



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0136; FRL-9964-56-Region 4]

Air Plan Approval; TN: Non-interference Demonstration for Federal Low-Reid Vapor Pressure Requirement in Shelby County

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a noninterference demonstration that evaluates whether the change for the Federal Reid Vapor Pressure (RVP) requirements in Shelby County (hereinafter referred to as the “Area”) would interfere with the Area’s ability to meet the requirements of the Clean Air Act (CAA or Act). Tennessee submitted through the Tennessee Department of Environment and Conservation (TDEC), on April 12, 2017, a noninterference demonstration on behalf of the Shelby County Health Department requesting that EPA change the RVP requirements for Shelby County. Specifically, Tennessee’s noninterference demonstration concludes that relaxing the federal RVP requirement from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline sold between June 1 and September 15 of each year in Shelby County would not interfere with attainment or maintenance of the national ambient air quality standards (NAAQS or standards) or with any other CAA requirement.

DATES: This rule is effective [insert date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No.

EPA-R04-OAR-2017-0136. All documents in the docket are listed on the 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 or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation 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 a.m. to 4:30 p.m., excluding federal holidays.

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

SUPPLEMENTARY INFORMATION:

I. What is the Background for this Final Action?

On April 12, 2017, Tennessee submitted a request that EPA relax the federal RVP requirement from 7.8 psi to 9.0 psi for gasoline sold between June 1 and September 15 of each year (i.e., during high ozone season) in Shelby County. As part of that request, Tennessee evaluated whether removal of this requirement would interfere with air quality in Shelby County. To make this demonstration of noninterference, Tennessee completed a technical analysis,

including modeling, to estimate the change in emissions that would result from a switch to 9.0 psi RVP fuel in Shelby County. In a notice of proposed rulemaking (NPR) published on May 11, 2017 (82 FR 21966), EPA proposed to approve the State's noninterference demonstration. The details of Tennessee's submittal and the rationale for EPA's actions are explained in the NPR. EPA did not receive any adverse comments on the proposed action.

II. Final Action

EPA is approving Tennessee's April 12, 2017, noninterference demonstration supporting the State's request to relax the RVP standard to 9.0 psi in Shelby County. EPA has determined that the change in the RVP requirements for Shelby County will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA.

EPA has determined that Tennessee's April 12, 2017, RVP-related SIP revision is consistent with the applicable provisions of the CAA for the reasons provided in the NPR. Through this action, EPA is not removing the federal 7.8 psi RVP requirement for Shelby County. Any such action would occur in a separate rulemaking.

In accordance with 5 U.S.C. 553(d), EPA finds that there is good cause for this action to become effective immediately upon publication. This is because a delayed effective date is unnecessary because today's action approves a noninterference demonstration that will serve as the basis of a subsequent action to relieve the Area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule grants or recognizes an exemption or relieves a restriction, and section 553(d)(3), which allows an effective date less than 30 days after publication as otherwise provided by the agency for good cause found and published with the rule. The purpose of the

30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this rule will serve as a basis for a subsequent action to relieve the Area from certain CAA requirements. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective on the date of publication of this action.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR part 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 after date of publication 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 22, 2017.

V. Anne Heard,
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 RR-Tennessee

2. In §52.2220, the table in paragraph (e) is amended by adding the entry “Non-interference Demonstration for Federal Low-Reid Vapor Pressure Requirement in Shelby County” at the end of the table to read as follows:

§52.2220 Identification of plan.

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(e) * * *

EPA-Approved Tennessee Non-Regulatory Provisions

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
**	**	**	*	
Non-interference Demonstration for Federal Low-Reid Vapor Pressure Requirement in Shelby County	Shelby County	4/12/2016	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

[FR Doc. 2017-14202 Filed: 7/6/2017 8:45 am; Publication Date: 7/7/2017]