In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. section 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 rule 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 April 14, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

Dated: January 14, 2008.

**Alan J. Steinberg,**

*Regional Administrator, Region 2.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

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

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

### Subpart FF—New Jersey

■ 2. Section 52.1570 is amended by adding paragraph (c)(84) to read as follows:

**§ 52.1570 Identification of plan.**

* * * * *

(c) * * *

* * * * *

(84) Revisions to the State Implementation Plan submitted on June 2, 2006, by the New Jersey Department of Environmental Protection which consists of the adoption of California's Zero Emission Vehicle (ZEV) provisions.

(i) Incorporation by reference:

(A) Regulation Subchapter 29 of Title 7, Chapter 27 of the New Jersey Administrative Code, entitled ''Low Emission Vehicle (LEV) Program,'' sections 29.6, 29.7, and the incorporation of California Section 1962, ''Zero Emission Vehicle Standards for 2005 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles,'' within section 29.13(g), effective on January 17, 2006.

■ 3. Section 52.1605 is amended by revising the entry for Subchapter 29 under Title 7, Chapter 27 to read as follows:

**§ 52.1605 EPA-approved New Jersey regulations.**

| State regulation | State effective date | EPA approved date | Comments |
|---|---|---|---|
| * * | * | * | * * |
| Title 7, Chapter 27 | | | |
| * * | * | * | * * |
| Subchapter 29, ''Low Emission Vehicle (LEV) Program''. | January 17, 2006 ..... | February 13, 2008, *[Insert Federal Register page citation]*. | In Section 29.13(g), Title 13, Chapter 1, Article 2, Section 1961.1 of the California Code of Regulations relating to greenhouse gas emission standards, is not incorporated into the SIP. |
| * * | * | * | * * |

[FR Doc. E8–2553 Filed 2–12–08; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 80

**[EPA–HQ–OAR–2007–0002; FRL–8529–2]**

### Approval of Louisiana's Petition To Relax the Summer Gasoline Volatility Standard for the Grant Parish Area

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving the State of Louisiana's request to relax the federal Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce in Grant Parish, Louisiana, (Grant Parish) during the summer ozone control season—June 1 to September 15 of each year. Grant Parish is a designated attainment area under the 8-hour ozone National Ambient Air Quality Standard (''NAAQS'') and is a redesignated attainment area under the

1-hour ozone NAAQS. This action amends our regulations to change the summertime RVP standard for Grant Parish from 7.8 pounds per square inch (psi) to 9.0 psi. EPA has determined that this change to our federal RVP regulations is consistent with the applicable provisions of the Clean Air Act. Louisiana's request is supported by evidence that Grant Parish can implement the 9.0 psi RVP standard and maintain the 8-hour ozone NAAQS and that relaxation of the applicable RVP standard to 9.0 psi will provide economic benefits. This action is being taken without prior proposal because EPA believes that this final rulemaking is noncontroversial, for the reasons set forth in this preamble, and due to the limited scope of this action.

**DATES:** This rule is effective on April 14, 2008 without further notice, unless EPA receives adverse comments by March 14, 2008. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0002, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov*
- *Fax:* Air and Radiation Docket—(202) 566–9744
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket, Mail Code 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2007–0002.
- *Hand Delivery:* Public Reading Room, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket Office's normal hours of operations, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OAR–2007–0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Public Reading Room, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** Sean Hillson, Office of Transportation and Air Quality, Transportation and Regional Programs Division, Mailcode AASMCG, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4789; fax number: (734) 214–4052; e-mail address: *Hillson.Sean@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever ''we'', ''us'', or ''our'' is used, we mean EPA.

EPA is publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to relax the applicable volatility standard in Grant Parish if adverse comments are received on this direct final rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in a subsequent final rule based on the proposed rule.

*Regulated Entities:* Entities potentially affected by this rule are fuel producers and distributors who do business in Grant Parish. Regulated entities include:

| Examples of potentially regulated entities | NAICS codes [a] |
|---|---|
| Petroleum Refineries | 324110 |
| Gasoline Marketers and Distributors | 424710 |
| | 424720 |
| Gasoline Retail Stations | 447110 |
| Gasoline Transporters | 484220 |
| | 484230 |

[a] North American Industry Classification System (NAICS).

