

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the. 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 (Pub. L. 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).

In addition, 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 and will not impose substantial direct costs on tribal

governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Volatile organic compounds.

Dated: April 21, 2017.

**Robert A. Kaplan,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2017-09506 Filed 5-10-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2015-0585; FRL-9960-21-Region 6]

### Approval and Promulgation of Implementation Plans; Texas; Revisions to Emissions Banking and Trading Programs and Compliance Flexibility

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) Emissions Banking and Trading Programs submitted on July 15, 2002; December 22, 2008; April 6, 2010; May 14, 2013; and August 14, 2015.

Specifically, we are proposing to approve revisions to the Texas Emission Credit, Mass Emissions Cap and Trade, Discrete Emission Credit, and Highly Reactive Volatile Organic Compound Emissions Cap and Trade Programs such that the Texas SIP will include the current state program regulations promulgated and implemented in Texas. We are also proposing to approve compliance flexibility provisions for stationary sources using the Texas Emission Reduction Plan submitted on July 15, 2002; May 30, 2007; and July 10, 2015.

**DATES:** Written comments should be received on or before June 12, 2017.

**ADDRESSES:** Submit your comments, identified by EPA-R06-OAR-2015-0585, at <http://www.regulations.gov> or via email to [wiley.adina@epa.gov](mailto:wiley.adina@epa.gov). For additional information on how to submit comments see the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Adina Wiley, 214-665-2115, [wiley.adina@epa.gov](mailto:wiley.adina@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 27, 2017.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2017-09471 Filed 5-10-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2017-0136; FRL-9961-88-Region 4]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve 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:** Comments must be received on or before June 12, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0136 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**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](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. What is being proposed today?**

This rulemaking proposes to approve Tennessee's noninterference demonstration, submitted on April 12, 2017, in support of the State's 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. The State is requesting the removal of the federal 7.8 psi RVP requirement. As part of that request, Tennessee has

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.<sup>1</sup> The noninterference demonstration is further supported by the June 23, 2016 (81 FR 40816), revised and approved maintenance plan that utilizes an RVP input parameter of 9.0 psi.

On January 19, 2016, Tennessee submitted a redesignation request and maintenance plan for the portion of Tennessee that is within the Memphis, Tennessee-Mississippi-Arkansas (Memphis, TN-MS-AR) 2008 8-hour ozone nonattainment area to attainment for the 2008 8-hour ozone NAAQS, which EPA approved on June 23, 2016 (81 FR 40816). Shelby County is in the Tennessee portion of the Memphis, TN-MS-AR area. In the maintenance plan, Tennessee used EPA's Motor Vehicle Emissions Simulator (MOVES) to develop its projected emissions inventory according to EPA's guidance for on-road mobile sources using MOVES version 2014. Future-year on-road mobile source emissions estimates for 2017, 2020, and 2027 were generated with MOVES2014 using an RVP input parameter of 9.0 psi. The maintenance plan showed compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) remained at or below the 2012 base year emissions inventory. For more detailed information, see EPA's April 19, 2016 (81 FR 22948), proposed approval of the maintenance plan for the 2008 8-hour ozone NAAQS, which was finalized on June 23, 2016 (81 FR 40816).

It should be noted that when Tennessee requested that Shelby County be redesignated to attainment for the 2008 8-hour ozone standard, the State took a conservative approach for the maintenance demonstrations and modeled 9.0 psi for the RVP requirements for this Area as opposed to 7.8 psi. The State did not, at that time,

<sup>1</sup> As described in Section III of this preamble, Shelby County was originally part of the Memphis, Tennessee (Memphis, TN) 1-hour ozone nonattainment area; later, part of the Memphis, Tennessee-Arkansas (Memphis, TN-AR) 1997 8-hour ozone nonattainment area; and finally, part of the Memphis, Tennessee-Mississippi-Arkansas (Memphis, TN-MS-AR) 2008 8-hour ozone nonattainment area.

request the removal of the federal RVP requirements for Shelby County.

EPA is proposing to find that Tennessee's noninterference demonstration supports the conclusion that the use of gasoline with an RVP of 9.0 psi in Shelby County will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA.

