6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2016-0781; FRL-9959-27-Region 5]

Air Plan Approval; Ohio; Removal of Gasoline Volatility Requirements in the Cincinnati and Dayton Areas.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the Ohio Environmental Protection Agency (Ohio EPA) on December 19, 2016, concerning the state's gasoline volatility standards in the Cincinnati and Dayton areas. The revision removes the 7.8 pounds per square inch (psi) low Reid Vapor Pressure (RVP) fuel requirements for the two areas as a component of the Ohio ozone SIP. The submittal also includes a section 110(l) demonstration as required by the Clean Air Act (CAA) that addresses emission impacts associated with the removal of the program.

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

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0781 at http://www.regulations.gov, or via email to blakley.pamela@epa.gov. For comments submitted at

Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, 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. 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, please contact the person identified in the "For Further Information Contact" section. For 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: Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061, acevedo.francisco@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background.

Under section 211(c) of the CAA, 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; which is during the summertime. 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. Depending on the state and month, gasoline RVP was not to exceed 10.5 psi, 9.5 psi, or 9.0 psi. Phase I was applicable to calendar years 1989 through 1991. 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 national ambient air quality standards (NAAQS)). Phase II is applicable to 1992 and subsequent years.

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h)(1) 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)(2) prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that the Agency 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 make them consistent with section 211(h). The modified regulations prohibited the sale of gasoline, beginning in 1992, with an RVP above 9.0 psi in all areas designated attainment for ozone. 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.

Under such requirements, the state of Ohio was required to meet a 9.0 psi RVP standard during the summer control period.

On April 15, 2004, the EPA designated 5 counties in the Cincinnati, Ohio area (Hamilton, Butler, Clinton, Warren and Clermont) and 4 counties in the Dayton, Ohio area (Clark, Greene, Miami, and Montgomery) as nonattainment for the 8-hour ozone standard. As part of Ohio's efforts to bring these areas into attainment of the ozone standard, the state adopted and implemented a broad range of ozone control measures for the areas including the implementation of a 7.8 psi RVP fuel program that was more stringent than the federal 9.0 psi RVP requirement. The Ohio EPA originally submitted a SIP revision to EPA on February 14, 2006 and October 6, 2006, for the purpose of establishing a gasoline RVP limit of 7.8 psi for gasoline sold in the Cincinnati and Dayton areas. The revision specifically applied to Butler, Clermont, Hamilton and Warren counties (Cincinnati area), and Clark, Greene, Miami and Montgomery counties (Dayton area) in Ohio. EPA approved Ohio's 7.8 psi RVP program on May 25, 2007 (72 FR 29269), including the program's legal authority and administrative requirements found in the Ohio Administrative Code (OAC) rules 3745-72-1 to 8.

II. What Changes Have Been Made to the Ohio's Gasoline Volatility Standards?

On December 19, 2016, the Ohio EPA submitted a SIP revision

requesting that EPA approve the removal of the 7.8 psi RVP fuel requirements under OAC 3745-72-1 to 8 from the Ohio ozone SIP before the beginning of the 2017 ozone control period.

To support the removal of the 7.8 psi RVP fuel program requirements from the SIP, the revision included amendments of OAC 3745-72-01 (Applicability), as effective on August 1, 2016; a summary of the Ohio-specific analyses using EPA's Motor Vehicle Emissions Simulator (MOVES) model to quantify the emissions impact associated with removing the 7.8 psi RVP fuel program in Cincinnati and Dayton; and a section 110(l) demonstration that includes offset emissions documentation.

III. What Is EPA's Analysis of the State's Submittal?

EPA's primary consideration for determining the approvability of Ohio's request is whether this requested action complies with section 110(l) of the CAA[1].

Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA. EPA evaluates each section 110(l) noninterference demonstration on a case-by-case basis considering the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect,

[1] CAA section 193 is not relevant because Ohio's Low RVP requirements in Cincinnati and Dayton were not included in the SIP before the 1990 CAA amendments.

including those that have been promulgated but for which EPA has not yet made designations. The degree of the analysis focused on any particular NAAQS in a noninterference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision.

