



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

**[EPA-HQ-OAR-2015-0208; FRL-9931-95-OAR]**

**RIN 2060-AS64**

**Relaxation of the Federal Reid Vapor Pressure Gasoline Volatility Standard for Mecklenburg and Gaston Counties, North Carolina**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing 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, North Carolina. Specifically, the EPA is proposing to amend the regulations to allow the RVP standard for Mecklenburg and Gaston counties to rise from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline. The EPA has preliminarily determined that this change to the federal RVP regulation is consistent with the applicable provisions of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS**

**AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** unless a

public hearing is requested by **[INSERT DATE 15 DAYS AFTER DATE OF**

**PUBLICATION IN THE FEDERAL REGISTER**]. If the EPA receives such a request, we will publish information related to the timing and location of the hearing and a new deadline for public comment.

**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 Once submitted, comments cannot be edited or withdrawn.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. If you need to include CBI as part of your comment, please visit <http://www.epa.gov/dockets/comments.html> for instructions. 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](mailto:klavon.patty@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

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

- I. General Information
- II. Public Participation
- III. Background and Proposal
- IV. Direct Final Rule
- V. Statutory and Executive Order Reviews
- VI. Legal Authority

### **I. General Information**

- A. This proposed rule is published parallel to a Direct Final Rule.

In the “Rules and Regulations” section of this Federal Register, 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 both in this proposal and in the direct final rule.

The regulatory text for this proposed rule is included in the direct final rule, and parties should review that rule for the regulatory text. If the EPA receives no adverse comment, the EPA will not take further action on this 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 this 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 proposed rule are fuel producers and distributors who do business in North Carolina.

Examples of Potentially Regulated Entities	NAICS <sup>1</sup> 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 proposed rule. Other types of entities not listed on the table could also be affected. To determine whether your organization could be affected by this proposed 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 is the agency’s authority for taking this action?

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).

II. Public Participation

The EPA will not hold a public hearing on this matter unless a request is received by the person identified in the **FOR FURTHER INFORMATION CONTACT** section

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<sup>1</sup> North American Industry Classification System

of this preamble by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If the EPA receives such a request, we will publish information related to the timing and location of the hearing and a new deadline for public comment.

### III. Background and Proposal

#### A. Summary of the Proposal

The EPA is proposing to approve a request from the state of North Carolina to change the summertime RVP standard for Mecklenburg and Gaston counties, North Carolina 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 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 any NAAQS in the Charlotte area, including the 2008 ozone NAAQS, or with any other applicable CAA requirement. 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.B. provides the history of the federal gasoline volatility regulation. Section III.C. describes the policy regarding relaxation of gasoline volatility standards in ozone nonattainment areas that are redesignated as attainment areas. Section III.D. provides information specific to North

Carolina's request for Mecklenburg and Gaston counties. Finally, Section IV. briefly discusses the associated direct final rule.

#### B. 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 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 III.C.

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 any NAAQS in the Charlotte area, including the 2008 ozone NAAQS, or with any other applicable CAA requirement.

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

As stated in the preamble for the EPA's amended Phase II volatility standards (56 FR 64706), any change in the gasoline 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 gasoline RVP requirement remains in effect, even after such an area is redesignated to attainment, until a separate rulemaking is completed that relaxes the federal gasoline RVP 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 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, 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 is requesting relaxation of the federal gasoline RVP 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.

D. 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, or with any other applicable CAA requirement. 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 any NAAQS in the Charlotte area, of which the two counties are part, including the 2008 ozone NAAQS, or with any other applicable CAA requirement.

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.<sup>2</sup>

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 by proposing 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 proposing to amend the applicable gasoline RVP standard to allow the gasoline RVP requirements to rise from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for the two counties. This proposal 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 is based on the previous approval of North Carolina's March 11, 2015 redesignation request and maintenance plan and non-interference

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

demonstration. It is also based on the fact that the Charlotte area is currently in attainment for the both the 1997 ozone NAAQS and the 2008 ozone NAAQS.

#### IV. Direct Final Rule

A direct final rule that would make the same changes as those proposed in this action appears in the Rules and Regulations section of this Federal Register. The EPA is taking direct final action on these revisions because the EPA views the revisions as noncontroversial and anticipates no adverse comment. The EPA has explained the reasons for the amendments in this proposal and in the direct final rule. If no adverse comments are received, no further action will be taken on the proposal, and the direct final rule will become effective as provided in that action.

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 are being withdrawn. All public comments received will then be addressed in a subsequent final rule based on this 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.

The changes to the regulatory text proposed in this document are identical to those for the direct final rule published in the Rules and Regulations section of this Federal Register. For further information, including the regulatory revisions, see the direct final rule published in a separate part of this Federal Register.

#### V. Statutory and Executive Order Reviews

For a complete discussion of all the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this Federal Register.

VI. Legal Authority

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.

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Gina McCarthy,

Administrator.

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8/17/2015]