



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2018-0836; FRL-9993-60-OAR]

RIN 2060-AU43

Relaxation of the Federal Reid Vapor Pressure (RVP) Gasoline Volatility Standard for the Atlanta RVP Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a request from Georgia 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 following Georgia counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale (the “Atlanta RVP Area”). Specifically, EPA is proposing to amend the regulations to allow the RVP standard for the Atlanta RVP 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-2018-0836, 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 Once submitted, comments cannot be edited or withdrawn.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: David Dickinson, Office of Transportation and Air Quality, Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: (202) 343-9256; fax number: (202) 343-2804; e-mail address: dickinson.david@epa.gov. You may also contact Rudolph Kapichak, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor,

Michigan, 48105; telephone number: (734) 214-4574; fax number: (734) 214-4052; e-mail address: 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 Shelby County.

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 proposed rule. Other types of

¹ North American Industry Classification System.

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.

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 Georgia to change the summertime federal RVP standard for the Atlanta RVP Area from 7.8 psi to 9.0 psi by amending EPA's regulations at 40 CFR 80.27(a)(2). In a separate rulemaking, EPA has approved both a revised maintenance plan and CAA section 110(l) non-interference demonstration, which conclude 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 Atlanta RVP Area would not interfere with the maintenance of the ozone national ambient air quality standards (NAAQS) and the maintenance of the other NAAQS, or with any other applicable CAA requirement. (*See* 84 FR 16786, April 23, 2019.).

On July 18, 2016, Georgia submitted a redesignation request and maintenance plan for the 15-county 2008 ozone NAAQS, which EPA approved on June 2, 2017 (82 FR 25523).² The maintenance plan included estimated emissions through 2030 and modeled 7.8 psi for the RVP requirements in the Atlanta RVP Area. Georgia did not, at that time, request the relaxation of the federal RVP requirements for the Atlanta RVP Area. Since then, EPA has also designated a portion of the Atlanta RVP Area as a nonattainment area for the 2015 ozone NAAQS.³ More recently, Georgia requested a relaxation of the federal RVP requirements. This has necessitated a 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 the Atlanta RVP 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*). Therefore, by a subsequent rulemaking, EPA approved Georgia's non-interference demonstration and its related revised maintenance plan for the 15-county 2008 ozone NAAQS maintenance area. The subsequent rulemaking also approved Georgia's non-interference demonstration for the 7-county 2015 ozone

² The 15-county 2008 ozone NAAQS maintenance area includes the following counties: Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale. The 13-county Atlanta RVP Area covered by the federal RVP requirement includes the same counties with the exception of Bartow and Newton Counties.

³ EPA designated seven counties in the Atlanta RVP Area as nonattainment for the 2015 ozone NAAQS, the seven counties are: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett and Henry. (*See* 83 FR 25776, June 4, 2018.)

NAAQS nonattainment area.⁴

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. Section III.D. provides information specific to Georgia's request for the Atlanta RVP 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 (VOCs), 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

⁴ EPA approved Georgia's non-interference demonstration and revised maintenance plan on April 23, 2019 (84 FR 16786).

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 NAAQS attainment designation with respect to the 1-hour ozone NAAQS).

The 1990 CAA Amendments established 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 NAAQS 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

EPA stated in the amended Phase II volatility standards (56 FR 64706), that 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, 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 NAAQS 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.

