



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2014-0765; FRL-9918-94-Region 4]**

**Approval and Promulgation of Implementation Plans; North Carolina;**

**Approval of Revisions to Inspection and Maintenance (I/M) Regulations Within the North**

**Carolina State Implementation Plan; Correcting Amendment**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule; correcting amendment.

**SUMMARY:** On October 30, 2002, the Environmental Protection Agency (EPA) published a direct final rule in the Federal Register approving North Carolina State Implementation Plan (SIP) revisions, submitted through the North Carolina Department of Environment and Natural Resources (NC DENR), Division of Air Quality (DAQ), regarding the State's enhanced inspection and maintenance (I/M) program. This correcting amendment corrects inadvertent errors for two rule titles in the regulatory text of EPA's October 30, 2002, direct final rule.

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

**ADDRESSES:** Copies of the documentation used in the action being corrected are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The

Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Nacosta C. Ward, 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) 562-9140. Ms. Ward can also be reached via electronic mail at [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov).

**SUPPLEMENTARY INFORMATION:** This action corrects the titles for two North Carolina regulations that appear in North Carolina's Identification of Plan at section 40 CFR 52.1770(c) under Table 1, at Subchapter 2D Air Pollution Control Requirements, Section .1000 Motor Vehicle Emissions Control Standard. The two titles that appear in Table 1 as approved in EPA's direct final rulemaking on October 30, 2002 (67 FR 66056), are Sect .1004 "Emissions Standards" and Sect .1005 "Measurement and Enforcement." However, the rule titles should read Sect .1004 "Tailpipe Emission Standards for CO and HC" and Sect .1005 "On-Board Diagnostic Standards" as provided in the red-line/strikethrough portion of NC DENR's August 7, 2002, SIP revision. EPA is correcting these inadvertent errors by replacing the current titles for Sect .1004 and Sect .1005 with the correct titles into North Carolina's Identification of Plan section of the Code of Federal Regulations (CFR) at 40 CFR 52.1770(c).

EPA has determined that this action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding "good cause,"

authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary or contrary to the public interest. Public notice and comment for this action are unnecessary because this action to insert the correct titles in the CFR for Sect .1004 and Sect .1005 for North Carolina's regulations has no substantive impact on EPA's October 30, 2002, approval. The use of incorrect titles as printed for the two regulations in the regulatory text section of EPA's direct final rule published on October 30, 2002, makes no substantive difference to EPA's analysis as set out in the rule. In addition, EPA can identify no particular reason why the public would be interested in having the opportunity to comment on the corrections prior to this action being finalized, since this correcting amendment does not change the meaning of the regulations at issue or otherwise change EPA's analysis of North Carolina's enhanced I/M SIP revision. *See* 67 FR 66056.

EPA also finds that there is good cause under APA section 553(d)(3) for these corrections to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this rule merely corrects inadvertent errors for the two aforementioned rule titles contained in the North Carolina regulations which EPA approved on October 30, 2002. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

### **Statutory and Executive Order Reviews:**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely corrects inadvertent errors for the two aforementioned rule titles contained in the North Carolina regulations which EPA approved on October 30, 2002, and it imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely corrects inadvertent errors for the two aforementioned rule titles contained in the North Carolina regulations which EPA approved on October 30, 2002, and does not impose any additional enforceable duty beyond that required by state law, it 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).

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.

This rule also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This rule merely corrects inadvertent errors for the two aforementioned rule titles contained in the North Carolina regulations which EPA approved on October 30, 2002, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, 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 also 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. section 804(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 recordkeeping requirements, Volatile organic compounds.

Dated: October 23, 2014.

V. Anne Heard

Acting Regional Administrator,

Region 4.

40 CFR part 52 is amended as follows:

**PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart II – North Carolina**

2. Section 52.1770(c) is amended in Table 1, under “Subchapter 2D Air Pollution Control Requirements”, “Section .1000 Motor Vehicle Emissions Control Standard” by revising the entries for “Sect .1004” and “Sect .1005” to read as follows:

**§52.1770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**TABLE 1 – EPA APPROVED NORTH CAROLINA REGULATIONS**

<b>State citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Explanation</b>
<b>Subchapter 2D Air Pollution Control Requirements</b>				
**	**	*	*	*
<b>Section .1000 Motor Vehicle Emissions Control Standard</b>				
**	**	*	*	*
Sect .1004	Tailpipe Emission Standards for CO and HC	7/1/2002	[Insert date of publication in <u>Federal Register</u> ] [Insert Federal Register citation ]	
Sect .1005	On-Board Diagnostic Standards	7/1/2002	[Insert date of publication in <u>Federal Register</u> ]	

			[Insert Federal Register citation]	
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