



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2013-0562; FRL- 9905-70-Region-4]**

Approval and Promulgation of Implementation Plans; North Carolina:

Non-interference Demonstration for Removal of Federal Low-Reid Vapor Pressure Requirement  
for the Greensboro/Winston-Salem/High Point Area

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the State of North Carolina's April 12, 2013, State Implementation Plan (SIP) revision to its approved maintenance plan for the Greensboro/Winston-Salem/High Point 1997 8-hour Ozone Maintenance Area (Triad). Specifically, North Carolina's SIP revision, including updated modeling, shows that the Triad Area would continue to maintain the 1997 8-hour ozone standard if the currently applicable Federal Reid Vapor Pressure (RVP) standard for gasoline of 7.8 pounds per square inch (psi) were modified to 9.0 psi for four portions (Davidson, Forsyth, Guilford and Davie Counties) of the "Triad Area" during the high-ozone season. The State has included a technical demonstration with the SIP revision to demonstrate that a less-stringent RVP standard of 9.0 psi in these portions of this area would not interfere with continued maintenance of the 1997 8-hour ozone national ambient air quality standards (NAAQS) or any other applicable standard.

Approval of this SIP revision is a prerequisite for EPA's consideration of an amendment to the regulations to remove the aforementioned portions of the Triad Area from the list of areas that

are currently subject to the Federal 7.8 psi RVP requirements. In addition, the revised on-road mobile and non-road mobile source emissions modeling associated with the requested modification to the RVP standard utilizes the updated Motor Vehicle Emissions Simulator (MOVES) and NONROAD2008 models which are the most current versions of modeling systems available for these sources. EPA has determined that North Carolina's April 12, 2013, SIP revision with respect to the revisions to the modeling and associated technical demonstration associated with the State's request for the removal of the Federal 7.8 psi RVP requirements, and with respect to the updated on-road mobile, non-road mobile and area source emissions, is consistent with the applicable provisions of the Clean Air Act (CAA or Act). Should EPA decide to remove the subject portions of the Triad Area from those areas subject to the 7.8 psi Federal RVP requirements, such action will occur in a subsequent rulemaking.

**DATES:** This rule will be effective on [insert 30 days after publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2013-0562. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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 either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division,

U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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- I. Background of the Triad Area**

On November 6, 1991 (56 FR 56694), EPA designated the Counties of Davidson, Forsyth and Guilford in their entirety and the portion of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River in the Triad Area as moderate nonattainment for the 1-hour ozone NAAQS. Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain volatility standards (known as Reid Vapor Pressure or RVP) for gasoline sold commercially. *See* 55 FR 23658 (June 11, 1990). As discussed in greater detail below, as part of the RVP requirements associated with the nonattainment designation, gasoline sold in the Triad 1-hour ozone nonattainment area could not exceed 7.8 psi RVP during the high-ozone season months.

Following implementation of the 7.8 psi RVP requirement in the Triad Area, on September 9, 1993, the Triad Area was redesignated to attainment for the 1-hour ozone NAAQS, based on 1989-1992 ambient air quality monitoring data. *See* 58 FR 47391. North Carolina's November 13, 1992, 1-hour ozone redesignation request did not include a request for the removal of the 7.8 psi RVP standard. The requirements remained in place for the Area when it was designated nonattainment for the 1997 8-hour ozone NAAQS that was promulgated on July 18, 1997, and later designated attainment for the 2008 8-hour ozone NAAQS that was promulgated March 12, 2008. *See* 77 FR 30088 (May 21, 2012).

On April 30, 2004, EPA designated and classified areas for the 1997 8-hour ozone NAAQS (69 FR 23857) unclassifiable/attainment or nonattainment for the new 8-hour ozone NAAQS. The Triad Area was designated as nonattainment with a deferred effective date as part