In the context of this rulemaking, EPA must consider the applicability of its longstanding policy and practice of approving RVP relaxations in areas that are either designated attainment or have been redesignated to attainment for all relevant ozone NAAQS. As previously explained, given that a portion of the Atlanta RVP Area is a designated nonattainment area for the 2015 ozone NAAQS,⁵ EPA has also considered agency practices and policy for the approval of requests from states to opt out of reformulated gasoline (RFG) and removal of state fuel regulations from approved SIPs. With regard to state requests to opt out of RFG, EPA's RFG opt-out regulations allow for the approval of a state's request regardless of whether the area is either designated nonattainment or has been redesignated to attainment for the relevant ozone NAAQS (40 CFR 80.72). Further, EPA has approved the removal of state fuel regulations from an approved SIP where subject areas were designated nonattainment for an ozone NAAQS at the time of the action.⁶ EPA has extended these various practices and policy to Georgia's RVP relaxation request given that a portion of the Atlanta RVP Area is also designated as nonattainment area for the 2015 ozone NAAQS.⁷ Given past actions with respect to ozone NAAQS nonattainment areas, EPA is proposing to approve relaxations of the federal 7.8 psi RVP standard in areas that are designated as nonattainment.

⁵ EPA designated seven counties in the Atlanta RVP Area as nonattainment for the 2015 ozone NAAQS, the seven counties are: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett and Henry. (*See* 83 FR 25776, June 4, 2018.)

⁶ For example, on December 20, 2018 (83 FR 65301), EPA approved the removal of Pennsylvania's regulation requiring the sale of gasoline with an RVP of 7.8 psi from June 1st to September 15th of each year in the Pittsburgh area, which is designated as a Marginal nonattainment area for the 2008 ozone NAAQS.

⁷ EPA designated seven counties in the Atlanta area as nonattainment for the 2015 ozone NAAQS, the seven counties are: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett and Henry. (*See* 83 FR 25776, June 4, 2018.)

The primary requirement in approving RFG opt-out requests and SIP revisions to remove approved fuel regulations is that the subject state must demonstrate that the relevant area will be able to attain the ozone NAAQS by the required attainment date without relying on emissions reductions from RFG or the state fuel regulation. This has been accomplished by the state submitting and EPA approving a SIP revision that includes an appropriate CAA section 110(*l*) non-interference demonstration. In most cases, this has necessitated that the state SIP revision includes additional controls on emissions that will offset any increased emissions. The CAA section 110(*l*) requirement also applies to the relaxation of the federal 7.8 psi RVP limit. Therefore, where EPA approves a CAA section 110(*l*) non-interference demonstration associated with an RVP relaxation for an ozone NAAQS nonattainment area, EPA may approve a relaxation of the gasoline RVP limit from 7.8 psi to 9.0 psi consistent with EPA's precedent to date.

D. Georgia's Request to Relax the Federal Gasoline RVP Requirement for the Atlanta RVP Area

On August 15, 2018, the Georgia Department of Natural Resources, Environmental Protection Division (Georgia or State), submitted a request to relax the federal gasoline RVP requirement in the Atlanta RVP Area. The State also submitted a CAA section 110(*l*) non-interference demonstration and revised maintenance plan for approval by EPA. The non-interference demonstration shows that the relaxation would not interfere with maintenance of the 2008 ozone NAAQS for the 15-county 2008 ozone NAAQS maintenance area or any other applicable CAA requirement, including the 2015 ozone NAAQS. As previously explained, Georgia did not request relaxation of the federal RVP standard from 7.8 psi to 9.0 psi when the

State originally submitted the CAA section 175A maintenance plan for the 2008 ozone NAAQS that was approved on June 2, 2017 (82 FR 25523). Georgia's CAA section 110(l) non-interference demonstration for the 2015 ozone NAAQS demonstrated that timely attainment for the 2015 ozone NAAQS would not be delayed if the federal RVP standard was relaxed. This was accomplished by including additional controls that serve to reduce emissions to make up the emission reductions that are removed through the relaxation of the federal RVP limit from 7.8 psi to 9.0 psi.