**II. What is the background for the Shelby County area?**

Shelby County, Tennessee (then referred to as the Memphis, TN Area) was originally designated as a single-county marginal nonattainment area for the 1-hour ozone standard on November 6, 1991 (56 FR 56694). On February 16, 1995 (60 FR 3352), the Memphis, TN Area was redesignated as attainment for the 1-hour ozone standards, and was considered to be a maintenance area subject to a CAA section 175A maintenance plan for the 1-hour ozone standard. Tennessee's 1-hour ozone redesignation request and maintenance plan did not include a request to relax the 7.8 psi federal RVP standard.

On April 30, 2004 (69 FR 23857), EPA designated the Memphis, TN-AR Area, which included Shelby County, as a "moderate" 1997 8-hour ozone NAAQS nonattainment area under Clean Air Act title I, part D, subpart 2 ("Additional Provisions for Ozone Nonattainment Areas"). On July 15, 2004, pursuant to section 181(a)(4) of the CAA, the State of Tennessee submitted a petition to EPA, requesting that the classification of Memphis, TN-AR Area be adjusted downward from "moderate" to "marginal" for the 1997 8-hour ozone standard. The petition was based on the fact that the area's "moderate" design value of 0.092 parts per million (ppm) was within five percent of the maximum "marginal" design value of 0.091 ppm. Pursuant to section 181(a)(4), areas with design values within five percent of the standard may request a reclassification under specific circumstances. EPA approved the petition for reclassification, which became effective on November 22, 2004 (69 FR 56697, September 22, 2004). The Tennessee portion of the Memphis, TN-AR Area (*i.e.*, Shelby County) was redesignated to attainment for the 1997 8-hour ozone NAAQS in a final rulemaking on January 4, 2010 (75 FR 56). Tennessee's 1997 8-hour ozone redesignation request and maintenance plan did not include a request to relax the 7.8 psi federal RVP standard.

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 ppm. See 73 FR 16436 (March 27, 2008).

Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. See 40 CFR part 50.15. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in appendix P of part 50.

Shelby County, as part of the Memphis, TN-AR-MS Area, was designated as a marginal nonattainment area for the 2008 8-hour ozone NAAQS on May 21, 2012 (effective July 20, 2012), using 2008-2010 ambient air quality data. See 77 FR 30088. The Tennessee portion of the Memphis, TN-AR Area (*i.e.*, Shelby County) was redesignated to attainment on June 23, 2016 (81 FR 40816). Tennessee's 2008 8-hour ozone redesignation request and maintenance plan did not include a request to relax the 7.8 psi federal RVP standard, although the maintenance plan reflected the 9.0 psi RVP standard. Tennessee is now requesting that EPA remove the federal 7.8 psi RVP requirement for Shelby County.

### III. What is the history of the gasoline volatility requirement?

On August 19, 1987 (52 FR 31274), EPA determined that gasoline nationwide had become increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as 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 RVP. Under section 211(c) of CAA, EPA promulgated regulations on March 22, 1989 (54 FR 11868), that set maximum limits for the RVP of gasoline sold during the high ozone season. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of commercial gasoline during the summer ozone control season. On June 11, 1990

(55 FR 23658), EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the State, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS during the high ozone season).

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high ozone season. Section 211(h) prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that EPA may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658). A current listing of the RVP requirements for states can be found on EPA's Web site at: <https://www.epa.gov/gasoline-standards>.

As explained in the December 12, 1991 (56 FR 64704), Phase II rulemaking, EPA believes that relaxation of an applicable RVP standard is best accomplished in conjunction with the redesignation process. 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 after redesignation. Depending on the area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, EPA will not relax the 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.

As noted above, Tennessee did not request relaxation of the applicable 7.8 psi federal RVP standard when Shelby County was redesignated to attainment for the 1-hour ozone NAAQS, the 1997 8-hour ozone NAAQS, and the 2008 8-hour ozone NAAQS. Tennessee is therefore now submitting a noninterference demonstration concluding that relaxing the federal RVP requirement from 7.8 psi to 9.0 psi for gasoline sold between June 1st and September 15th of each year in Shelby County would not interfere with attainment or maintenance of the NAAQS.

### IV. What are the section 110(l) requirements?

To support Tennessee's request to relax the federal RVP requirement in Shelby County, the State must demonstrate that the requested change will satisfy section 110(l) of the CAA. Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. EPA's criterion for determining the approvability of Tennessee's April 12, 2017, noninterference demonstration, is whether the noninterference demonstration associated with the relaxation request satisfies section 110(l). The modeling associated with Tennessee's maintenance plan for the 2008 8-hour ozone NAAQS is premised upon the future-year emissions estimates for 2017, 2020, and 2027, which are based on the 9.0 psi RVP. EPA is proposing approval of the noninterference demonstration based on an evaluation of current air quality monitoring data and the information provided in the noninterference demonstration.