of the Early Action Compact (EAC)<sup>1</sup> program. (For more information on the EAC program, see, [http://www.epa.gov/airquality/eac/fs20080331\\_eac.html](http://www.epa.gov/airquality/eac/fs20080331_eac.html).) The Greensboro-Winston Salem-High Point nonattainment-deferred EAC Area for the 1997 8-hour ozone NAAQS expanded the Triad Area to include the entire county of Davie, and Alamance, Caswell, Randolph, and Rockingham Counties in their entirety. The Greensboro-Winston Salem-High Point EAC Area attained the 1997 8-hour ozone NAAQS with a design value of 0.083 parts per million (ppm) using three years of quality assured data for the years of 2005-2007. On February 6, 2008, EPA proposed that 13 nonattainment areas with deferred effective dates, including the Greensboro-Winston Salem-High Point Area, be designated attainment for the 1997 8-hour ozone NAAQS. *See* 73 FR 6863. These areas met all of the milestones of the EAC program and demonstrated that they were in attainment of the 1997 8-hour ozone NAAQS as of December 31, 2007. This rulemaking was finalized on April 2, 2008. *See* 73 FR 17897. Effective April 15, 2008, the Greensboro-Winston Salem-High Point EAC Area was designated as attainment for the 1997 8-hour ozone NAAQS. However, these attainment areas were required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA. As required, these plans provide for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of these areas' designation as attainment for the 1997 8-hour ozone NAAQS. These plans also include components illustrating how each area will continue to attain the 1997 8-hour ozone NAAQS and provided contingency measures.

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<sup>1</sup> An EAC is an agreement between a State, local governments and EPA to implement measures not necessarily required by the Act in order to achieve cleaner air as soon as possible. The program was designed for areas that approach or monitor exceedances of the 8-hour ozone standard, but are in attainment for the 1-hour ozone NAAQS.

## **II. Background of the Gasoline Volatility Requirement**

On August 19, 1987 (52 FR 31274), EPA determined that gasoline nationwide had become 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 or 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 section 211(c) of CAA, EPA promulgated regulations on March 22, 1989 (54 FR 11868), that set maximum limits for the RVP of gasoline sold during the high ozone season. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of commercial gasoline during the summer ozone control 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 during the high ozone season).

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. 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. Section 211(h) 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 section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations were retained as contained in the original Phase II Rule published on June 11, 1990 (55 FR 23658).

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 EPA's volatility program that they believe will enhance local air quality and/or increase the economic efficiency of the program within the statutory limits.<sup>2</sup> In those rulemakings, EPA explained that the governor of a state may petition EPA to set a volatility standard less stringent than 7.8 psi for some month or months in a nonattainment area. The petition must demonstrate such a change is appropriate because of a particular local economic impact and that sufficient alternative programs are available to achieve attainment and maintenance of the 1-hour ozone NAAQS. A current listing of the RVP requirements for states can be found on EPA's website at: <http://www.epa.gov/otaq/fuels/gasolinefuels/volatility/standards.htm>.

As explained in the December 12, 1991 (56 FR 64704), Phase II rulemaking, EPA believes that relaxation of an applicable RVP standard is best accomplished in conjunction with the redesignation process. As noted above, however, North Carolina did not request relaxation of the applicable 7.8 psi RVP standard when the Triad Area was redesignated to attainment for

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<sup>2</sup> See 55 FR 23658 (June 11, 1990), 56 FR 24242 (May 29, 1991) and 56 FR 64704 (Dec. 12, 1991).

the either the 1-hour or the 1997 8-hour ozone NAAQS. Rather, North Carolina is now seeking to relax the 7.8 psi RVP standard after the Triad Area has been redesignated to attainment for the 1997 8-hour ozone NAAQS. Accordingly, the original modeling and maintenance demonstration supporting the 1997 8-hour ozone maintenance plan must be revised to reflect continued attainment under the relaxed 9.0 psi RVP standard that the State has requested.

### **III. This Action**

On November 26, 2013 (78 FR 70516), EPA proposed approval of North Carolina's April 12, 2013, revision to the State's approved 1997 8-hour ozone maintenance plan for the Triad area. Specifically, North Carolina's revision, including updated modeling, shows that the Triad Area would continue to maintain the 1997 8-hour ozone standard if the currently applicable RVP standard for gasoline from 7.8 psi were modified to 9.0 psi during the high-ozone season. In addition, the revised on-road mobile and non-road mobile source emissions modeling associated with the requested modification to the RVP standard results in the use of the updated Motor Vehicle Emissions Simulator (MOVES) and NONROAD2008 models which are the most current versions of modeling systems available for these sources. No adverse comments and one supportive comment were received on this proposed action.<sup>3</sup> EPA is hereby finalizing approval of the revision.

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<sup>3</sup> EPA notes that the supportive comment also requested that any separate action to remove the Triad Area from those areas subject to the more stringent 7.8 psi RVP requirements be done through a direct final rulemaking action. As described in the proposed rule for today's action, and reiterated in this final rule, any action to remove the Triad Area from the more stringent 7.8 psi RVP requirements will be done through a separate action. Any comments regarding that separate action should be submitted in response to such action. EPA does not view this request as relevant to today's action approving revisions to the Triad Area 110(a)(1) maintenance plan.

