

The EPA Administrator, Scott Pruitt, signed the following final rule on 05/31/2017, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of public comment. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDSys website ([www.gpo.gov/fdsys/search/home.action](http://www.gpo.gov/fdsys/search/home.action)) and on Regulations.gov ([www.regulations.gov](http://www.regulations.gov)) in Docket No. EPA-HQ-OAR-2016-0631. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

**6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 80**

**[EPA-HQ-OAR-2016-0631; FRL-XXXX-XX-OAR]**

**RIN XX**

### **Approval of Tennessee's Request to Relax the Federal Reid Vapor Pressure Gasoline Volatility Standard for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties; and Minor Technical Corrections for Federal Reid Vapor Pressure Gasoline Volatility Standards in Other Areas**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a request from the state of Tennessee for EPA to relax the Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year in Davidson, Rutherford, Sumner, Williamson, and Wilson Counties (the Middle Tennessee Area). Specifically, EPA is approving amendments to the regulations to allow the gasoline RVP standard for the five counties to rise 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

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(CAA). Finally, EPA is making several minor technical corrections to address clerical errors made in prior rulemakings that relaxed the gasoline RVP standard in other areas.

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

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2016-0631. All documents in the docket are listed on the [www.regulations.gov](http://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 [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** David Dickinson, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: (202) 343-9256; e-mail address: [dickinson.david@epa.gov](mailto:dickinson.david@epa.gov), or Rudolph Kapichak, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4574; 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. Action Being Taken

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- 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. Tennessee’s Request to Relax the Federal Gasoline RVP Requirement for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties
- VI. Response to Comments
- VII. Final Action
- VIII. Technical Corrections
- IX. Statutory and Executive Order Reviews
- X. Legal Authority and Statutory Provisions

Effective date. Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C.

Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the Federal Register. EPA is issuing this final rule under CAA section 307(d)(1) which states: “The provisions of section 553 through 557. . . of Title 5 shall not, except as expressly provided in this subsection, apply to actions to which this subsection applies.” Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the policies underlying APA section 553(d) in making this rule effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. APA section 553(d) allows an effective date less than 30 days after publication for a rule “that grants or recognizes an exemption or relieves a restriction.” 5 U.S.C. 553(d)(1). This rule fits within that exception because it lifts a restriction on the introduction into commerce of gasoline with an RVP of greater than 7.8 psi sold in Davidson, Rutherford, Sumner, Williamson, and Wilson Counties between

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June 1 and September 15 of each year. Because this action can be considered to relieve a restriction that would otherwise prevent the introduction into commerce of gasoline with an RVP of greater than 7.8 psi, EPA is making this action effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

I. General Information

A. Does this action apply to me?

Entities potentially affected by this rule are fuel producers and distributors who do business in the Middle Tennessee 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 rule. Other types of entities not listed on the table could also be affected by this rule. 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, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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

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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 CAA, as amended; 42 U.S.C. 7545(h) and 7601(a).

II. Action Being Taken

This final rule approves a request from the state of Tennessee to change the summertime gasoline RVP standard for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties from 7.8 psi to 9.0 psi by amending EPA's regulations at 40 CFR 80.27(a)(2). In a previous rulemaking, EPA approved a maintenance plan revision for the Middle Tennessee Area for the 1997 ozone national ambient air quality standard (NAAQS) and a CAA section 110(l) non-interference demonstration that relaxing the federal RVP gasoline requirement from 7.8 psi to 9.0 psi for gasoline sold from June 1 to September 15 of each year would not interfere with maintenance of the NAAQS in the Middle Tennessee Area. For more information on EPA's approval of Tennessee's maintenance plan revision for the Middle Tennessee Area and the CAA section 110(l) non-interference demonstration, please refer to the May 1, 2017 rulemaking. (82 FR 20260).

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 Tennessee's request for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties. Section VI. provides a response to the comments EPA received. Section VII. presents the final action in response to Tennessee's request. Finally, Section VIII.

provides an explanation of the minor technical corrections being made to 40 C.F.R. section 80.27(a)(2)(ii).

### 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 (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 the 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 gasoline 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 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 action.

The state of Tennessee has initiated this change by requesting that EPA relax the 7.8 psi gasoline RVP standard to 9.0 psi for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties, which are subject to the 7.8 gasoline RVP requirement during the summertime ozone season. Accordingly, the state of Tennessee provided a technical demonstration showing that relaxing the federal gasoline RVP requirements in the five

counties from 7.8 psi to 9.0 psi would not interfere with maintenance of the NAAQS in the Middle Tennessee Area or with any other applicable CAA requirement. See Section V. of this action for information specific to Tennessee's request for the Middle Tennessee Area.