This table provides only a guide for readers regarding entities likely to be regulated by this action. You should carefully examine the amended regulations in 40 CFR 80.27 to determine whether your facility is impacted. If you have further questions, call the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

**Outline**

## I. Introduction

This rulemaking describes our final action to approve Louisiana's request to relax the federal RVP standard from 7.8 psi to 9.0 psi in Grant Parish during the summer ozone control season—June 1 to September 15. In 1995, EPA redesignated Grant Parish to a 1-hour ozone NAAQS attainment area. Currently, Grant Parish is a designated attainment area for the 8-hour ozone NAAQS (the 1-hour and 8-hour ozone NAAQS will also be called the 1-hour and 8-hour ozone standards).

This preamble is hereafter organized into five parts. Section II provides the history of federal gasoline volatility regulation. Section III describes EPA's rulemaking actions to transition from the 1-hour to the 8-hour ozone standard. Section IV provides the Agency's policy regarding relaxation of volatility standards in former ozone nonattainment areas that have been redesignated to attainment, and how this policy is applied to Grant Parish while taking into account the requirements under the 8-hour ozone standard. Section V reviews the available information to determine if relaxation of the RVP standard in Grant Parish is warranted: Louisiana's history of federal RVP requirements; EPA's redesignation and designation of Grant Parish as attainment of the 1-hour and 8-hour ozone NAAQS, respectively; Louisiana's relaxation request prompting this action; and the 8-hour maintenance plan approval to support the request. Finally, Section VI presents EPA's final action in response to the request and our rationale.

## II. What is the History of Gasoline Volatility Regulation?

In 1987, EPA determined that gasoline nationwide had become increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment.[1] 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 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 the Reid Vapor Pressure (RVP). Under section 211(c) of the Clean Air Act (CAA or ''the Act''), we promulgated regulations on March 22, 1989, that set maximum limits for the RVP of gasoline sold during the summer ozone control season—June 1 to September 15. These regulations were referred to as Phase I of a two-phase nationwide [2] program, which was designed to reduce the volatility of commercial gasoline during the summer ozone control season.[3] On June 11, 1990, EPA promulgated more stringent volatility controls under Phase II of the volatility control program.[4] These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the State, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone National Ambient Air Quality Standard or ''NAAQS'') during the ozone control 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 ozone control season. It further requires EPA to establish more stringent RVP standards in nonattainment areas if we find such standards ''necessary to generally achieve comparable evaporative emissions (on a per vehicle basis) in nonattainment areas, taking into consideration the enforceability of such standards, the need of an area for emission control, and economic factors.'' Section 211(h) prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that we may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991, EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA.[5] 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 retained the original Phase II standards published in 1990.[6]

As stated in the preamble to the Phase II volatility controls,[7] and reiterated in the proposed change to the volatility standards published in 1991,[8] we will rely on States to initiate changes to our volatility program that they believe will enhance local air quality and/or increase the economic efficiency of the program within the statutory limits.[9] In those rulemakings, we explained that the Governor of a State may petition the Agency 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.

## III. What are the EPA Rulemaking Actions Addressing the Transition from the 1-Hour to 8-Hour Ozone NAAQS?

In July 1997, EPA promulgated a revised ozone standard which would be measured over an 8-hour period, i.e., the 8-hour ozone NAAQS or standard.[10] The 8-hour Ozone NAAQS rule was challenged by numerous litigants and in May 1999, the U.S. Court of Appeals for the D.C. Circuit issued a decision remanding, but not vacating, the 8-hour ozone standard. In February 2001, the Supreme Court upheld our authority to set the ozone NAAQS and remanded the case to the D.C. Circuit Court for disposition of issues the Court did not address in its initial decision.[11] The Court of Appeals addressed these remaining issues and upheld the 8-hour ozone NAAQS.[12] In April 2004, EPA designated and classified areas for the 8-hour ozone standard.[13]

Also in April 2004, we promulgated the Phase 1 Ozone Implementation rule that addressed the revocation of the 1-hour ozone NAAQS and identified the 1-hour requirements that would remain applicable after revocation (i.e., the ''anti-backsliding provisions'').[14] These requirements varied based on areas'

[1] 52 FR 31274 (Aug. 19, 1987).

[2] Hawaii, Alaska and U.S. territories were excepted.

[3] 54 FR 11868 (Mar. 22, 1989).

[4] 55 FR 23658 (June 11, 1990).

[5] 56 FR 64704 (Dec. 12, 1991).

[6] See 55 FR 23658 (June 11, 1990).

