



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2016-0362; FRL-9968-10-Region 4]**

**Air Plan Approval; North Carolina Miscellaneous Rules**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving several changes to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality (NCDEQ), on December 14, 2004, and March 1, 2016. The March 1, 2016, submission adds a new rule to the “Exclusionary Rules” of the North Carolina SIP, and the portion of the December 14, 2004, submission EPA is approving adds two new rules under a new section called “Permit Exemptions.” This action is being taken pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule will be effective [insert date 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-2016-0362. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not 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](http://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.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On December 14, 2004, and March 1, 2016, the State of North Carolina, through NCDEQ, submitted revisions to the North Carolina SIP. The March 1, 2016, submission which adds a new rule—15A NCAC 02Q .0809 *Concrete Batch Plants*—and a portion of the December 14, 2004, submission which adds two new rules—15A NCAC 02Q .0901, *Purpose and Scope* and .0902 *Portable Crushers*. In a proposed rulemaking published on July 10, 2017 (82 FR 31739), EPA proposed to approve these SIP revisions. The details of North Carolina's SIP revision and the rationale for EPA's action are explained in the proposed rulemaking. Comments on the proposed rulemaking were due on or before August 9, 2017. EPA did not receive any comments on the proposed action.

##### **II. Incorporation by Reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of

North Carolina Rules 15A NCAC 02Q .0809 entitled “*Concrete Batch Plants*” effective April 1, 2004, a new exclusionary rule for concrete batch that excludes from Title V permitting requirements such facilities that operate below a specified annual production rate; 15A NCAC 02Q .0901 entitled “*Purpose and Scope*” effective January 1, 2005, a new exclusionary rule which provides for exclusions from construction and operating permits for certain types of sources and activities; and 15A NCAC 02Q .0902 entitled “*Portable Crushers*” effective January 1, 2005, an exclusionary rule which provides for exclusions from construction and operating permits for portable crusher operations.

Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>1</sup> EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

### **III. Final Action**

EPA is approving North Carolina’s March 1, 2016, submission and a portion of the December 14, 2004, submission. The changes pertain to the addition of two new rules under a new section “Permit Exemptions” and a new rule to the “Exclusionary Rules” of the North Carolina SIP. These rule adoptions do not contravene federal permitting requirements or existing EPA policy, nor will they impact the NAAQS or interfere with any other applicable

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

requirement of the Act. *See* 42 U.S.C. 7410(l).

#### **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, these actions merely approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- are 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);
- 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- are not a significant regulatory action 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
- do 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.

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. 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 13, 2017.

Onis “Trey” Glenn, III  
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. In § 52.1770, table 1 in paragraph (c) is amended under the heading “Subchapter 2Q Air Quality Permits” by:

- a. Adding “Sect .0809” in numerical order.
- b. Adding the heading “Section .0900 Permit Exemptions” and the entries “Sect .0901” and “Sect .0902” at the end of the table.

The additions read as follows:

**§ 52.1770 Identification of plan.**

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(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>
* * * * *				
Subchapter 2Q Air Quality Permits				
**	**	*	*	*
Section .0800 Exclusionary Rules				

**	**	*	*	*
Sect .0809	Concrete Batch Plants	4/1/2004	[insert date of publication in <u>Federal Register</u> ], [insert <u>Federal Register</u> citation]	
* * * * *				
Section .0900 Permit Exemptions				
Sect .0901	Purpose and Scope	1/1/2005	[insert date of publication in <u>Federal Register</u> ], [insert <u>Federal Register</u> citation]	
Sect .0902	Portable Crushers	1/1/2005	[insert date of publication in <u>Federal Register</u> ], [insert <u>Federal Register</u> citation]	

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[FR Doc. 2017-20325 Filed: 9/28/2017 8:45 am; Publication Date: 9/29/2017]