This rulemaking approves a revision to the 1997 8-hour ozone Maintenance Plan for the Triad Area submitted by the NC DENR. Specifically, EPA is approving changes to the maintenance plan, including updated modeling that shows that the Triad Area can continue to maintain the 1997 ozone standard without reliance on emission reductions based upon the use of gasoline with an RVP of 7.8 psi in any of the Triad Area counties during the high ozone season – June 1 through September 15. EPA is also concluding that the new modeling demonstrates that the area would continue to attain the 1997 8-hour ozone standard with the use of gasoline with an RVP of 9.0 psi throughout the Triad Area during the high ozone season. Consistent with section 110(l) of the Act, EPA also concludes that the use of gasoline with an RVP of 9.0 psi throughout the Maintenance Plan Areas during the high ozone season would not interfere with other applicable requirements of the Act.

Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) (as defined in section 171), or any other applicable requirement of the Act. To determine the approvability of North Carolina's April 12, 2013, SIP revision, EPA considers whether the requested action complies with section 110(l) of the CAA. Because the modeling associated with the current maintenance plan for North Carolina is premised in part upon the 7.8 psi RVP requirements, a request to revise the maintenance plan modeling to no longer rely on the 7.8 psi RVP requirement is subject to the requirements of CAA section 110(l). Therefore, the State must demonstrate that this revision will not interfere with the attainment or maintenance of any of the NAAQS or any other applicable requirement of the CAA.

This section 110(l) non-interference demonstration is a case-by-case determination based upon the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS

that are in effect, including those that have been promulgated but for which the EPA has not yet made designations. The specific elements of the 110(l) analysis contained in the SIP revision depend on the circumstances and emissions analyses associated with that revision. EPA's analysis of North Carolina's April 12, 2013, SIP revision, including review of section 110(l) requirements can be found in the proposed rule published on November 26, 2013, at 78 FR 70516.

This rulemaking is only approving the State's revision to its existing maintenance plan for the Triad Area showing that the area can continue to maintain the standard without relying upon gasoline with an RVP of 7.8 psi being sold in the Triad Area during the high ozone season.

#### **IV. Final Action**

EPA is approving the State of North Carolina's April 12, 2013, revision to its 110(a)(1) Maintenance Plan for the Triad 1997 8-hour Ozone Maintenance Area. Specifically, EPA is approving the State's showing that the Triad Area can continue to maintain the 1997 ozone standard without emissions reductions associated with the use of gasoline with an RVP of 7.8 psi in the four Triad Area counties during the high ozone season – June 1 through September 15.

In addition, EPA is approving an updated on-road mobile, non-road mobile and area source emissions for the Triad Area. EPA has determined that North Carolina's April 12, 2013, SIP revision, including the technical demonstration associated with the State's request for the removal of the Federal RVP requirements, and the updated on-road mobile, non-road mobile and area source emissions are consistent with the applicable provisions of the CAA. Should EPA decide to remove subject portions of the Triad Area from those areas subject to the 7.8 psi Federal RVP requirements, such action will occur in a separate, subsequent rulemaking.

## V. Statutory and Executive Order Reviews

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

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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, October 7, 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for

reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Reporting and recordkeeping requirements and Volatile organic compounds.

Dated: January 10, 2014.

A. Stanley Meiburg,  
Acting Regional Administrator,  
Region 4.

40 CFR part 52, is amended as follows:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

**Subpart II—North Carolina**

2. Section 52.1770(e) is amended by adding a new entry for “Supplement Maintenance Plan for the Greensboro/Winston-Salem/High Point Area, NC 1997 8-hour Ozone Maintenance Area and RVP Standard.” at the end of the table to read as follows:

**§ 52.1770 Identification of plan.**

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(e) \* \* \*

EPA-Approved North Carolina non-regulatory provisions

<b>Provision</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Federal Register citation</b>	<b>Explanation</b>
**	**	*	*	*
Supplement Maintenance Plan for the Greensboro/Winston-Salem/High Point Area, NC 1997 8-hour Ozone Maintenance Area and RVP Standard	4/2/2013	[Insert date of publication in <u>Federal Register</u> ]	[Insert citation of publication]	

[FR Doc. 2014-01330 Filed 01/23/2014 at 8:45 am; Publication Date: 01/24/2014]