[7] See 55 FR 23660 (June 11, 1990) for a discussion on procedures by which States could petition EPA for more or less stringent volatility standards.

[8] See 56 FR 24242 (May 29, 1991) and 56 FR 64706 (Dec. 12, 1991).

[9] See CAA section 211(h)(1) (allowing EPA to set a volatility standard more stringent than 9.0 psi as necessary to achieve comparable emissions in nonattainment areas considering enforceability, the need of an area for emissions control and economic factors).

[10] 62 FR 38856 (July 18, 1997).

[11] *Whitman* v. *Am. Trucking Ass'ns*, 531 U.S. 457 (2001).

[12] *American Trucking Assoc.* v. *EPA*, 195 F.3d 4 (D.C. Cir., 1999).

[13] 69 FR 23857 (Apr. 30, 2004).

[14] 69 FR 23951 (Apr. 30, 2004).

designation for the 1-hour standard and such areas' designation for the 8-hour NAAQS. As part of these anti-backsliding provisions, EPA required areas that had been redesignated from nonattainment to attainment for the 1-hour standard (i.e., 1-hour ozone ''maintenance'' areas) and that were designated attainment for the 8-hour standard to submit a new maintenance plan under section 110(a)(1) that would provide for maintenance of the 8-hour standard.[15] After such a plan was approved, anti-backsliding provisions provided relief for such areas from certain 1-hour maintenance plan requirements. Although the Phase 1 Ozone implementation rule was challenged in court and portions of the rule were vacated, the vacated portions of the rule are not relevant to today's Grant Parish volatility relaxation rulemaking.[16]

In November 2005, EPA promulgated the Phase 2 Ozone Implementation rule that addressed various control and planning obligations that are applicable to areas designated nonattainment for the 8-hour ozone NAAQS.[17] This rule has been challenged and EPA is currently awaiting argument and a decision.[18] No part of the Phase 2 Ozone implementation rule is relevant for today's Grant Parish volatility relaxation rulemaking.

## IV. What is the EPA Policy Regarding Relaxation of Volatility Standards in Nonattainment Areas that are Redesignated as Attainment Areas?

### *A. What is the General Volatility Relaxation Policy?*

Under the amended Phase II volatility regulations, 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.[19] Thus, for former 1-hour nonattainment areas where EPA mandated a Phase II volatility standard of 7.8 psi RVP in the December 12, 1991 rulemaking, the 7.8 psi RVP standard will remain in effect, even after such an area is redesignated as being in attainment, until a separate rulemaking is completed that revises the RVP standard in that area from 7.8 psi to 9.0 psi.[20]

As explained in the December 12, 1991 rulemaking, the Agency believes that relaxation of an applicable 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, section 107(d)(3) of the Act requires the State to make a showing, pursuant to section 175A of the Act, 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, the Agency will not relax the volatility standard unless the State requests a relaxation and the maintenance plan demonstrates, to the satisfaction of the Agency, that the area will maintain attainment for ten years without the need for the more stringent volatility standard.

### *B. How Is the General Volatility Relaxation Policy Applied to Grant Parish?*

Under the Phase 1 Ozone implementation rule, 1-hour ozone maintenance areas that are designated 8-hour ozone attainment areas, such as Grant Parish, are required to develop and submit to EPA a maintenance plan under section 110(a)(1) of the Act.[21] In today's rulemaking, we are determining that 1-hour ozone maintenance areas that are designated 8-hour ozone attainment areas may rely on the section 110(a)(1) maintenance plan, rather than a section 175A maintenance plan as explained above, for purposes of requesting relaxation of the more stringent volatility standard. We come to the conclusion that a section 110(a)(1) maintenance plan can be used to make a relaxation demonstration for the following reasons: (1) Section 110(a)(1) maintenance plans contain analogous information and meet similar criteria as section 175A maintenance plans, namely a demonstration of continued maintenance of the ozone standard for at least 10 years using the less stringent volatility standard and that the plan contains contingency measures; (2) Although the EPA general volatility relaxation policy calls for an approved 175A maintenance plan, the requirement to submit a section 175A maintenance plan for the 8-hour standard does not apply to areas initially designated attainment for that standard; and (3) Development of a section 110(a)(1) maintenance plan is consistent with the Phase 1 Ozone Implementation rule requirements, specifically 40 CFR 51.905(a)(4), which is applicable to Grant Parish, and thus use of an approved section 110(a)(1) maintenance plan for the purpose of relaxing the applicable RVP standard follows logically. Therefore, in today's rulemaking, EPA is allowing Grant Parish to rely on its section 110(a)(1) maintenance plan and the accompanying analysis set forth below in demonstrating the approvability of the State's relaxation request of the applicable RVP standard in Grant Parish.

