



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2016-0614; FRL-9961-74-Region 4]

Air Plan Approval; North Carolina

Repeal of Transportation Facilities Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is taking action to approve a State Implementation Plan (SIP) revision, submitted by the North Carolina Department of Environmental Quality through the Division of Air Quality (DAQ) on September 16, 2016, for the purpose of removing the statewide transportation facilities rules. The State provided a Clean Air Act section 110(l) noninterference demonstration establishing that removal of the North Carolina transportation facilities rules will not interfere with the maintenance of the 8-hour carbon monoxide standard or any other national ambient air quality standards (NAAQS). EPA is approving this SIP revision because the DAQ has demonstrated that it is consistent with the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective **[Insert date 60 days after date of publication in the Federal Register]** without further notice, unless EPA receives adverse comment by **[Insert date 30 days after date of 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-2016-0614 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: Kelly Sheckler, 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. The telephone number is (404) 562-9222. Ms. Sheckler can also be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In 1978, EPA designated Mecklenburg County, North Carolina (hereinafter the

“Charlotte Area”) as nonattainment for the NAAQS for carbon monoxide (CO). Then, under the CAA amendments of 1990, the Charlotte Area was designated as “not-classifiable” and had five years to attain the CO NAAQS (i.e., November 15, 1995). On November 15, 1990, Durham and Wake Counties (hereinafter the “Raleigh-Durham/Chapel Hill Area”) and Forsyth County (hereinafter the “Winston-Salem Area”) in North Carolina were designated as “moderate” nonattainment and had until December 31, 1995, to attain the standard.

In April 1994, DAQ submitted a request to EPA to redesignate the Winston-Salem Area to attainment status, and in November 1994, EPA approved the maintenance plan for CO (59 FR 48402), and redesignated the area to attainment/maintenance for CO. Next, in 1995, EPA approved the Charlotte and Raleigh-Durham/Chapel Hill Areas’ maintenance plans for CO and redesignated the area to attainment/maintenance for CO (60 FR 39262). In 2015, these areas completed the 20-year maintenance periods, and EPA redesignated them to attainment.

North Carolina adopted the transportation facility rules on November 15, 1973, pursuant to the federal requirement (40 CFR part 51.18) to control emissions from indirect (complex) sources. North Carolina identifies transportation facilities as complex sources in its rules (N.C.G.S. 143-213(22)) and includes any facilities that cause increased emissions from motor vehicles. In 1974, EPA suspended the indirect source review programs, including 40 CFR part 51.18. The 1977 CAA amendments codified this suspension in section 110(a)(5)(A)(i); this suspension allowed states to include indirect source review regulations in their State Implementation Plans (61 FR 3584; 62 FR 41277; 63 FR 72193; 64 FR 61213), but EPA could not require them as a condition of its approval of the SIP.

In 2013, the North Carolina General Assembly enacted Session Law 2013-2014 that

sought to streamline the regulatory process and eliminate unnecessary regulation. The State Environmental Management Commission recommended repealing the transportation facility rules in 15A NCAC 02D .0800- Complex Sources and 02Q .0600 - Transportation Facilities Procedures. The transportation facility rules are aimed at addressing CO emissions, and North Carolina does not have any CO nonattainment areas. As a result, DAQ proposes to repeal the transportation facilities rule.

II. Analysis of State's Submittal

Section 110(l) of the CAA 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. EPA evaluates each section 110(l) noninterference demonstration on a case-by-case basis considering the circumstances of each SIP revision. DAQ provided a demonstration that shows that the repeal of the statewide North Carolina transportation facilities rules will not interfere with the maintenance of the CO standards or any other NAAQS or other CAA requirement. The rules, which are focused on addressing CO emissions, offer no environmental benefit to the State now that it no longer has any CO nonattainment areas. The Charlotte, Raleigh-Durham/Chapel Hill and Winston-Salem Areas have been redesignated to maintenance (60 FR 39262 and 59 FR 48402), and the monitoring data for CO in 2016 shows that all three areas are well below the 8-hour CO standard. The complex sources (transportation facilities) rules do not set requirements for any other NAAQS, including ozone, particulate matter, sulfur dioxide, nitrogen dioxide and lead, and therefore, removing the transportation facilities rules in 15A NCAC 02D .0800- Complex Sources and 02Q .0600 - Transportation Facilities Procedures would not result in violations of

the NAAQS.

III. Final Action

EPA is approving the aforementioned changes to remove 15A NCAC 02D .0800 - Complex Sources and 02Q .0600 - Transportation Facilities Procedures, from the SIP for North Carolina. 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 after date of publication in the Federal Register**] without further notice unless the Agency receives adverse comments by [**Insert date 30 days after date of publication in the Federal Register**].

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 after date of publication in the Federal Register**] 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. *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, 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) 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 (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, 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.

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**

after date of publication 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 31, 2017.

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

§ 52.1770 [Amended]

2. Section 52.1770(c), Table 1 is amended:

- a. Under “Subchapter 2D Air Pollution Control Requirements” by removing the heading “Section .0800 Complex Sources” and the entries “Sect .0801” through “Sect .0806”; and
- b. Under “Subchapter 2Q Air Quality Permits” by removing the heading “Section .0600 Transportation Facility Procedures” and the entries “Sect .0601” through “Sect .0607”.

[FR Doc. 2017-09539 Filed: 5/11/2017 8:45 am; Publication Date: 5/12/2017]