



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

**[EPA-HQ-OAR-2018-0172; FRL-9979-33-OAR]**

**RIN 2060-AT91**

**Relaxation of the Federal Reid Vapor Pressure (RVP) Gasoline Volatility Standard for Baton Rouge, Louisiana**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a request from Louisiana for EPA to relax the federal Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year for the Louisiana parishes of East Baton Rouge, West Baton Rouge, Livingston, Ascension, and Iberville (the Baton Rouge area). Specifically, EPA is proposing to amend the regulations to allow the RVP standard for the Baton Rouge area to change from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline. 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 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-2018-0172, to the Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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 disclosure of which is restricted by statute. If you need to include CBI as part of your comment, please visit <https://www.epa.gov/dockets/commenting-epa-dockets> 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.

For additional submission methods, the full EPA public comment policy, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Dave Sosnowski, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, Michigan, 48105; telephone number: (734) 214-4823; fax number: (734) 214-4052; e-mail address: [sosnowski.dave@epa.gov](mailto:sosnowski.dave@epa.gov). You may also contact Rudolph Kapichak at the same address; telephone number: (734) 214-4574; fax number: (734) 214-4052; e-mail address: [kapichak.rudolph@epa.gov](mailto:kapichak.rudolph@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. Statutory and Executive Order Reviews
- V. Legal Authority

**I. General Information**

*A. Does this action apply to me?*

Entities potentially affected by this proposed rule are fuel producers and distributors involved in the supplying of gasoline to the Baton Rouge area.

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 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

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

preamble.

*B. What is the Agency's authority for taking this action?*

The statutory authority for this action is granted to EPA by sections 211(h) and 301(a) of the CAA, as amended; 42 U.S.C. 7545(h) and 7601(a).

**II. Public Participation**

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 of this preamble by **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If 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*

EPA is proposing to approve a request from Louisiana to change the summertime federal RVP standard for the parishes of East Baton Rouge, West Baton Rouge, Livingston, Ascension, and Iberville (henceforth “the Baton Rouge area”) from 7.8 psi to 9.0 psi by amending EPA’s regulations at 40 CFR 80.27(a)(2). On April 10, 2017, the Louisiana Department of Environmental Quality (LDEQ or State) requested a relaxation of the federal RVP requirements. Before EPA could act on LDEQ’s request, the State needed to revise its approved section 175A maintenance plan and demonstrate 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 the Baton Rouge area would

not interfere with maintenance of any NAAQS, including the 2008 and 2015 ozone NAAQS, or any other applicable CAA requirement, under CAA section 110(l). This demonstration was performed and a revised maintenance plan was submitted to EPA for approval on January 31, 2018. On April 13, 2018, EPA proposed approval of Louisiana's maintenance revision and non-interference demonstration for the 2008 ozone NAAQS (83 FR 16017); EPA finalized its approval on May 25, 2018 (83 FR 24226).

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 Louisiana's request for the Baton Rouge area.

*B. History of the Gasoline Volatility Requirement*

On August 19, 1987 (52 FR 31274), 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), 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 that 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), 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 CAA section 211(h) to address fuel volatility. CAA section 211(h) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. CAA section 211(h) also prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that EPA may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to be consistent with 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, EPA will rely on states to initiate changes to their respective volatility programs. EPA's policy for approving such changes is described below in Section III.C.

*C. Relaxation of Gasoline Volatility Standards in Ozone Nonattainment Areas That Are Redesignated to Attainment*

As stated in the preamble for 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 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, 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, EPA will not relax the gasoline volatility standard unless the state requests a relaxation and the maintenance plan demonstrates that the area will maintain attainment for ten years without the need for the more stringent volatility standard. Similarly, a maintenance plan may be revised to relax the gasoline volatility standard if the state requests a relaxation and the maintenance plan demonstrates that the area will maintain attainment for the duration of the maintenance plan.

