No. EPA-R04-OAR-2015-0260).

In this action, the EPA is taking the second and final step in the process to approve North Carolina's request to relax the summertime ozone season gasoline RVP standard for Mecklenburg and Gaston counties from 7.8 psi to 9.0 psi. Specifically, the EPA is amending the applicable gasoline RVP standard from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for the two counties. This action to approve North Carolina's request to relax the summertime ozone season RVP standard for Mecklenburg and Gaston counties from 7.8 psi to 9.0 psi is based on the EPA's previous approval of North Carolina's March 11, 2015 redesignation request and maintenance plan for the Charlotte area, as well as the non-interference demonstration. This approval is also based on the

² On March 11, 2015, the NCDENR requested that the EPA parallel process the approval of the submission.

fact that the Charlotte area is currently in attainment for both the 1997 ozone NAAQS and the 2008 ozone NAAQS.

VI. Final Action

The EPA is taking direct final action to approve the request from North Carolina for the EPA to relax the RVP applicable to gasoline introduced into commerce from June 1 to September 15 of each year in Mecklenburg and Gaston counties. Specifically, this action amends the applicable gasoline RVP standard from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for Mecklenburg and Gaston counties.

The EPA is making this revision without prior proposal because the EPA views the revision as noncontroversial and anticipates no adverse comment. However, in the Proposed Rules section of this Federal Register, the EPA is publishing a separate document that will serve as the proposal to approve this revision to the gasoline RVP standard that applies in Mecklenburg and Gaston counties should adverse comments be filed. This rule will become effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice unless the EPA receives adverse comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]**

If the EPA receives adverse comments on the rule or any portion of the rule, the EPA will withdraw the direct final rule or the portion of the rule that received adverse comment. The EPA will publish a timely withdrawal in the Federal Register indicating which provisions will become effective and which provisions are being withdrawn. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the subsequent

final action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will become effective on **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]** and no further action will be taken on the proposed rule.

VII. Statutory and Executive Order Reviews

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" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563. (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and therefore is not subject to these requirements.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. The small entities subject to the requirements of this action are refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for sale in North

Carolina and gasoline distributors and retail stations in North Carolina. This action relaxes the federal RVP standard for gasoline sold in Mecklenburg and Gaston counties during the summertime ozone season (June 1 to September 15 of each year) to allow the RVP for gasoline sold in Mecklenburg and Gaston counties to rise from 7.8 psi to 9.0 psi. This rule does not impose any requirements or create impacts on small entities beyond those, if any, already required by or resulting from the CAA section 211(h) Volatility Control program. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

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. The action implements mandates specifically and explicitly set forth in CAA section 211(h) without the exercise of any policy discretion by the EPA.

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 (65 FR 67249, November 9, 2000). This final rule affects only those refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for

sale in the Birmingham area and gasoline distributors and retail stations in the Birmingham area. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the 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 approves a state program.

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 Advancement Act

This action does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the applicable ozone NAAQS which establish the level of protection provided to human health or the environment. This rule will relax the applicable volatility standard of gasoline during the summer, possibly resulting in slightly higher mobile source

emissions. However, the state of North Carolina has demonstrated in its non-interference demonstration that this action will not interfere with maintenance of the ozone NAAQS in the Charlotte-Gastonia-Salisbury, North Carolina 2008 ozone area, or with any other applicable requirement of the CAA. Mecklenburg and Gaston counties are part of the Charlotte-Gastonia-Salisbury, North Carolina 2008 ozone area. 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 Section V. of this direct final rule. A copy of North Carolina's March 11, 2015 letter requesting that the EPA relax the gasoline RVP standard, including the technical analysis demonstrating that the less stringent gasoline RVP in the Mecklenburg and Gaston counties would not interfere with continued maintenance of the 2008 ozone NAAQS in the Charlotte-Gastonia-Salisbury, North Carolina ozone area, or with any other applicable CAA requirement, 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. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this direct 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel document of proposed rulemaking for this action published in the Proposed Rules section of this Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

VIII. Legal Authority and Statutory Provisions

The statutory authority for this action is granted to the EPA by Sections 211(h) 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 80

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.

Dated: August 5, 2015.

Gina McCarthy,
Administrator.

For the reasons discussed in the preamble, the Environmental Protection Agency is amending 40 CFR part 80 as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

AUTHORITY: 42 U.S.C. 7414, 7521, 7542, 7545, and 7601(a).

2. In § 80.27(a)(2)(ii), the table is amended by:

- a. Removing the entry for North Carolina and footnotes 6 and 7;
- b. Redesignating footnote 8 as footnote 6;
- c. Adding a new entry in alphabetical order for North Carolina and a new footnote 7.

The additions read as follows:

§ 80.27 Controls and prohibitions on gasoline volatility.

(a) * * *

(2) * * *

(ii) * * *

APPLICABLE STANDARDS¹ 1992 AND SUBSEQUENT YEARS

| State | May | June | July | August | September |
|-----------------------------|------------|-------------|-------------|---------------|------------------|
| * * * * * | | | | | |
| North Carolina ⁷ | 9.0 | 9.0 | 9.0 | 9.0 | 9.0 |
| * * * * * | | | | | |

¹ Standards are expressed in pounds per square inch (psi).

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⁷ The standard for Mecklenburg and Gaston Counties from June 1 until September 15 in

1992 through [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN
THE FEDERAL REGISTER**] was 7.8 psi.

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