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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2018-0172; FRL 9985-76-OAR]

RIN 2060-AT91

Approval of Louisiana's Request to Relax the Federal Reid Vapor Pressure (RVP)

Gasoline Standard for the Baton Rouge Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action 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 approving amendments to the regulations to allow the gasoline RVP standard for the Baton Rouge Area to change from 7.8 pounds per square inch (psi) to 9.0 psi. EPA has determined that this change to the federal RVP regulation is consistent with the applicable provisions of the Clean Air Act (CAA).

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2018-0172. All documents in the docket are listed on the <https://www.regulations.gov>

website. Although listed in the index, some information may not be publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Office of Transportation and Air Quality, Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: (202) 343-9256; e-mail address: dickinson.david@epa.gov, or Rudolph Kapichak, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4574; e-mail address: kapichak.rudolph@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. EPA's Policy Regarding Relaxation of Gasoline Volatility Standards in Ozone Nonattainment Areas That Are Redesignated as Attainment Areas
- V. Louisiana's Request to Relax the Federal Gasoline RVP Requirement for the Baton Rouge Area
- VI. Response to Comments
- VII. Final Action
- VIII. Statutory and Executive Order Reviews

I. General Information

- A. Does this action apply to me?

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

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 EPA is aware that potentially could be affected by this rule. Other types of entities not listed on the table could also be affected. 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.

B. What is EPA'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 Clean Air Act (CAA), as amended; 42 U.S.C. 7545(h) and 7601(a).

II. Action Being Taken

¹ North American Industry Classification System.

This final rule approves a request from the state of Louisiana to change the federal Reid Vapor Pressure (RVP) summertime fuel standard for the parishes of East Baton Rouge, West Baton Rouge, Livingston, Ascension, and Iberville (the Baton Rouge Area) from 7.8 psi to 9.0 psi by amending EPA's regulations at 40 CFR 80.27(a)(2). This action finalizes EPA's June 14, 2018 proposal (83 FR 27740) which was subject to public notice and comment.

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 Louisiana's request for the five parishes addressed by this action; Section VI provides a response to the comments EPA received; and Section VII presents the final action in response to Louisiana's request.

III. 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) and 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 National Ambient Air Quality Standard (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 IV of this preamble.

The state of Louisiana initiated the change being finalized in this action by requesting that EPA relax the 7.8 psi RVP standard to 9.0 psi for the parishes of East Baton Rouge, West Baton Rouge, Livingston, Ascension, and Iberville. See Section V of this preamble for information specific to Louisiana's request.

IV. 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 EPA's amended Phase II volatility standards (56 FR 64706, December 12, 1991), 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 its duration.

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

On April 10, 2017, the Louisiana Department of Environmental Quality (LDEQ) submitted a request to relax the federal gasoline RVP requirement in 16 parishes throughout the State, including the five parishes making up the Baton Rouge Area.² 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

² EPA approved the State's request to relax the federal RVP standard for 11 of the parishes on December 26, 2017 (82 FR 60886).

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 Baton Rouge Area to support the request to relax the federal RVP standard. Because of this, action on the 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 with 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). The final approval was effective on June 25, 2018. As part of the rulemaking on Louisiana's submission, EPA included a detailed evaluation of the CAA section 175A maintenance plan revision and the CAA section 110(l) demonstration.

VI. Response to Comments

EPA received three comments on its June 14, 2018 proposal to relax the federal RVP standard from 7.8 psi to 9.0 psi for the Baton Rouge Area. Two of these comments were related to the proposal, and EPA has responded to them below. EPA also received an anonymous comment that was not related to any of the issues addressed in the proposal.

Comment: An organization representing the Louisiana oil and gas industry provided comments in support of the proposed relaxation of federal RVP standard in the Baron Rouge Area from 7.8 to 9.0 psi.

Response: EPA acknowledges that the commenter supported the proposal.

Comment: A commenter questioned the Agency's use of the statement that EPA "preliminarily determined" that relaxing RVP in Baton Rouge is appropriate.

Response: EPA qualified the word "determined" with the word "preliminarily" in order to indicate that we were proposing to relax the federal RVP standard in the Baton Rouge Area based on the findings associated with May 25, 2018 final rule, which approved Louisiana's maintenance plan revision and CAA section 110(l) non-interference demonstration. However, the June 14, 2018 notice of proposed rulemaking solicited public comments on whether relaxing the federal RVP standard should be approved. As such, EPA indicated in its proposal that a final determination that relaxing RVP in Baton Rouge is appropriate would not be made until EPA had accepted and responded to any relevant comments in the context of a final decision on the record. EPA is now making that final determination in this final rule and is relaxing the federal RVP standard from 7.8 psi to 9.0 psi.

VII. Final Action

EPA is taking final action to approve Louisiana's request for the Agency to relax the federal RVP standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year for the parishes of East Baton Rouge, West Baton Rouge, Livingston, Ascension, and Iberville. Specifically, this action revises the applicable federal RVP standard from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for the Baton Rouge Area. This approval is based on

Louisiana's April 10, 2017 request and EPA's final determination in its May 25, 2018 final rule, that the State, as required by CAA section 110(l), made an adequate demonstration to show that removal of this federal requirement would not interfere with maintenance of the 2008 ozone NAAQS in the Baton Rouge Area and is consistent with other CAA requirements including attainment of the 2015 ozone NAAQS.

VIII. 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 rule provides meaningful burden reduction because it relaxes the federal RVP standard for gasoline, and as a result, fuel suppliers will no longer be required to provide the lower, 7.8 psi RVP gasoline in the five parishes during the summer months. Relaxing the federal volatility requirements is also beneficial because this action can improve the fungibility of gasoline sold in Louisiana by allowing the gasoline sold in the Baton Rouge Area 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 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 Louisiana, and gasoline distributors and retail stations in Louisiana. This action relaxes 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 will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This rule does not contain an unfunded mandate of \$100 million or more as described in the UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small

governments. The action implements 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 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.

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 rule affects 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 federal gasoline RVP standard 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 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. 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 (83 FR 24226, May 25, 2018). 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 will 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.

L. 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).

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: October 15, 2018.

Andrew R. Wheeler,
Acting Administrator.

For the reasons set forth in the preamble, EPA amends 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. Section 80.27, paragraph (a)(2)(ii) is amended in the table by revising the entry for “Louisiana” and adding footnote 12 to 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

Louisiana ^{4,11,12}	9.0	9.0	9.0	9.0	9.0

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

* * * *

⁴The standard for Grant Parish from June 1 until September 15 in 1992 through 2007 was 7.8 psi.

* * * *

¹¹The standard for the Louisiana parishes of Beauregard, Calcasieu, Jefferson, Lafayette, Lafourche, Orleans, Pointe Coupee, St. Bernard, St. Charles, St. James, and St. Mary from June 1 until September 15 in 1992 through 2017 was 7.8 psi.

¹²The standard for the Louisiana parishes of East Baton Rouge, West Baton Rouge, Livingston, Ascension, and Iberville from June 1 until September 15 in 1992 through 2018 was 7.8 psi.

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