In the absence of an attainment demonstration, to demonstrate no interference with any applicable NAAQS or requirement of the CAA under section 110(l), EPA believes it is appropriate to allow states to substitute equivalent emissions reductions to compensate for any change to a SIP-approved program, as long as actual emissions in the air are not increased. "Equivalent" emission reductions mean reductions which are equal to or greater than those reductions achieved by the control measure approved in the SIP. To show that compensating emission reductions are equivalent, modeling or adequate justification must be provided. The compensating, equivalent reductions must represent actual, new emissions reductions achieved in a contemporaneous time frame to the change of the existing SIP control measure, in order to preserve the status quo level of emissions in the air. In addition to being contemporaneous, the equivalent emissions reductions must also be permanent, enforceable, quantifiable, and surplus to be approved into the SIP.

In its December 19, 2016 SIP revision, the Ohio EPA

includes a 110(l) demonstration that uses equivalent emission reductions to compensate for emission reduction losses resulting from the removal of the SIP approved 7.8 psi RVP fuel requirements in the Cincinnati and Dayton areas in Ohio. More specifically, the emission benefits associated with the 7.8 psi RVP fuel requirements will be substituted with equivalent or greater emissions reductions from facilities in the Cincinnati and Dayton areas which have permanently shut down or which have or will cease coal operations or convert from coal to natural gas due to U.S. EPA's Boiler Maximum Achievable Control Technology (MACT) regulations. These substitute emissions are quantifiable, permanent, surplus (i.e. oxides of nitrogen (NO_x) and volatile organic compound (VOC) emissions reductions are due to permanent shutdowns or are a co-benefit of the chosen compliance strategy for the Boiler MACT regulations), enforceable and contemporaneous (i.e. occurring within approximately one year before/after this demonstration and/or the anticipated cessation of the low RVP fuel program).

To determine the emissions impact of removing the 7.8 psi RVP program requirements in both areas, Ohio EPA used the latest version of EPA’s MOVES model to conduct a series of emissions analysis. Ohio EPA’s analysis focused on VOC and NO_x emissions because low RVP requirements primarily affect VOC emissions and because VOCs and NO_x are precursors for ground-level ozone

formation.

Based on our review of the information provided, EPA finds that Ohio EPA used reasonable methods and the appropriate model in estimating the emissions effect of removing the 7.8 psi RVP fuel requirements. Ohio EPA determined that in 2017 the emissions increase resulting from removing the 7.8 psi RVP requirements would be 15.83 tons per year (tpy) of VOC and 16.33 tpy of NO_x in the Cincinnati area and 16.01 tpy of VOC and 13.93 tpy of NO_x in the Dayton area.

In the Dayton area, a portion of the emission reductions from the low RVP fuel requirements will be substituted with VOC emission reductions from two facilities which permanently shut down in 2016: Miami Valley Publishing Company (Facility ID 0829060354), which permanently shut down on March 29, 2016; and National Oilwell Varco (Facility ID 0812100350), which permanently shut down all sources except for a soil vapor recovery system on June 30, 2016. Based on actual conservative 2015 emissions from these facilities, Ohio EPA determined that 3.51 tpy of VOC from the Miami Valley Publishing Company facility (Facility ID 0829060354) and 4.86 tpy of VOC from the National Oilwell Varco facility (Facility ID 0812100350) will be permanently retired upon EPA's approval of this SIP revision. After this direct substitution of VOCs, the amount of VOCs reductions needed in the Dayton area is reduced from 16.01 tons

to 7.64 tons of VOC. (See Table 1)