EPA evaluates each section 110(l) noninterference demonstration on a case-by-case basis considering the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated but for which EPA has not yet made designations. The degree of analysis focused on any particular NAAQS in a noninterference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision. EPA's analysis of Tennessee's April 12, 2017, noninterference demonstration pursuant to section 110(l) is provided below.

EPA notes that in this action, it is only proposing to approve the State's technical demonstration that the Area can continue to attain and maintain the NAAQS and meet other CAA requirements after switching to the sale of gasoline with an RVP of 9.0 psi in Shelby County during the high ozone season. Consistent with CAA section 211(h) and the Phase II volatility regulations, EPA will initiate a separate rulemaking to relax the current federal requirement to use gasoline with an RVP of 7.8 psi in Shelby County.

**V. What is EPA's analysis of Tennessee's submittal?**

*a. Overall Preliminary Conclusions Regarding Tennessee's Noninterference Demonstration*

On April 12, 2017, TDEC submitted a noninterference demonstration to support the State's request to modify the RVP summertime gasoline requirement from 7.8 psi to 9.0 psi for the Area. This demonstration includes an evaluation of the impact that the removal of the 7.8 psi RVP requirement would have on maintenance of the ozone standards and on the maintenance of the other NAAQS.<sup>2</sup> Tennessee focused its analysis on the impact of the change in RVP to attainment and maintenance of the ozone, particulate matter (PM),<sup>3</sup> and NO<sub>2</sub> NAAQS because: RVP requirements do not affect lead, sulfur dioxide (SO<sub>2</sub>), or carbon monoxide (CO) emissions; because VOC and NO<sub>x</sub> emissions are precursors for ozone and PM; and because NO<sub>2</sub> is a component of NO<sub>x</sub>.

TDEC's noninterference demonstration relied on a previously-approved maintenance plan (June 23, 2016, 81 FR 40816) in which Tennessee used EPA's MOVES2014 model to develop its projected emissions inventory according to EPA's guidance for on-road mobile sources. The future-year on-road mobile source emissions estimates for 2017, 2020, and 2027 were generated with MOVES2014<sup>4</sup> using a RVP input parameter of 9.0 psi. The maintenance plan showed compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future

emissions of NO<sub>x</sub> and VOC remained at or below the 2012 base year emissions inventory. Tables 1 and 2 show the direct impact on mobile source emissions as a result of the change for RVP requirements for Shelby County. As summarized below, NO<sub>x</sub> and VOC emissions are expected to continue to decrease with the use of the 9.0 psi RVP standard.

**TABLE 1—ON-ROAD MOBILE SOURCE OZONE SEASON NO<sub>x</sub> EMISSIONS IN SHELBY COUNTY**

| 9.0 psi RVP |       |       | 7.8 psi RVP |
|-------------|-------|-------|-------------|
| 2017        | 2020  | 2027  | 2012        |
| 31.30       | 22.42 | 12.51 | 61.56       |

**TABLE 2—ON-ROAD MOBILE SOURCE OZONE SEASON VOC EMISSIONS IN SHELBY COUNTY**

| 9.0 psi RVP |      |      | 7.8 psi RVP |
|-------------|------|------|-------------|
| 2017        | 2020 | 2027 | 2012        |
| 11.22       | 8.75 | 5.81 | 19.01       |

These mobile source emissions are used as part of the evaluation of the potential impacts to the NAAQS that might result exclusively from changing the high ozone season RVP requirement from 7.8 psi to 9.0 psi. Therefore, emissions resulting from the change in RVP are not expected to cause the area to be out of compliance with any NAAQS.

*b. Noninterference Analysis for the Ozone NAAQS*

As a previous 1-hour ozone nonattainment area, Shelby County has been subject to the federal RVP requirements for high ozone season gasoline. Although implemented for purposes of bringing areas into attainment for the 1-hour ozone NAAQS, these federal RVP requirements continued to apply in Shelby County because the State did not, until now, request removal of the federal RVP requirements.

