



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2008-0177(b); FRL-9673-9]

Approval and Promulgation of Implementation Plans; Portion of York County, South Carolina within Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-Hour Ozone Nonattainment Area; Ozone 2002 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the ozone 2002 base year emissions inventory portion of the state implementation plan (SIP) revision submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) on April 29, 2010. The emissions inventory is included in the ozone attainment demonstration that was submitted for the 1997 8-hour ozone national ambient air quality standards (NAAQS) for the portion of York County, South Carolina that is within the bi-state Charlotte-Gastonia-Rock Hill 1997 8-hour ozone nonattainment area. The Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-hour ozone nonattainment area (hereafter referred to as the “bi-state Charlotte Area”) is comprised of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell (Davidson and Coddle Creek Townships) Counties in North Carolina; and a portion of York County in South Carolina. This action is being taken pursuant to section 110 of the Clean Air Act (CAA or Act). EPA will take action on the North Carolina submission for the ozone 2002 base year emissions inventory for its portion of the bi-state Charlotte Area in a separate action.

DATES: This direct final rule is effective [Insert date 60 days after publication in the Federal

Register] without further notice, unless EPA receives adverse comment by [Insert date 30 days after publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2008-0177, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
 2. E-mail: R4-RDS@epa.gov.
 3. Fax: (404) 562-9019.
 4. Mail: “EPA-R04-OAR-2008-0177,” Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
 5. Hand Delivery or Courier: Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
- Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2008-0177. 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 through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website 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. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., 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 either electronically in www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and

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

FOR FURTHER INFORMATION CONTACT: Sara Waterson, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9061. Ms. Waterson can be reached via electronic mail at waterson.sara@epa.gov.

SUPPLEMENTARY INFORMATION:

- I. Background**
- II. Analysis of State's Submittal**
- III. Final Action**
- IV. Statutory and Executive Order Reviews**

I. Background

On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS of 0.08 parts per million (ppm). Under EPA's regulations at 40 CFR part 50, the 1997 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 0.08 ppm (i.e., 0.084 ppm when rounding is considered) (69 FR 23857, April 30, 2004). 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 40 CFR part 50, appendix I.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of ambient air quality data at the conclusion of the designation process. The bi-state Charlotte Area was designated nonattainment for the 1997 8-hour ozone NAAQS on April 30, 2004 (effective June 15, 2004) using 2001-2003 ambient air quality data (69 FR 23857, April 30, 2004). At the time of designation the bi-state Charlotte Area was classified as a moderate nonattainment area for the 1997 8-hour ozone NAAQS. In the April 30, 2004, Phase I Ozone Implementation Rule, EPA established ozone nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA. This established an attainment date six years after the June 15, 2004, effective date for areas classified as moderate areas for the 1997 8-hour ozone nonattainment designations. Section 181 of the CAA explains that the attainment date for moderate nonattainment areas shall be as expeditiously as practicable, but no later than six years after designation, or June 15, 2010. Therefore, the bi-state Charlotte Area's original attainment date was June 15, 2010. *See* 69 FR 23951, April 30, 2004.

On April 29, 2010,¹ South Carolina submitted an attainment demonstration and

¹ South Carolina withdrew an August 31, 2007, attainment demonstration SIP for its portion of the Charlotte-

associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, emissions statement, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 8-hour ozone NAAQS in the bi-state Charlotte Area (hereafter referred to as the “South Carolina’s nonattainment submissions for the 1997 8-hour ozone NAAQS for the bi-state Charlotte Area”).

The bi-state Charlotte Area did not attain the 1997 8-hour ozone NAAQS by June 15, 2010 (the applicable attainment date for moderate nonattainment areas); however, the Area qualified for an extension of the attainment date. Under certain circumstances, the CAA allows for extensions of the attainment dates prescribed at the time of the original nonattainment designation. In accordance with CAA section 181(a)(5), EPA may grant up to 2 one-year extensions of the attainment date under specified conditions. On May 31, 2011, EPA determined that South Carolina met the CAA requirements to obtain a one-year extension of the attainment date for the 1997 8-hour ozone NAAQS for the bi-state Charlotte Area. *See* 76 FR 31245. As a result, EPA extended the bi-state Charlotte Area’s attainment date from June 15, 2010, to June 15, 2011, for the 1997 8-hour ozone NAAQS.

On November 15, 2011 (76 FR 70656), EPA determined the bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS; and subsequently, on March 7, 2012 (77 FR 13493), EPA determined that the bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS by the applicable attainment date. The determination of attaining data was based upon complete, quality-assured and certified ambient air monitoring data for the 2008–2010 period, showing that

Gastonia-Rock Hill 1997 8-hour ozone area on December 22, 2008. On April 29, 2010, South Carolina resubmitted the attainment demonstration SIP for the South Carolina portion of the Charlotte-Gastonia-Rock Hill 1997 8-hour ozone area.

the Area had monitored attainment of the 1997 8-hour ozone NAAQS. The requirements for the Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard were suspended as a result of the determination of attainment, so long as the Area continues to attain the 1997 8-hour ozone NAAQS. *See* 40 CFR 52.2125(a).