## V. What Information Supports the Relaxation of Federal RVP Requirements in Grant Parish?

### *A. History*

In the summer of 1989, the Phase I gasoline volatility control program was implemented throughout the country. At that time, based on designations issued on September 11, 1978, Grant Parish was a designated ozone nonattainment area.[22] Under the Phase I volatility rule, gasoline volatility requirements throughout the entire State of Louisiana were uniform, although there was some variation by month.

On November 6, 1991, EPA issued ozone nonattainment designations for the 1-hour ozone NAAQS. Pursuant to section 107(d)(1)(C)(i) of the CAA, the nonattainment designation for Grant Parish issued in 1978 continued because Louisiana had not acquired the three years of ambient air quality data necessary to petition for redesignation to attainment.[23] In 1992, under Phase II of the volatility control program, the Grant Parish ozone nonattainment area

[15] See 69 FR 23955 (Apr. 30, 2004), section IV.C.2.c.v and IV.C.2.d; see also 40 CFR 51.905(a)(4).

[16] *S. Coast Air Quality Mgmt. Dist.* v. *EPA*, 472 F.3d 882 (D.C. Cir. 2006 reh'g denied *S. Coast Air Quality Mgmt. Dist.* v. *EPA*, 2007 U.S. App. Lexis 13751 (D.C. Cir. June 8, 2007).

[17] 70 FR 71612 (Nov. 29, 2005).

[18] *NRDC* v. *EPA*, No. 06–1045 (D.C. Cir.).

[19] 56 FR 64706 (Dec. 12, 1991).

[20] As stated in the preamble for the Agency's initial Phase II volatility standards (55 FR 23609), and in the preamble in the proposal to revise those standards (56 FR 24244), EPA may also promulgate a rule to revise the volatility standard in a particular nonattainment area in order to enhance local air quality and/or increase the economic efficiency of the program. The Governor of a state, or his designee, may petition EPA for a less stringent standard if such a standard is consistent with the requirements of the Act and if the state can document (1) particular local economic impact that makes the less stringent standard appropriate and (2) sufficient alternative programs to achieve attainment and maintenance of the NAAQS for ozone.

[21] See 69 FR 23955 (Apr. 30, 2004), section IV.C.2.c.v and IV.C.2.d; see also 40 CFR 51.905(a)(4).

[22] 43 FR 40412 (Sept. 11, 1978).

[23] 56 FR 56694 (Nov. 6, 1991).

(at the time) was required to use gasoline with an RVP of 7.8 psi. In 1995, EPA approved a request from the State of Louisiana to redesignate Grant Parish to attainment for the 1-hour ozone standard and approved a maintenance plan.[24] At that time, the State of Louisiana did not make a request for relaxation of the gasoline volatility standard at that time; therefore, Grant Parish continued to use gasoline with an RVP of 7.8 psi during the ozone control season through the summer of 2005. In 2004, we designated Grant Parish as an 8-hour ozone attainment area.[25]

*B. Louisiana's RVP Relaxation Request and Initial EPA Response*

In May of 2005, the State of Louisiana requested that the gasoline volatility standard for Grant Parish be relaxed and that enforcement discretion be granted in the interim between the request and the final rulemaking.[26] This petition from the State cited the fact that Grant Parish is a designated 8-hour ozone attainment area and a redesignated 1-hour ozone attainment area that has not measured a 1-hour exceedance in the 10 years since the 1995 maintenance plan became effective. Louisiana also stated the following justifications for the relaxation: First, Grant Parish is classified as rural, is not adjacent to any urban area, and has only seen about 7% population growth from 1990 to 2000 (17,526 to 18,698). Second, a review of vehicle miles traveled (VMT) statistics for Grant Parish show a downward trend from 1990 to 1999. There was a slight increase (2% per year) from 1999 through 2003, although Louisiana qualifies this by stating the increase could be a reflection of increases in population, but is more likely due to changes in VMT reporting in 2001. Third, air quality data shows a general decrease in emissions of ozone-forming pollutants, such as volatile organic compounds (VOCs) and nitrogen oxides ($NO_X$). Finally, Louisiana provides evidence that relaxation of the RVP requirement will result in economic benefit to Grant Parish. Outside of the ozone control season, bulk plant operators are able to acquire conventional gasoline from nearby terminals. During the ozone control season, however, bulk plant operators must purchase gasoline meeting the 7.8 psi RVP standard from facilities in Baton Rouge or Lake Charles, Louisiana. Each of these cities is approximately 145 miles from Grant Parish, resulting in a 290-mile roundtrip to deliver compliant fuel. This distance increases the transportation costs and can increase the price of gasoline by an estimated 2 cents per gallon.