On April 23, 2019, EPA approved Georgia's August 15, 2018 request for a revised maintenance plan approval and its CAA section 110(l) non-interference demonstration. In that rulemaking, EPA included an evaluation of Georgia's CAA section 110(l) non-interference demonstration for the 15-county 2008 ozone NAAQS maintenance area and the 7-county 2015 ozone NAAQS nonattainment area (including the additional control measures incorporated into the SIP to ensure timely attainment of the 2015 ozone NAAQS).⁸ EPA received one comment on this rulemaking that supported EPA's approval of Georgia's request but conditioned the support based on EPA establishing a compliance date for the relaxation that would not disrupt the marketplace or negatively impact retailers and marketers. EPA noted that this comment was outside the scope of that rulemaking, which was related to the approval of a revised maintenance plan and CAA section 110(l) demonstration. The compliance date of a relaxation of the RVP limit would be established through this rulemaking, which, if finalized, will revise the RVP limit for the Atlanta area from 7.8 psi to 9.0 psi.

⁸ For further details, see 84 FR 16786 (April 23, 2019).

In today's action, EPA is proposing to approve Georgia's request to relax the summertime ozone season federal RVP gasoline standard for the Atlanta RVP Area from 7.8 psi to 9.0 psi. Specifically, EPA is proposing to amend the applicable standard to allow the gasoline RVP requirements at 40 CFR 80.27(a)(2) for the counties in the Atlanta RVP Area to change from 7.8 psi to 9.0 psi. Today's proposal is based on Georgia's August 15, 2018 submission of a CAA section 110(l) non-interference demonstration and maintenance plan revision, and EPA's April 23, 2019 approval of Georgia's submission.

EPA believes that a final rule that raises the RVP standard for gasoline from 7.8 psi to 9.0 psi would be "a substantive rule which . . . relieves a restriction" within the meaning of 5 U.S.C. 553(d)(1). Accordingly, EPA may decide to make the publication date of a final rule based on this proposal serve as the compliance date of the final rule.

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 RVP gasoline in the Atlanta RVP Area during the summer months. Relaxing the volatility requirements would also be beneficial because this action, if finalized, could improve the fungibility of gasoline sold in Georgia by allowing the gasoline sold in the Atlanta RVP 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 Georgia, and gasoline distributors and retail stations in Georgia. This action, if finalized, would relax the federal RVP standard for gasoline sold in the Atlanta RVP Area during the summertime ozone season (June 1 to September 15 of each year) to allow the RVP for gasoline sold in this area to rise from 7.8 psi to 9.0 psi. This rule does not impose any requirements or

create impacts on small entities beyond those, if any, already required by or resulting from the CAA section 211(h) Volatility Control program. Therefore, this action, if finalized, 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 Atlanta RVP 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 Georgia has provided evidence that a relaxation of the gasoline RVP will not interfere with its attainment of the ozone NAAQS or any other applicable CAA requirement. By separate action, EPA has approved Georgia’s non-interference demonstration regarding its maintenance plan for the 2008 ozone NAAQS for the 15-county 2008 ozone NAAQS maintenance area, and that Georgia’s relaxation of the gasoline RVP standard in the Atlanta RVP Area to 9.0 RVP will not interfere with any other NAAQS (including attainment of the 2015 ozone 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 (i.e., the 2008 and 2015 ozone NAAQS), which establish the level of protection provided to human health or the environment. Georgia has demonstrated in its non-interference demonstration that this action will not interfere with maintenance of the 2008 ozone NAAQS for the 15-county 2008 ozone NAAQS maintenance area, or with any other applicable requirement of the CAA, including timely attainment of the 2015 ozone NAAQS. 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 proposed and final rules for Georgia's non-interference demonstration. A copy of Georgia's August 15, 2018 letter requesting that EPA relax the gasoline RVP standard, including the technical analysis demonstrating that the less stringent gasoline RVP would not interfere with continued maintenance of the 2008 ozone NAAQS or with any other applicable CAA requirement, including timely attainment of the 2015 ozone NAAQS, has 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: May 7, 2019.

Andrew R. Wheeler,

Administrator.

[FR Doc. 2019-09929 Filed: 5/13/2019 8:45 am; Publication Date: 5/14/2019]