On January 12, 2012, South Carolina withdrew the South Carolina portion of the bi-state Charlotte Area's attainment demonstration (except RFP, emissions statement, and the emissions inventory) as allowed by 40 CFR 51.918 for its portion of this Area; however, the emissions inventory requirement found in CAA section 182(a)(1), which requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions, is not suspended by a determination of attainment. Accordingly, South Carolina has not withdrawn its emission inventory for the 1997 8-hour ozone NAAQS, and EPA is now taking direct final action to approve this portion of the SIP revision submitted by the State of South Carolina on April 29, 2010, as required by section 182(a)(1).

II. Analysis of State's Submittal

As discussed above, section 182(a)(1) of the CAA requires areas to submit a comprehensive, accurate and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. South Carolina selected 2002 as base year for the emissions inventory pursuant to 40 CFR 51.915. Emissions contained in South Carolina's portion of the bi-state Charlotte attainment plan cover the general source categories of stationary point and area sources, non-road and on-road mobile sources. A detailed discussion of the

emissions inventory development and point source emissions can be found in Appendix E of the South Carolina submittal; which can be found in the docket for today's action using Docket ID No. EPA-R04-OAR-2008-0177. The 2002 nitrogen oxides (NOx) baseline emissions inventory, for the partial county emissions for York can be found in Appendix P of the submittal. The 2002 volatile organic compounds (VOC) baseline emissions inventory for the partial county emissions for York can be found in Appendix O of the submittal. The table below provides a summary of the annual 2002 emissions of NOx and VOCs.

Table 1. 2002 Point and Area Sources Annual Emissions for the South Carolina Portion of the Charlotte Area (tons per summer day)

County	Point		Area		Non-Road		Mobile	
	NOx	VOC	NOx	VOC	NOx	VOC	NOx	VOC
York (partial)*	11.1	7.29	2.2	7.48	4.9	3.19	13.8	6.84

*Only part of York County is in the nonattainment area.

The 182(a)(1) emissions inventory is developed by the incorporation of data from multiple sources. States were required to develop and submit to EPA a triennial emissions inventory according to the Consolidated Emissions Reporting Rule for all source categories (i.e., point, area, non-road mobile and on-road mobile). This inventory often forms the basis of data that are updated with more recent information and data that also is used in their attainment demonstration modeling inventory. Such was the case in the development of the 2002 emissions inventory that was submitted in the State's attainment demonstration SIP for this Area. The 2002 emissions inventory was based on data developed with the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) contractors and submitted by the States to the 2002 National Emissions Inventory. Several iterations of the 2002 inventories were developed

for the different emissions source categories resulting from revisions and updates to the data. Data from many databases, studies and models (e.g., vehicle miles traveled, fuel programs, the NONROAD 2002 model data for commercial marine vessels, locomotives and Clean Air Market Division, etc.) resulted in the inventory submitted in this SIP. The data were developed according to current EPA emissions inventory guidance “Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations” (August 2005) and a quality assurance project plan that was developed through VISTAS and approved by EPA. EPA agrees that the process used to develop this inventory was adequate to meet the requirements of CAA section 182(a)(1) and the implementing regulations.

EPA has reviewed South Carolina’s emissions inventory for its portion of the bi-state Charlotte Area for the 1997 8-hour ozone NAAQS and finds that it is adequate for the purposes of meeting section 182(a)(1) emissions inventory requirement. The emissions inventory is approvable because the emissions were developed consistent with the CAA, implementing regulations and EPA guidance for emission inventories.

III. Final Action

EPA is approving the 2002 base year emissions inventory portion of South Carolina’s 1997 8-hour ozone attainment demonstration SIP revision for the bi-state Charlotte Area submitted by the State of South Carolina on April 29, 2010. This action is being taken pursuant to section 110 of the CAA. On March 12, 2008, EPA issued a revised ozone NAAQS. *See* 73 FR 16436. The current action, however, is being taken to address requirements under the 1997

8-hour ozone NAAQS. Requirements for the South Carolina portion of the Charlotte Area under the 2008 ozone NAAQS will be addressed in the future. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days from the date of publication] without further notice unless the Agency receives adverse comments by [Insert date 30 days from date of publication].

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [Insert date 60 days from date of publication] and no further action will be taken on the proposed rule.

IV. 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. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, 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, this emissions inventory for the bi-state Charlotte Area does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the South Carolina portion of the bi-state Charlotte Area. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” EPA notes today's action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the

finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: May 8, 2012

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

40 CFR part 52 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 PP—South Carolina

2. Section 52.2120(e) is amended by adding a new entry for “South Carolina portion of bi-state Charlotte; 1997 8-Hour Ozone 2002 Base Year Emissions Inventory” to the end of the table to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(e)

EPA-approved South Carolina non-regulatory provisions.

Provision	State effective date	EPA approval date	Explanation
**	**	**	*
South Carolina portion of bi-state Charlotte; 1997 8-Hour Ozone 2002 Base Year Emissions Inventory	04/29/2010	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	Applicable to the 1997 8-hour Ozone boundary in York County only (Rock Hill-Fort Mill Area Transportation Study Metropolitan Planning Organization Area).

[FR Doc. 2012-12003 Filed 05/17/2012 at 8:45 am; Publication Date: 05/18/2012]