In May of 2006, the Office of Enforcement and Compliance Assurance granted enforcement discretion to allow the use of gasoline having a volatility that is no higher than 9.0 psi during the ozone control seasons for Grant Parish from May 16, 2006, to September 16, 2007, or the effective date of the action set forth in this rulemaking, whichever is earlier.[27]

*C. EPA Approval of the Grant Parish 8-Hour Maintenance Plan*

On August 23, 2006, the State of Louisiana submitted a maintenance plan for Grant Parish to EPA Region 6 that ensures continued attainment of the 8-hour ozone standard through 2014, which is 10 years following designation under the 8-hour standard as required by 40 CFR 51.905(a)(4)(ii). EPA has determined that the maintenance plan also meets the other statutory and regulatory requirements and is consistent with EPA guidance; therefore, in November 2007, EPA published a direct final rule in the **Federal Register** that approved the 8-hour maintenance plan for Grant Parish.[28] No adverse comments were received, and the rule became effective on January 7, 2008. The State's maintenance plan submission, EPA's Technical Support Document, and approval rulemaking action are incorporated by reference in today's action.

EPA determined that the Grant Parish maintenance plan adequately addresses the components of a maintenance plan: a 2002 base year attainment inventory; projected emission inventories for the future years of 2008, 2011, and 2014 with a maintenance demonstration; verification of continued attainment with the use of either 7.8 or 9.0 psi gasoline; and contingency measures. Some of these components are presented in greater detail below.

The following table[29] provides VOC and $NO_X$ emissions data for the 2002 base attainment year inventory, as well as projected VOC and $NO_X$ emission inventory data for the major anthropogenic source categories developed using EPA-approved technologies and methodologies and keeping 7.8 psi RVP gasoline in place for the years 2008, 2011, and 2014.

GRANT PARISH.—VOC AND $NO_X$ EMISSION INVENTORY BASELINE

| Emissions source | 2002 (tpd) | 2008 (tpd) | 2011 (tpd) | 2014 (tpd) |
|---|---|---|---|---|
| Point Source VOCs | 0.66 | 0.83 | 0.91 | 0.98 |
| Point Source $NO_X$ | 1.85 | 1.96 | 2.01 | 2.06 |
| Non-Point (Area) Source VOCs | 1.57 | 1.62 | 1.63 | 1.66 |
| Non-point (Area) Source $NO_X$ | 0.61 | 0.64 | 0.65 | 0.67 |
| Nonroad VOCs | 5.49 | 4.66 | 4.20 | 3.83 |
| Nonroad $NO_X$ | 1.56 | 1.41 | 1.33 | 1.23 |
| Onroad VOCs | 1.27 | 0.80 | 0.63 | 0.52 |
| Onroad $NO_X$ | 1.71 | 1.12 | 0.83 | 0.62 |
| Total VOCs | 8.99 | 7.91 | 7.37 | 6.99 |
| Total $NO_X$ | 5.73 | 5.13 | 4.82 | 4.58 |

[24] 60 FR 43020 (Aug. 18, 1995).

[25] 69 FR 23857 (Apr. 30, 2004).

[26] Letter from Michael McDaniel, Secretary of the Louisiana Department of Environmental Quality, to Mayor Richard Greene, Administrator of U.S. EPA Region 6, titled ''Relaxation of the Summer Gasoline Volatility Standard for Grant Parish'' (May 24, 2005).

[27] Letter from Granta Nakayama, Assistant Administrator of the U.S. EPA Office of Enforcement and Compliance Assurance, to Michael McDaniel, Secretary of the Louisiana Department of Environmental Quality, titled ''Enforcement Discretion Regarding the Gasoline Volatility Standard for Grant Parish, Louisiana'' (May 16, 2006).

[28] 72 FR 62579 (November 6, 2007); Docket ID: EPA–R06–OAR–2006–0271.