IV. EPA's Policy Regarding Relaxation of Gasoline Volatility Standards in Ozone Nonattainment Areas That Are Redesignated as Attainment Areas

As stated in the rulemaking for EPA's amended Phase II volatility standards (56 FR 64706), any change in the 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 RVP gasoline requirement remains in effect, even after such an area is redesignated to attainment, until a separate rulemaking is completed that relaxes the federal RVP gasoline 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(a), 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 gasoline volatility standard or that the more stringent gasoline

volatility standard may be necessary for the area to maintain attainment of 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 to the satisfaction of EPA that the area will maintain attainment for ten years without the need for the more stringent volatility standard.

V. Tennessee's Request to Relax the Federal Gasoline RVP Requirement for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties

On November 21, 2016, the state of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), submitted a request to revise its CAA section 110(a)(1) maintenance plan for the 1997 ozone NAAQS for the Middle Tennessee Area. The revised maintenance plan adjusts the on-road emissions inventory and maintenance demonstration so that they account for removal of the federal requirement to sell 7.8 psi gasoline and instead sell gasoline with an RVP of 9.0 psi during the summer ozone season. As part of its request, TDEC also submitted a CAA section 110(l) non-interference demonstration that removal of the federal RVP requirement of 7.8 psi for gasoline during the summertime ozone season for the Middle Tennessee Area would not interfere with maintenance of any NAAQS, including the 1997 and 2015 ozone NAAQS. Specifically, the State provided a technical demonstration showing that relaxing the federal gasoline RVP requirement in the five counties, from 7.8 psi to 9.0 psi, would not interfere with maintenance of the ozone NAAQS or with any other applicable requirement of the CAA.

On February 24, 2017, EPA proposed to approve the revised maintenance plan and section 110(l) non-interference demonstration. The proposal provided an opportunity

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for the public to comment on the action. (82 FR 11517). EPA received no comments on the proposal to approve the revised maintenance plan request and the non-interference demonstration for the Middle Tennessee Area. In a May 1, 2017 final rule, EPA approved Tennessee's November 21, 2016 revised maintenance plan for the Middle Tennessee Area. (82 FR 20260). The revised CAA section 110(a)(1) maintenance plan provides for continued attainment and maintenance of the 1997 ozone NAAQS. In this final rule, EPA also approved Tennessee's non-interference demonstration for the Middle Tennessee Area.

In today's action, EPA is taking the final step in the process to approve Tennessee's request to relax the summertime ozone season gasoline RVP standard for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties from 7.8 psi to 9.0 psi. Specifically, EPA is amending the applicable gasoline RVP standard from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for the five counties. This action is based on EPA's May 1, 2017 approval of Tennessee's November 21, 2016 revised maintenance plan request and the non-interference demonstration.

EPA's proposal to amend the applicable gasoline RVP standard from 7.8 psi to 9.0 psi (April 12, 2017, 82 FR 17597) was subject to public notice-and-comment. EPA received seven comments on its proposal. These comments are discussed in Section VI. below.

Finally, EPA is approving this change to 40 CFR part 80 based on a request from the State and because EPA made a final determination in its May 1, 2017 final rule (82 FR 20260) that the State made an adequate demonstration to show that removal of this federal requirement would not interfere with air quality in the Middle Tennessee Area.

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Further, this final action is consistent with CAA requirements. Based upon these factors, EPA is approving Tennessee's request to relax the federal RVP gasoline requirements in the Middle Tennessee Area from 7.8 psi to 9.0 psi.

#### VI. Response to Comments

EPA received seven comments on its April 12, 2017 proposal to relax the gasoline standard from 7.8 psi to 9.0 psi. EPA believes that all of these comments are outside the scope of today's action as discussed further below.

*Comment:* EPA received six comments that expressed a general concern that the relaxation of the RVP gasoline standard would result in a negative impact on air quality.

*Response:* These comments, which are outside the scope of today's final rule, pertain to issues that have already been addressed in the May 1, 2017 rulemaking that evaluated the State's demonstration of potential air quality impacts of changing the summertime gasoline standard in the Middle Tennessee Area. (82 FR 20260). At proposal, EPA evaluated the impacts on air quality associated with the change in RVP requirements and determined that any such impacts will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA as required by CAA section 110(l). (82 FR 11517, 11520-11522, February 24, 2017). EPA received no adverse comments on that proposal, which was subject to a 30-day notice and comment opportunity for the public. Further, in the April 12, 2017 proposal to this action, EPA did not reopen the May 1, 2017 rulemaking for public comments.

*Comment:* EPA received another comment concerning the impact of the 1.0 psi RVP waiver that is provided to gasoline containing 10 percent ethanol.<sup>2</sup> The commenter

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<sup>2</sup> See CAA section 211(h)(4).

expressed several concerns with the 1.0 psi waiver, as well as a concern with the potential impacts of relaxing the summertime gasoline standard on the ability of the area to attain the 2015 ozone NAAQS. The commenter also asked for clarification of how Tennessee calculated emissions changes resulting from increasing the RVP of gasoline sold in the Area.