*D. Louisiana's Request to Relax the Federal Gasoline RVP Requirement for the Baton Rouge Area*

On April 10, 2017, LDEQ submitted a request to relax the federal gasoline RVP requirement in 16 parishes throughout the State, including the 5 parishes making up the Baton Rouge area. RVP relaxation for 11 of the parishes covered by the April 10, 2017 request was approved on December 26, 2017 (82 FR 60886). Louisiana did not request relaxation of the federal RVP standard from 7.8 psi to 9.0 psi when LDEQ originally submitted the CAA section 175A maintenance plan for the Baton Rouge area for the 2008 ozone NAAQS that was approved on December 27, 2016 (81 FR 95051). Therefore, LDEQ was required to revise the approved maintenance plan and to submit a CAA section 110(l) non-interference demonstration for the 5-parish Baton Rouge area to support the request to relax the federal RVP standard. Therefore, action on the 5-parish Baton Rouge area was deferred until LDEQ submitted (and EPA approved) a maintenance plan revision and CAA section 110(l) non-interference demonstration showing that the relaxation would not interfere with maintenance of the 2008 and 2015 ozone NAAQS or any other applicable CAA requirement.

On January 30, 2018, Louisiana submitted a CAA section 175A maintenance plan revision and section 110(l) non-interference demonstration to EPA. EPA finalized its approval of the maintenance plan revision and demonstration on May 25, 2018 (83 FR 24226). As part of the rulemaking on Louisiana's submission, EPA included a detailed evaluation of the maintenance plan revision and the CAA section 110(l) demonstration.

In today's action, EPA is proposing to approve Louisiana's request to relax the summertime ozone season gasoline RVP standard for the Baton Rouge area from 7.8 psi to 9.0 psi. Specifically, EPA is proposing to amend the applicable gasoline RVP standard to allow the gasoline RVP requirements at 40 CFR 80.27(a)(2) for the Baton Rouge area to change from 7.8 psi to 9.0 psi. Today's proposal relies on EPA's separate rulemaking that approved Louisiana's January 30, 2018 request to revise the approved maintenance plan for the Baton Rouge area for the 2008 ozone NAAQS and the submitted CAA section 110(l) non-interference demonstration as described in this document.

#### **IV. 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 therefore was not submitted to the Office of Management and Budget (OMB) for review.

*B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs*

This action is considered an Executive Order 13771 deregulatory action. This proposed rule, if finalized, would provide meaningful burden reduction because it would relax the federal RVP standard for gasoline, and as a result, fuel suppliers would no longer be required to provide the lower, 7.8 psi RVP gasoline in the 5 parishes during the summer months. Relaxing the volatility requirements would also be beneficial because this action can improve the fungibility of gasoline sold in Louisiana by allowing the gasoline sold in the 5 named parishes to be identical to the fuel sold in the remainder of the state.

*C. 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.

*D. Regulatory Flexibility Act (RFA)*

I certify that this action would 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 Louisiana, and gasoline distributors and retail stations in Louisiana. This action, if

finalized, would relax the federal RVP standard for gasoline sold in Louisiana's Baton Rouge area during the summertime ozone season to allow the RVP for gasoline sold in these parishes 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) RVP program. Therefore, this action would have no net regulatory burden for all directly regulated small entities.

*E. Unfunded Mandates Reform Act (UMRA)*

This proposed 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 would implement mandates that are specifically and explicitly set forth in CAA section 211(h) without the exercise of any policy discretion by EPA.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. It would 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.

*G. 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 proposed rule would affect only those refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for sale in the Baton

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

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. EPA has no reason to believe that this action may disproportionately affect children since Louisiana has provided evidence that a relaxation of the gasoline RVP will not interfere with its attainment of the ozone NAAQS for the Baton Rouge area, or any other applicable CAA requirement. By separate action, EPA has finalized its approval of Louisiana’s revised maintenance plan for the 2008 ozone NAAQS, including the state’s non-interference demonstration that relaxation of the gasoline RVP standard in the Baton Rouge area to 9.0 RVP will not interfere with any other NAAQS or CAA requirement.

*I. 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.

*J. National Technology Transfer Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

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

EPA believes the human health or environmental risk addressed by this action would 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. Louisiana has demonstrated in its non-interference demonstration that this action will not interfere with maintenance of the ozone NAAQS in the Baton Rouge area for the 2008 ozone NAAQS, or with any other applicable requirement of the CAA. 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 EPA's rulemaking for Louisiana's non-interference demonstration. A copy of Louisiana's April 10, 2017 letter requesting that EPA relax the gasoline RVP standard and the State's January 29, 2018 technical analysis demonstrating that the less stringent gasoline RVP would not interfere with continued maintenance of the 2008 ozone NAAQS in the Baton Rouge area, or with any other applicable CAA requirement, have been placed in the public docket for this action.

**V. Legal Authority**

The statutory authority for this action is granted to 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: June 6, 2018.

E. Scott Pruitt,

Administrator.

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