[29] The ''Total VOCs'' values for 2008, 2011, and 2014 in this table differ from the values in the November 6, 2007, maintenance plan approval rulemaking. These differences were due to a typographical error by EPA in the ''Onroad VOCs'' row; those errors have been corrected here resulting in new ''Total VOCs'' values. The changes accurately reflect the data submitted by the state of Louisiana and yield lower ''Total VOCs'' values in all future years. Therefore the conclusion that Grant Parish has demonstrated maintenance of the 8-hour standard is still valid.

As shown in the table above, Louisiana has demonstrated that the future year 8-hour ozone emissions will be less than the 2002 base attainment year's emissions. Measures that will provide for additional 8-hour ozone emission reductions include: (1) Implementation of Federal VOC Emission Standards for Automobile Refinish Coatings, Consumer Products, and Architectural Coatings; (2) Federal Tier 2 Motor Vehicle Emission Standards, Heavy-Duty Engine and Vehicle Standards, and gasoline and highway diesel fuel sulfur control requirements; (3) Federal control of emissions from non-road diesel engines and fuels; and (4) implementation of the Federal Clean Air Interstate Rule (CAIR).[30]

In the Grant Parish maintenance plan's attainment inventory, Louisiana provided an analysis of VOC emissions from on-road mobile sources comparing 7.8 and 9.0 psi RVP gasoline for three projection years: 2008, 2011, and 2014.

GRANT PARISH.—RVP COMPARISON EFFECT ON VOC EMISSIONS

| Year | 7.8 psi RVP VOCs (tpd) | 9.0 psi RVP VOCs (tpd) |
|---|---|---|
| 2002 ..... | 1.27 | N/A |
| 2008 ..... | 0.80 | 0.90 |
| 2011 ..... | 0.63 | 0.70 |
| 2014 ..... | 0.52 | 0.57 |

Modeling results for this comparison show that the overall effect on VOC emissions from between 7.8 and 9.0 psi RVP gasoline was 0.1 tpd or less for each of the three projection years, and that each of the projected VOC emission inventories from 9.0 psi RVP gasoline is less than the VOC emission inventory from the 2002 attainment year inventory. Therefore, the Grant Parish 8-hour maintenance plan demonstrates that use of the less stringent 9.0 psi RVP gasoline will not interfere with 8-hour ozone maintenance. In its approval of the maintenance plan for Grant Parish, EPA concluded that ''the Grant Parish 8-hour maintenance plan demonstrates that the use of either 7.8 or 9.0 psi RVP gasoline in the parish will allow the area to continue to meet the 8-hour ozone NAAQS.''

*D. What are the Section 110(l) Requirements?*

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. The modeling in the maintenance plan showed a very small increase in VOC emissions with the relaxed RVP standard when comparing emissions from 7.8 and 9.0 psi RVP gasoline in future years, but the emissions projections for the future years using 9.0 psi RVP gasoline in Grant Parish still reflect a decrease in emissions from the 2002 baseline year and a downward trend in VOC and $NO_X$ emissions through 2014. Therefore, and as discussed in more detail above, Louisiana has demonstrated that EPA's approval of the relaxed RVP standard in Grant Parish will not interfere with continued maintenance of the 8-hour ozone standard in that Parish.

## VI. Final Action and Rationale

EPA is taking direct final action to approve Louisiana's request to relax the federal RVP standard applicable to summertime gasoline supplied to Grant Parish. This action changes the applicable RVP standard in Grant Parish from 7.8 psi to 9.0 psi in 40 CFR 80.27(a)(2). This action will become effective on April 14, 2008, unless adverse comment is received by March 14, 2008.

Relaxation of the applicable RVP standard for Grant Parish is based on the fact that Grant Parish is a redesignated 1-hour ozone attainment area and a designated 8-hour ozone attainment area that has an approved section 110(a)(1) 8-hr maintenance plan. This maintenance plan demonstrates that Grant Parish can maintain the 8-hour ozone standard for the duration of the plan while using 9.0 psi RVP gasoline. As also discussed earlier, this SIP revision meets the requirements of section 110(l) of the Act. Finally, relaxation of the applicable standard will result in economic benefits as increased transportation costs associated with the delivery of 7.8 psi RVP gasoline will be eliminated.

## VII. Statutory and Executive Order Reviews

*A. Executive Order 12866: Regulatory Planning and 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 OMB review.