*Response:* The commenter's general concern with the national 1.0 psi waiver for gasoline containing 10 percent ethanol are beyond the scope of this rulemaking. Moreover, CAA section 211(h)(4) specifically allows the RVP limits for fuel blends containing gasoline and 10 percent ethanol to be 1.0 psi greater than the applicable regulatory RVP limits established in accordance with CAA section 211(h)(1). In this rulemaking, EPA is merely revising the summertime RVP limit for the Middle Tennessee Area pursuant to a request from the State, which the State supported with the demonstration that the area will continue to maintain the 1997 ozone NAAQS, and that the RVP increase will not interfere with the Area's ability to attain other NAAQS including the 2015 ozone NAAQS or interfere with any other CAA requirement.

With regard to the possibility that the summertime gasoline RVP increase could jeopardize the area's ability to remain in attainment with the 2015 ozone NAAQS of 70 ppb, as previously explained, this comment is beyond the scope of this rulemaking. Further, as also previously explained, the proposal for the May 1, 2017 rulemaking contained an evaluation of the air quality impacts associated with the change in RVP requirements and determined that any such impacts will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA as required by CAA section 110(l). Thus, EPA, in a prior rulemaking, which included

extensive information and data from the State, such as the projection of the design values and the effect of slight increases in emissions associated with the RVP relaxation, has concluded that the Area would continue to attain any ozone NAAQS, including the 2015 ozone NAAQS, after the RVP relaxation. (82 FR 20260, May 1, 2017). In the February 24, 2017 proposal, EPA had also provided adequate opportunity for public comments on the CAA section 110(l) non-interference demonstration as well as the extensive information that supported the demonstration. No adverse comments were received on that proposal. The proposed notice for today's action did not re-open the previous rulemaking.

Similarly, EPA believes that the comment on Tennessee's calculations of the emissions change due to the RVP relaxation is also beyond the scope of this rulemaking. As previously explained, EPA provided adequate opportunity for public comment on the previous rulemaking that approved the State's maintenance plan revision and CAA section 110(l) non-interference demonstration. (82 FR 20260, May 1, 2017). No adverse comments were received on the proposal for the May 1, 2017 rulemaking. Notwithstanding that this comment is outside of the scope of this rulemaking, Tennessee did properly quantify the emissions change attributed to the increase of the summertime RVP standard of 7.8 psi (effectively 8.8 psi with the 1.0 psi ethanol waiver) to 9.0 psi (effectively 10.0 psi with the 1.0 psi ethanol waiver). (82 FR 11517, 11520-11523, February 24, 2017). As noted above, the proposed notice for today's action did not re-open the previous rulemaking. Based on the evidence in the record, EPA is granting the State's request to relax the summertime RVP standard from 7.8 psi to 9.0 psi.

## VII. Final Action

EPA is taking final action to approve the request from Tennessee for EPA to relax the RVP applicable to gasoline introduced into commerce from June 1 to September 15 of each year in Davidson, Rutherford, Sumner, Williamson, and Wilson Counties. Specifically, this action amends the applicable gasoline RVP standard from 7.8 psi to 9.0 psi provided at 40 CFR 80.27(a)(2) for the Middle Tennessee Area.

#### VIII. Technical Corrections

We are taking this opportunity to make several minor technical corrections to 40 CFR 80.27(a)(2)(ii) in order to accurately reflect the regulatory changes to this subparagraph that occurred as the result of prior rulemakings. These prior rulemakings concerned the relaxation of the gasoline RVP standard in other areas of the country. The changes are specified in the following paragraph. These corrections have no effect on the stringency or applicability of the regulations.<sup>3</sup>

The amendments are as follows:

1. In 40 CFR §80.27(a)(2)(ii), the table is amended by:
  - a. Adding footnote numbers 6 and 9 in the table for North Carolina;
  - b. Adding the “Middle Tennessee Area” in the table for Tennessee and adding footnote number 10 next to it;

2. In 40 CFR §80.27(a)(2)(ii), the footnotes below the table are amended by:

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<sup>3</sup> 40 CFR §80.27(a)(2)(ii) had not accurately reflected that the North Carolina entry in the table also included footnotes 6 and 9. As a result of today’s rulemaking, the table will include the addition of Middle Tennessee and a new footnote 10 associated with it. The footnotes below the table were also inaccurate in that incorrect counties or areas were associated with the wrong footnote numbers. Therefore, the preexisting language in footnote 6 is retained but is renumbered as footnote 8. Similarly, the preexisting language in footnote 7 is retained but is renumbered as footnote 9. The correct version of footnotes 6 and 7 were not included in the preexisting language and thus new footnotes 6 and 7 are added in this final rule.