For the remaining reductions needed to substitute for the low RVP requirements, Ohio EPA will be substituting NO_x for VOC emissions and using all-NO_x reductions to offset the remaining NO_x and VOC emissions. EPA policy allows for substitution between VOC and NO_x emissions in its guidance on reasonable further progress. This guidance recommends that states assume, as an approximation, that equivalent percent changes in the area's inventory for the respective pollutant yield an equivalent change in ozone levels. For example, decreasing area NO_x emissions by 3 percent would have the same effect as decreasing area VOC emissions by 3 percent. Stated another way, if an area has twice as many tons of NO_x emissions as VOC emissions, then 2 tons of NO_x emissions would be assumed to have the same effect on ozone as 1 ton of VOC emissions. Following this approach, Ohio EPA used a 1 VOC to 1.527 NO_x conversion ratio for the counties currently in the low RVP fuel program in the Cincinnati area and a 1 VOC to 1.021 NO_x conversion ratio for the counties in the Dayton area. The conversion ratios use the most recent inventories available for both areas.

Applying these factors, 40.50 tpy of NO_x reductions will need to be offset by equivalent or greater emission reductions in the Cincinnati area and 21.72 tpy of NO_x reductions will be needed in the Dayton area. (See Table 1)

Table 1 – Emissions to be replaced (tons per year)

Emissions	Cincinnati area (tpy)	Dayton area (tpy)
NO_x to be replaced from removal of 7.8 low RVP program	16.33	13.93
VOCs to be replaced from removal of 7.8 low RVP program	15.83	16.01
VOCs replaced directly with facility shutdowns	0.00	8.37*
Remaining VOCs to be replaced	15.83	7.64
VOC:NO_x ratio	1:1.527	1:1.021
VOC converted to NO_x	24.17	7.79
Total NO_x emissions to be replaced	**40.50**	**21.72**

* VOC emissions reductions from two facilities which permanently shut down in 2016: Miami Valley Publishing Company (Facility ID 0829060354) and National Oilwell Varco (Facility ID 0812100350)

In the Cincinnati area, the 7.8 psi low RVP fuel requirements will be substituted with emission reductions at the MillerCoors LLC facility (Facility ID 1409000353) resulting from the shutdown of coal/gas fired boilers and installation of new natural gas fired boilers due to the Boiler MACT regulations. The relevant emissions units are B001, B002, B010 and B011.

B001 and B002 coal/gas boilers were permanently shut down on April 1, 2016. Federally-enforceable permits prior to the shutdown include NO_x emission limits for B001 and B002 of 1,375.9 tpy combined, based on rolling 12-month summations. These were replaced with two new natural gas boilers, B010 and B011, which commenced operation on January 20, 2016. Federally-enforceable permits for the new boilers B010 and B011 include NO_x emission limits of 1.17 tons of NO_x per month over a rolling 12-month period for each boiler. The amount of reductions due to shutdowns/conversion to natural gas was calculated as the difference between historical actual emissions and projected emissions from the new gas boilers. NO_x emission reductions were 175.29 tpy using 5-year historical averages (2011-2015), and 111.00 tpy using most recent 2015 actual data.

As indicated above, 40.50 tpy of NO_x reductions will need to be offset by equivalent or greater emission reductions from the MillerCoors facility. Therefore, Ohio EPA has determined that more than adequate emission reductions from the shutdowns/conversions of B001, B002, B010 and B011 at the MillerCoors facility are available to offset the removal of the low RVP program in Cincinnati.

In the Dayton area, the remaining emission reductions to be replaced will be substituted with emission reductions at the Wright-Patterson Air Force Base (Facility ID 0829700441)

facility resulting from shutdowns and conversions from coal to natural gas due to compliance with Boiler MACT regulations. The relevant emission units are B606, B607, and B608. Coal boiler B606 was permanently shut down on June 7, 2016. Coal boilers B607 and B608 will be converted to natural gas by January 31, 2017 due to Boiler MACT. No changes are anticipated for an existing natural gas boiler, B609, which is included in Ohio EPA's analysis only because it is part of the emissions unit group and has combined emission limitations with the converted units (B607 and B608). Federally-enforceable permits prior to the shutdown/conversions include NO_x emission limits of 33.20 tpy from B609, and 350.32 tpy NO_x from each B606, B607 and B608 with total combined NO_x emissions not to exceed 788 tons, as a rolling, 12-month summation from the coal-fired boilers identified as emission units B309, B310, B311, B606, B607, and B608 combined (Note: B309, B310 and B311 underwent similar shutdown/conversions in 2015 with B311 shutdown and B309 and B310 converted to natural gas). Federally-enforceable permits following the shutdown/conversions include NO_x emission limits of 120 tpy combined for B607, B608 and B609.