*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*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, 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, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This action will relax the federal RVP standard for gasoline sold in Grant Parish, Louisiana, during the ozone control season (June 1 to September 15), from 7.8 psi to 9.0 psi, and is therefore expected not to have a significant economic impact on a substantial number of small entities. The 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.

*D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public

[30] 70 FR 25162 (May 12, 2005).

Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's rule merely relaxes the Federal RVP standard for gasoline in the Grant Parish area, and thus avoids imposing the costs that the existing Federal regulations would otherwise impose. Today's rule, therefore, is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As discussed above, the rule relaxes an existing standard and affects only the gasoline industry.

*E. Executive Order 13132: Federalism*

Executive Order 13132, entitled ''Federalism'' (64 FR 43255 August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

This final rule 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, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175. This rule would relax the applicable RVP standard in Grant Parish, LA, during the ozone control season (June 1st to September 15th) from 7.8 psi to 9.0 psi. It applies only to Grant Parish, LA. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, Apr. 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. As previously discussed, the Grant Parish area has continued to meet the 1-hour ozone standard since 1995 and has met the 8-hour ozone standard since initial designations were issued in 2004. The maintenance plan approved on November 6, 2007 shows maintenance of the 8-hour ozone NAAQS for the entire maintenance time period of 2002 through 2014 with the 9.0 psi RVP standard.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent

practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the applicable 8-hour ozone NAAQS which establish the level of protection provided to human health or the environment. This rule will relax the applicable volatility standard of gasoline during the summer possibly resulting in slightly higher mobile source emissions. However, the State of Louisiana has demonstrated in a maintenance plan that this action will not interfere with attainment of the 8-hour ozone NAAQS and therefore disproportionately high and adverse human health or environmental effects on minority or low-income populations are not an anticipated result.

*K. Congressional Review Act*

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 rule 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(a). This rule will be effective April 14, 2008.

## VIII. Legal Authority and Statutory Provisions

Authority for this action is in sections 211(h) and 301(a) of the Clean Air Act, 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, Incorporation by reference, Motor vehicle and motor vehicle engines, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: February 7, 2008.

**Stephen L. Johnson,**

*Administrator.*

■ Title 40, chapter I, part 80 of the Code of Federal Regulations is amended as follows:

## PART 80—[AMENDED]

■ 1. The authority citation for part 80 continues to read as follows:

**Authority:** 42 U.S.C. 7414, 7545 and 7601(a).

■ 2. In § 80.27(a)(2)(ii), the table is amended by revising the entry for Louisiana and adding a new footnote 4 to read as follows:

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

(a) * * *

(2) * * *

(ii) * * *

APPLICABLE STANDARDS[1] 1992 AND SUBSEQUENT YEARS

| State | May | June | July | August | September |
|---|---|---|---|---|---|
| * * * * * * * | | | | | |
| Louisiana: | | | | | |
| Grant Parish[4] | 9.0 | 9.0 | 9.0 | 9.0 | 9.0 |
| All other volatility nonattainment areas | 9.0 | 7.8 | 7.8 | 7.8 | 7.8 |
| * * * * * * * | | | | | |

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

* * * * * * * * *

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

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[FR Doc. E8–2702 Filed 2–12–08; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 81

**[EPA–R09–2007–OAR–1109; FRL–8528–4]**

## Determination of Nonattainment and Reclassification of the Imperial County, 8-Hour Ozone Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** This rule finalizes EPA's finding of nonattainment and reclassification of the Imperial County 8-hour ozone nonattainment area (Imperial County). EPA finds that Imperial County has failed to attain the 8-hour ozone national ambient air quality standard (''NAAQS'' or ''standard'') by June 15, 2007, the attainment deadline set forth in the Clean Air Act (CAA) and Code of Federal Regulations (CFR) for marginal nonattainment areas. As a result, on the effective date of this rule, Imperial County will be reclassified by operation of law as a moderate 8-hour ozone nonattainment area. The moderate area attainment date for the reclassified Imperial County will be ''as expeditiously as practicable,'' but no later than June 15, 2010. Once reclassified, California must submit State Implementation Plan (SIP) revisions that meet the 8-hour ozone nonattainment requirements for moderate areas, as required by the CAA. EPA has determined that the State must submit these SIP revisions by December 31, 2008.

**DATES:** *Effective Date:* March 14, 2008.

**ADDRESSES:** EPA has established docket number EPA–R09–2007–OAR–1109 for this action. The index to the docket is available electronically at *http://www.regulations.gov* and in hard copy at U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. While