As described previously, Shelby County was redesignated to attainment for the 1-hour ozone NAAQS, the 1997 8-hour ozone NAAQS, and the 2008 8-hour ozone NAAQS. The Memphis Area is continuing to meet the 1-hour ozone NAAQS, the 1997 8-hour ozone NAAQS, and the 2008 8-hour ozone

NAAQS,<sup>5</sup> based on recent air quality monitoring data. Additionally, the current design value (DV) is below the most recently promulgated 2015 ozone NAAQS in the Memphis Area. The 2008 ozone NAAQS is met when the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years is 0.075 ppm or less. Similarly, the 2015 ozone NAAQS, as published in a final rule on October 26, 2015 (80 FR 65292), is met when the annual fourth-highest daily maximum 8-hour average concentration, averaged over 3 years is 0.070 ppm or less. The trend in DVs for ozone for the Memphis Area is shown in Table 3, with the current DV in the Area being 0.067 ppm in 2015, below the 2015 standard. EPA also evaluated the potential increase in the VOC and NO<sub>x</sub> precursor emissions and whether it is reasonable to conclude that the requested change to RVP requirements in Shelby County during the high ozone season would cause the Memphis Area to violate any ozone NAAQS.

**TABLE 3—MEMPHIS AREA OZONE DESIGN VALUE TRENDS**

| Years     | Design value (ppm) |
|-----------|--------------------|
| 2005–2007 | 0.089              |
| 2006–2008 | 0.082              |
| 2007–2009 | 0.078              |
| 2008–2010 | 0.076              |
| 2009–2011 | 0.077              |
| 2010–2012 | 0.079              |
| 2011–2013 | 0.078              |
| 2012–2014 | 0.073              |
| 2013–2015 | 0.067              |

Table 3 also shows that there is an overall downward trend in ozone concentrations in the Memphis Area. This decline can be attributed to federal and state programs that have led to significant emissions reductions in ozone precursors, such as federal standards in on-road and non-road mobile source sectors and resultant fleet turnover. See 81 FR 22948, (April 19, 2016). Given this downward trend, the downward trend in precursor emissions, the current ozone concentrations in the Memphis Area, and the results of Tennessee's emissions analysis, EPA is proposing to determine that a change to 9.0 psi RVP fuel for Shelby County would not interfere with the Memphis Area's ability to maintain the 2008 8-hour ozone NAAQS.

<sup>5</sup> The air quality design value for the 8-hour ozone NAAQS is the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentration. The level of the 2008 8-hour ozone NAAQS is 0.075 ppm. The 2008 8-hour ozone NAAQS is not met when the design value is greater than 0.075 ppm.

<sup>2</sup> The six NAAQS for which EPA establishes health and welfare based standards are CO, lead, NO<sub>2</sub>, ozone, PM, and SO<sub>2</sub>.

<sup>3</sup> PM is composed of PM<sub>2.5</sub> and PM<sub>10</sub>.

<sup>4</sup> MOVES2014a is the latest version of MOVES model. However, the use of MOVES2014 was acceptable when EPA approved Tennessee's 2008 8-hour ozone maintenance plan because MOVES2014 was the latest EPA mobile source model available to the State at the time that it developed the maintenance plan.

### c. Noninterference Analysis for the PM NAAQS

Over the course of several years, EPA has reviewed and revised the PM<sub>2.5</sub> NAAQS a number of times. On July 16, 1997, EPA established an annual PM<sub>2.5</sub> NAAQS of 15.0 micrograms per cubic meter (µg/m<sup>3</sup>), based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations, and a 24-hour PM<sub>2.5</sub> NAAQS of 65 µg/m<sup>3</sup>, based on a 3-year average of the 98th percentile of 24-hour concentrations. See 62 FR 36852 (July 18, 1997). On September 21, 2006, EPA retained the 1997 Annual PM<sub>2.5</sub> NAAQS of 15.0 µg/m<sup>3</sup> but revised the 24-hour PM<sub>2.5</sub> NAAQS to 35 µg/m<sup>3</sup>, based again on a 3-year average of the 98th percentile of 24-hour concentrations. See 71 FR 61144 (October 17, 2006). On December 14, 2012, EPA retained the 2006 24-hour PM<sub>2.5</sub> NAAQS of 35 µg/m<sup>3</sup> but revised the annual primary PM<sub>2.5</sub> NAAQS to 12.0 µg/m<sup>3</sup>, based again on a 3-year average of annual mean PM<sub>2.5</sub> concentrations. See 78 FR 3086 (January 15, 2013).