The amount of reductions due to shutdown/conversion to natural gas was calculated as the difference between historical actual emissions and projected emissions from the converted coal boilers. NO_x emission reductions were 64.97 tpy using 5-year

historical averages (2011-2015), and 46.27 tpy using most recent 2015 actual data.

As indicated above, 21.72 tpy of NO_x reductions remain to be offset by equivalent or greater emissions reductions from the Wright-Patterson Air Force Base facility. Therefore, Ohio EPA has determined that more than adequate emission reductions from the shutdown/conversions of B606, B607 and B608 at Wright-Patterson Air Force Base are available to offset the removal of the low RVP program in Dayton.

These substitute emissions from both MillerCoors and Wright-Patterson Air Force Base facilities are from permanent and enforceable shutdowns and conversions to natural gas. It should be noted that a facility which has notified Ohio EPA of a permanent shut down cannot resume operations without being considered a new facility and being subject to the new source review (NSR) requirements. Further, these conversions to natural gas were undertaken as the facility's chosen option to comply with Boiler MACT regulations. Conversion back to coal would be impractical, if not impossible, as the facility would still be required to comply with Boiler MACT regulations. In addition, the units are no longer permitted to burn coal and should the facility desire to burn coal again, the units would have to undergo NSR and these retired credits would not be available to the facility (or any other facility) for netting or

offset purposes in the future.

The Boiler MACT regulations established emission standards for control of mercury, hydrogen chloride, particulate matter (as a surrogate for non-mercury metals), and carbon monoxide (as a surrogate for organic hazardous emissions) from coal-fired, biomass-fired, and liquid-fired major source boilers based on the maximum achievable control technology. The boiler MACT standards will also result in NO_x reductions as a co-benefit of the controls installed to meet the standards. These facilities' operating permits include NO_x limits which reflect those co-benefits, and as such the NO_x reductions are surplus to what would otherwise be required.

These reductions are also surplus in that they were not previously relied on for credit toward attainment or maintenance purposes. Ohio EPA will ensure these reductions are permanently retired and cannot be relied on for future CAA requirements. Ohio EPA maintains a database of all reductions used for the purpose of CAA 110(l) demonstrations to ensure they cannot be used again. These reductions will be entered into and tracked within this database.

As demonstrated above, Ohio EPA has calculated that more than adequate surplus emission reductions are available to offset the cessation of the low RVP fuel requirements in the Cincinnati and Dayton areas. Based on Ohio EPA's calculations,

the emissions increase in the Cincinnati area due to cessation of the low RVP program is 16.33 tpy NO_x and 15.83 tpy VOC (equivalent to 40.50 tpy NO_x after VOC to NO_x substitution). This amount is more than offset by the 111.0 tpy NO_x potentially available from the MillerCoors facility. Likewise, the emissions increase in the Dayton area due to cessation of the low RVP program is 13.93 tpy NO_x and 16.01 tpy VOC. This amount is more than offset by the 3.51 tpy of VOC from the Miami Valley Publishing Company facility, 4.86 tpy of VOC from the National Oilwell Varco facility, and 46.27 tpy NO_x (depending on the calculation method) potentially available from the Wright-Patterson Air Force Base facility. (See Table 2)

Ohio EPA is not permanently retiring all of the available emission reductions but only those to offset removal of the 7.8 psi RVP fuel requirements as outlined in this action. Upon approval of this SIP revision, 3.51 tpy of VOC from the Miami Valley Publishing Company facility, 4.86 tpy of VOC from the National Oilwell Varco facility, 40.50 tpy of NO_x from the MillerCoors LLC facility and 21.72 tpy of NO_x from the Wright-Patterson Air Force Base facility will be permanently retired. Any use of additional reductions in excess of those being retired under this action that may be used in the future will be evaluated for the surplus criteria at the time of use, which will include discounting what is retired under this action.

