



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2015-0298; FRL-9939-66-Region 4]

Air Plan Approval and Air Quality Designation; SC; Redesignation of the Charlotte-Rock Hill, 2008 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking three separate final actions related to a state implementation plan (SIP) revision submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), on April 17, 2015. These final actions are for the York County, South Carolina portion of the bi-state Charlotte-Rock Hill, North Carolina-South Carolina 2008 8-hour ozone national ambient air quality standards (NAAQS) nonattainment area (the entire area is hereinafter referred to as the “bi-State Charlotte Area” or “Area” and the South Carolina portion is hereinafter referred to as the “York County Area”). In these three final actions, EPA determines that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS; approves and incorporates South Carolina’s plan for maintaining attainment of the 2008 8-hour ozone standard in the York County Area, including the 2014 and 2026 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_x) and volatile organic compounds (VOC) for the York County Area, into the SIP; and redesignates the York County Area to attainment for the 2008 8-

hour ozone NAAQS. Additionally, EPA finds the 2014 and 2026 MVEBs for the York County Area adequate for the purposes of transportation conformity.

DATES: This rule will be effective [insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2015-0298. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information 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 through www.regulations.gov or in hard copy at the 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. 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 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler of the 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. Mrs. Sheckler may be reached by phone at (404) 562-9992 or via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background for Final Actions.

On May 21, 2012 (77 FR 30088), EPA designated areas as unclassifiable/attainment or nonattainment for the 2008 8-hour ozone NAAQS that was promulgated on March 27, 2008 (73 FR 16436). The bi-state Charlotte Area was designated as nonattainment for the 2008 8-hour ozone NAAQS and classified as a marginal nonattainment area. The bi-state Charlotte Area consists of York County, South Carolina, within the Rock Hill Fort Hill Area Transportation Study (RFATS) Metropolitan Planning Organization (MPO); Mecklenburg County, North Carolina; and portions of Cabarrus, Gaston, Iredell, Lincoln, Rowan and Union Counties in North Carolina. EPA previously addressed North Carolina's request to redesignate the North Carolina portion of the Area and its maintenance plan for the 2008 8-hour ozone NAAQS in a separate rulemaking. *See* 80 FR 44873 (July 28, 2015).

On April 17, 2015, SC DHEC requested that EPA redesignate the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS and submitted a SIP revision containing the State's plan for maintaining attainment of the 2008 8-hour ozone standard in the Area, including the 2014 and 2026 MVEBs for NO_x and VOC for the York County Area. In a notice of proposed rulemaking (NPR) published on October 14, 2015, EPA proposed to determine that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS; to approve and incorporate into the South Carolina SIP the State's plan for maintaining attainment of the 2008 8-hour ozone standard in the Area, including the 2014 and 2026 MVEBs

for NO_x and VOC for the South Carolina portion of the bi-state Charlotte Area; and to redesignate the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS. *See* 80 FR 61775. In that notice, EPA also notified the public of the status of the Agency's adequacy determination for the NO_x and VOC MVEBs for the South Carolina portion of the bi-state Charlotte Area. No comments were received. The details of South Carolina's submittal and the rationale for EPA's actions are further explained in the NPR. *See* 80 FR 61775 (October 14, 2015).

II. What are the Effects of These Actions?

Approval of South Carolina's redesignation request changes the legal designation of York County in the South Carolina portion of the bi-state Charlotte Area, found at 40 CFR 81.341, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of South Carolina's associated SIP revision also incorporates a plan into the SIP for maintaining the 2008 8-hour ozone NAAQS in the York County Area through 2026. The maintenance plan establishes NO_x and VOC MVEBs for 2014 and 2026 for the York County Area and includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluation of potential violations. The MVEBs, in kilograms per day (kg/day) for the South Carolina portion of the bi-state Charlotte Area along with the allocations from the safety margin, are provided in the table below.¹

¹ South Carolina has chosen to allocate a portion of the available safety margin to the NO_x and VOC MVEBs for 2026. SC DEHC has allocated 7.63 tons per day (tpd) (6,922 kg/day) to the 2026 NO_x MVEB and 1.52 tpd (1,379 kg/day) to the 2026 VOC MVEB.