The main precursor pollutants for PM<sub>2.5</sub> are NO<sub>x</sub>, SO<sub>2</sub>, VOC, and ammonia. As mentioned above, the federal RVP requirements only result in emissions benefits for VOC and NO<sub>x</sub>. Therefore, Tennessee focused on these two PM<sub>2.5</sub> precursors in its analysis of the potential impact of changing the RVP requirements for Shelby County on the PM<sub>2.5</sub> NAAQS. Tennessee asserted in its 110(l) demonstration that relaxing the RVP standard will have little impact on these precursor emissions in relation to PM formation and is not expected to negatively impact attainment or maintenance of the PM<sub>2.5</sub> NAAQS. Moreover, there have been a number of studies which have indicated that SO<sub>2</sub> is the primary driver of PM<sub>2.5</sub> formation in the Southeast.<sup>6</sup>

Given the downward trend in precursor emissions (specifically for NO<sub>x</sub> and VOC) noted above and given that, as previously stated, RVP does not affect the most significant PM<sub>2.5</sub> precursor (SO<sub>2</sub>), EPA is proposing to determine that a change to 9.0 psi RVP fuel for the affected counties would not interfere with the Area's ability to attain or maintain the PM<sub>2.5</sub> NAAQS in the Area.

### d. Noninterference Analysis for the 2010 NO<sub>2</sub> NAAQS

On February 17, 2012, EPA designated all counties in Tennessee as

unclassifiable/attainment for the 2010 NO<sub>2</sub> NAAQS. See 77 FR 9532. Based on the technical analysis in Tennessee's April 12, 2017, noninterference demonstration, as shown in Table 3, there is an overall downward trend in ozone concentrations in the Memphis Area, and NO<sub>2</sub>, as a component of NO<sub>x</sub>, is an ozone precursor. This decline can be attributed to federal and state programs that have led to significant emissions reductions in ozone precursors, such as federal standards in on-road and non-road mobile source sectors and resultant fleet turnover. See 81 FR 22948, (April 19, 2016). Given this downward trend, the downward trend in precursor emissions, the current ozone concentrations in the Memphis Area, and the results of Tennessee's emissions analysis and the current unclassifiable/attainment designation, EPA is proposing to determine that a change to 9.0 psi RVP fuel for Shelby County would not interfere with maintenance of the 2010 NO<sub>2</sub> NAAQS in the Area.

### VI. Proposed Action

EPA is proposing to approve 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 is also proposing to find that this 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 is proposing that Tennessee's April 12, 2017, SIP noninterference demonstration associated with the State's request for the removal of the federal RVP requirements, are consistent with the applicable provisions of the CAA. Should EPA decide to remove Shelby County from those areas subject to the 7.8 psi federal RVP requirements, such action will occur in a separate, subsequent rulemaking.

### VII. 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 proposed 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 proposed 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 (Pub. L. 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.

### 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.

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

<sup>6</sup> See, e.g., *Quantifying the sources of ozone, fine particulate matter, and regional haze in the Southeastern United States*, Journal of Environmental Engineering (June 24, 2009), available at: <http://www.journals.elsevier.com/journal-of-environmental-management>.

Dated: April 17, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017-09491 Filed 5-10-17; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 60, 61, and 63

[EPA-R09-OAR-2017-0071; FRL-9961-78-Region 9]

#### Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona and Nevada

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve updates to the Code of Federal Regulations delegation tables to reflect the current delegation status of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants in Arizona and Nevada.

**DATES:** Comments must be received by June 12, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2017-0071 at <https://www.regulations.gov>, or via email to

[Steckel.Andrew@epa.gov](mailto:Steckel.Andrew@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Buss, EPA Region IX, (415) 947-4152, [buss.jeffrey@epa.gov](mailto:buss.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" section of this **Federal Register**, the EPA is approving

updates to the Code of Federal Regulations delegation tables to reflect the current delegation status of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants in Arizona and Nevada. We are approving these updates in a direct final action without prior proposal because we believe this action is not controversial. A detailed rationale for the approval is set forth in the direct final rule. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in a subsequent final rule based on this proposed rule. Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 24, 2017.

Elizabeth J. Adams,

Acting Director, Air Division, Region IX.

[FR Doc. 2017-09496 Filed 5-10-17; 8:45 am]

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