Table 2 – Summary of available offsets and NO_x emissions to be retired.

Emissions	Cincinnati area (tpy)	Dayton area (tpy)
NO_x to be replaced from removal of 7.8 low RVP program	16.33	13.93
VOCs to be replaced from removal of 7.8 low RVP program	15.83	16.01
VOCs replaced directly with facility shutdowns	0.00	8.37
Total NO_x emissions to be replaced (after conversion of remaining VOC to NO_x)	40.50	21.72
NO_x offsets available from shutdowns/conversion to natural gas	111.00	46.27
Excess NO_x credits (available offsets minus emissions to be replaced)	70.50	24.55
VOC emissions to be retired	**0.00**	**8.37**
NO_x emissions to be retired	**40.50**	**21.72**

Based on an evaluation of Ohio EPA's 110(l) demonstration, EPA believes that the removal of the 7.8 psi low RVP fuel

program requirements in the Cincinnati and Dayton areas do not interfere with Ohio's ability to demonstrate compliance with the 8-hour ozone NAAQS in both areas. This is based on the use of permanent, enforceable, contemporaneous, surplus emissions reductions achieved from facilities in the Cincinnati and Dayton areas that have permanently shut down or which have or will convert from coal to natural gas as previously discussed.

EPA also examined whether the removal of 7.8 psi low RVP fuel program requirements in both areas will interfere with attainment of other air quality standards. All the counties in the Dayton area are designated attainment for all standards, including sulfur dioxide and nitrogen dioxide. Cincinnati is designated attainment for all standards other than ozone, sulfur dioxide and fine particulate matter ($PM_{2.5}$). Although NO_x and VOCs also contribute to the formation of particulate matter, the extent of the contribution varies significantly by location or region within the U.S[2]. However, as with ozone, any NO_x and VOC

[2] While VOC is one of the precursors for $PM_{2.5}$ formation, a study (Journal of Environmental Engineering – Qualifying the sources of ozone, fine particulate matter, and regional haze in the Southeastern United States, June 24, 2009, available at: http://www.journals.elsevier.com/journal-ofenvironmental-management) indicates that in portions of the Midwest (including portions of Ohio where low RVP fuel requirements have been implemented), emissions of direct $PM_{2.5}$ and the precursor sulfur dioxide (SO_2) are more significant to ambient $PM_{2.5}$ concentrations than NOx and VOC. Specifically, $PM_{2.5}$ sensitivities to anthropogenic VOC emissions are near zero for the entire region, including the Cincinnati region. This study also indicated that

emission increases resulting from the removal of the low RVP fuel requirements are being offset through the use of equivalent emission reductions as discussed above. Based on Ohio EPA's 110(l) analysis, EPA has no reason to believe that the removal of the low RVP fuel requirements in Cincinnati and Dayton will cause the areas to become nonattainment for any of these pollutants. In addition, EPA believes that removing the 7.8 psi low RVP program requirements in Ohio will not interfere with the areas' ability to meet any other CAA requirement.

Based on the above discussion and the state's section 110(l) demonstration, EPA believes that removal of the 7.8 psi low RVP fuel requirements would not interfere with attainment or maintenance of any of the NAAQS in the Cincinnati and Dayton areas and would not interfere with any other applicable requirement of the CAA, and thus, are approvable under CAA section 110(l).