York County Area MVEBs (kg/day)

	2014		2026	
	NO _x	VOC	NO _x	VOC
Base Emissions	9,112	3,566	3,076	1,576
Safety Margin Allocated to MVEB	-	-	6,922	1,379
Conformity MVEB	9,112	3,566	9,998	2,955

III. Final Actions.

EPA is taking three separate final actions regarding the York County Area’s redesignation to attainment and maintenance of the 2008 8-hour ozone NAAQS. First, EPA is determining that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS.

Second, EPA is approving and incorporating the maintenance plan for the York County Area, including the NO_x and VOC MVEBs for 2014 and 2026, into the South Carolina SIP. The maintenance plan demonstrates that the Area will continue to maintain the 2008 8-hour ozone NAAQS, and the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5).

Third, EPA is determining that South Carolina has met the criteria under CAA section 107(d)(3)(E) for the York County Area for redesignation from nonattainment to attainment for the 2008 8-hour ozone NAAQS. On this basis, EPA is approving South Carolina’s redesignation request for the 2008 8-hour ozone NAAQS for the York County Area. As mentioned above, approval of the redesignation request changes the official designation of York County in the South Carolina portion of the bi-state Charlotte Area for the 2008 8-hour ozone NAAQS from nonattainment to attainment, as found at 40 CFR part 81.

EPA is also notifying the public that EPA finds the newly-established NO_x and VOC MVEBs for the York County Area adequate for the purpose of transportation conformity. Within 24 months from this final rule, the transportation partners will need to demonstrate conformity to the new NO_x and VOC MVEBs pursuant to 40 CFR 93.104(e)(3).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA or Act), redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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 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, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state or Federal law. For these reasons, these actions:

- are not significant regulatory actions 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);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- are 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.*);
- do 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);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are 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
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this action for the state of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The Catawba Indian Nation Reservation is located within the State of South Carolina. 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.” However, because no tribal lands are located within the South Carolina portion of the Area, this action is not approving any specific

state requirement into the SIP that would apply to Tribal lands. Therefore, EPA has determined that this rule does not have substantial direct effects on an Indian Tribe. 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 [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. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: November 25, 2015

Heather McTeer Toney
Regional Administrator,
Region 4.

40 CFR parts 52 and 81 are 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 PP – South Carolina

2. Section 52.2120(e) is amended by adding a new entry for “2008 8-hour ozone Maintenance Plan for the York County, South Carolina portion of the bi-state Charlotte Area” at 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
**	**	**	*
2008 8-hour ozone Maintenance Plan for the York County, South Carolina portion of the bi-state Charlotte Area	4/17/2015	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	

PART 81-DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

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

4. In § 81.341, the table entitled “South Carolina-2008 8-Hour Ozone NAAQS (Primary and secondary)” is amended by revising the entries for “Charlotte- Rock Hill, NC-SC”, “York County (part)” and “Portion along MPO lines” to read as follows:

§ 81.341 South Carolina.

* * * * *

South Carolina-2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Charlotte-Rock Hill, NC-SC: ²	This action is effective [Insert date of publication in the Federal Register]	Attainment		
York County (part) Portion along MPO lines				
**	**	**	*	

¹ This date is July 20, 2012, unless otherwise noted.

² Excludes Indian country located in each area, unless otherwise noted.

³ Includes Indian country of the tribe listed in this table located in the identified area. Information pertaining to areas of Indian country in this table is intended for CAA planning purposes only and is not an EPA determination of Indian country status or any Indian country boundary. EPA lacks the authority to establish Indian country land status, and is making no determination of Indian country boundaries, in this table.

⁴ Includes any Indian country in each county or area, unless otherwise specified.

* * * * *

[FR Doc. 2015-30920 Filed: 12/10/2015 8:45 am; Publication Date: 12/11/2015]