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- a. Renumbering the existing footnote 6 below the table to a new footnote 8. Footnote 8 will read: “The standard for Jefferson and Shelby Counties from June 1 until September 15 in 1992 through July 2, 2015 was 7.8 psi.”;
- b. Renumbering the existing footnote 7 below the table to a new footnote 9. Footnote 9 will read: “The standard for Mecklenburg and Gaston Counties from June 1 until September 15 in 1992 through 2015 was 7.8 psi.”;
- c. Adding a new footnote 6 below the table. Footnote 6 will read: “The standard for Davidson, Forsyth and Guilford Counties and a portion of Davie County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.”;
- d. Adding a new footnote 7 below the table. Footnote 7 will read: “The standard for Durham and Wake Counties, and a portion of Dutchville Township in Granville County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.”

IX. 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 is therefore not subject to review under Executive Orders 12866 and 13563. (76 FR 3821, January 21, 2011).

- B. 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.

- C. 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 Tennessee and gasoline distributors and retail stations in Tennessee. This action relaxes the federal RVP standard for gasoline sold in Davidson, Rutherford, Sumner, Williamson, and Wilson Counties during the summertime ozone season (June 1 to September 15 of each year) to allow the RVP for gasoline sold 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. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This final 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.

E. 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.

F. 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 final rule affects only those refiners, importers or blenders of gasoline that choose to produce or import low RVP gasoline for sale in the Middle Tennessee Area and gasoline distributors and retail stations in the Middle Tennessee Area. Thus, Executive Order 13175 does not apply to this action.

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

The 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 Tennessee has demonstrated that a relaxation of the gasoline RVP will not interfere with its attainment of the ozone NAAQS for the Middle Tennessee Area, or any other applicable CAA requirement.

H. 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.

I. National Technology Transfer Advancement Act

This action does not involve technical standards.

J. 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. This rule relaxes the applicable volatility standard of gasoline during the summer, possibly resulting in slightly higher mobile source emissions. However, the state of Tennessee's non-interference demonstration that this action will not interfere with maintenance of the ozone NAAQS in the Middle Tennessee Area, or with any other applicable CAA requirement. 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 described in Section V. of this final rule. A copy of Tennessee's November 21, 2016 SIP revision requesting that EPA relax the gasoline RVP standard, including the technical analysis demonstrating that the less stringent gasoline RVP in the Davidson, Rutherford, Sumner, Williamson, and Wilson Counties would not interfere with continued maintenance of the 2008 ozone NAAQS, or with any other applicable CAA requirement, has been placed in the public docket for this action.

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K. Congressional Review Act (CRA)

This action is subject to the CRA, and 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).

L. Petitions for Judicial Review

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 30 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 CAA section 307(b)(2).

X. Legal Authority and Statutory Provisions

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

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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: \_\_\_\_\_

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E. Scott Pruitt,  
Administrator

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For the reasons discussed in the preamble, the Environmental Protection Agency is amending 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 is amended by revising the table in paragraph (a)(2)(ii) and the footnotes below the table as follows:

**§ 80.27 Controls and prohibitions on gasoline volatility.**

(a) \* \* \*

(2) \* \* \*

(ii) \* \* \*

**APPLICABLE STANDARDS<sup>1</sup> 1992 AND SUBSEQUENT YEARS**

<b>State</b>	<b>May</b>	<b>June</b>	<b>July</b>	<b>September</b>
*****				
North Carolina <sup>6,7,9</sup>	9.0	9.0	9.0	9.0
*****				
Tennessee:				
Knox County	9.0	9.0	9.0	9.0
Middle Tennessee Area <sup>10</sup>	9.0	9.0	9.0	9.0
All volatility nonattainment areas	9.0	7.8	7.8	7.8
*****				

\*\*\*\*\*

<sup>6</sup> The standard for Davidson, Forsyth and Guilford Counties and a portion of Davie County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.

<sup>7</sup> The standard for Durham and Wake Counties, and a portion of Dutchville Township in Granville County from June 1 until September 15 in 1992 through 2013 was 7.8 psi.

<sup>8</sup> The standard for Jefferson and Shelby Counties from June 1 until September 15 in 1992 through July 2, 2015 was 7.8 psi.

This document is a prepublication version, signed by EPA Administrator, Scott Pruitt, on 05/31/2017. We have taken steps to ensure the accuracy of this version, but it is not the official version.

<sup>9</sup>The standard for Mecklenburg and Gaston Counties from June 1 until September 15 in 1992 through 2015 was 7.8 psi.

<sup>10</sup>The standard for the Middle Tennessee Area (Davidson, Rutherford, Sumner, Williamson, and Wilson Counties) from June 1 until September 15 in 1992 through **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** was 7.8 psi.