IV. What Action Is EPA Proposing to Take?

EPA is proposing to approve the revision to the Ohio ozone SIP submitted by the Ohio EPA on December 19, 2016, removing the

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the impact of SO_2 emissions, especially from electric generating units, was most significant in the Cincinnati area due to SO_2 emissions in the entire mid-west region (Wisconsin, Illinois, Indiana, Michigan and Ohio). In fact, emissions from the mid-west had the largest effect on $PM_{2.5}$ sensitivities in the Cincinnati region. For this reason, a similar impact is expected in the Dayton area. The technical analysis provided by Ohio EPA has met EPA's guidance and demonstrates anthropogenic VOCs are insignificant to the formation of $PM_{2.5}$ in these areas.

7.8 psi RVP fuel requirements for gasoline distributed in the Cincinnati and Dayton areas which include Montgomery, Miami, Greene, Clark, Hamilton, Butler, Warren, and Clermont counties. We find that the revision meets all applicable requirements and it would not interfere with reasonable further progress or attainment of any of the NAAQS.

V. Impacts on the Boutique Fuels List.

Section 1541(b) of the Energy Policy Act of 2005 required EPA in consultation with the U.S. Department of Energy to determine the number of fuels programs approved into all SIPs as of September 1, 2004 and to publish a list of such fuels. On December 28, 2008 EPA published the list of boutique fuels. (See 71 FR 78192.) EPA maintains the current list of boutique fuels on its web site at: https://www.epa.gov/gasoline-standards/state-fuels. The final list of boutique fuels was based on a fuel type approach. CAA section 211(c)(4)(C)(v)(III) requires that EPA remove a fuel from the published list if it is either identical to a federal fuel or is removed from the SIP in which it is approved. Under the adopted fuel type approach, EPA interpreted this requirement to mean that a fuel would have to be removed from all SIPs in which it was approved in order for it to be removed from the list. (See 71 FR 78195.)

A. Removal of Gasoline Volatility Requirements in Cincinnati and Dayton

The 7.8 psi RVP fuel program, which is approved into Ohio's SIP, is a fuel type that is included in EPA's boutique fuel list, 71 FR 78198-99;(https://www.epa.gov/gasoline-standards/state-fuels) and the specific counties in the Cincinnati and Dayton areas where the low RVP gasoline is required are identified on EPA's Gasoline Reid Vapor Pressure web page (https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure). If the proposed removal of Ohio's gasoline volatility requirements from the state's SIP is approved, EPA will update the State Fuels and Gasoline Reid Vapor Pressure web pages on the effective date of the removal. While the entry for Ohio will be deleted from the list of boutique fuels, this deletion will not result in an opening on the boutique fuels list because the 7.8 psi RVP fuel type remains in other state SIPs.

B. Removal of Gasoline Volatility Standards Applicable in the Illinois Portion the St. Louis, MO-IL Ozone Area

On October 6, 2014 EPA published a direct final rule to remove Illinois' 7.2 psi low RVP regulation from the state's SIP for its portion of the St. Louis, MO-IL ozone area. (See 79 FR 60065.) The removal became effective on December 5, 2014. The 7.2 psi RVP fuel type was included in the published list of fuels. (See 71 FR 78199). Illinois was the only state with such a fuel type in its approved SIP. When EPA removed the approved

7.2 psi RVP fuel regulation from the Illinois SIP EPA was also obligated to remove this fuel type from the list of boutique fuels because this fuel type is no longer in any approved SIP.[3] Removal of this fuel type from the boutique fuels list has created room on the boutique fuels list. This may allow for approval of a new fuel type into a SIP and for it to be added to the list. However, the approval of a new fuel type into a SIP would be subject to certain restrictions as described in the December 28, 2006 Federal Register notice that established the list of boutique fuels. (See 71 FR 78193)

VI. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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:

[3] EPA has previously updated its State Fuels and Gasoline Reid Vapor Pressure web pages to reflect the removal of the 7.2 psi RVP requirement from the Illinois SIP.

- 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, August 10, 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: January 31, 2017.

Robert Kaplan,
Acting Regional Administrator, Region 5.

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