



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2019-0638; FRL-10008-00-Region 4]**

**Air Plan Approval; North Carolina; Miscellaneous Permit Provisions Revisions**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), with letters dated September 18, 2009, September 16, 2016, and July 10, 2019. These SIP revisions amend several of North Carolina's rules regarding construction and operating permits. This action is being proposed pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2019-0638 at [www.regulations.gov](http://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 [www2.epa.gov/dockets/commenting-epa-dockets](http://www2.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** Evan Adams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9009. Mr. Adams can also be reached via electronic mail at [adams.evan@epa.gov](mailto:adams.evan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. What Action is EPA Proposing?**

North Carolina has a SIP-approved combined construction and operating permit program for minor sources, and the program's regulations include requirements for obtaining preconstruction and operating permits for different types of minor sources. The program covers "true minor" sources, which have the potential to emit (PTE) certain pollutants below major source thresholds for new sources and modifications. The SIP-approved minor source permitting program also includes provisions for issuing permits that establish federally enforceable emission limits to restrict the PTE of certain pollutants below major source and major modification applicability thresholds, referred to as "synthetic minor" sources in the North Carolina SIP. These program rules also specify exemptions from the requirement to obtain construction and operating permits.

North Carolina's September 18, 2009,<sup>1,2</sup> submittal revises rule 15A North Carolina Administrative Code (NCAC) 02Q .0304, *Applications*, to make clarifying and ministerial edits. The September 16, 2016,<sup>3,4</sup> submittal revises 15A NCAC 02D .0101, *Definitions*, and 15A NCAC 02Q .0101, *Required Air Quality Permits*; .0103, *Definitions*; and .0104, *Where to Obtain and File Permit Applications*, to make clarifying and administrative updates.<sup>5</sup> Finally, the July 10, 2019, submittal readopts, and makes clarifying and ministerial edits to, the following: 15A NCAC 02Q .0101, *Required Air Quality Permits*; .0103, *Definitions*; .0104, *Where to Obtain and File Permit Applications*; .0105, *Copies of Referenced Documents*; .0106, *Incorporation by Reference*; .0107, *Confidential Information*; .0108, *Delegation of Authority*; .0109, *Compliance Schedule for Previously Exempted Activities*; .0110, *Retention of Permit at Permitted Facility*; and .0111, *Applicability Determinations*.<sup>6</sup> These changes are discussed in detail in Section II of this notice.

EPA has reviewed the proposed changes to the minor source construction and operating permitting regulations and preliminarily finds them to be consistent with CAA sections 110(a)(2)(C) and 110(l) and EPA's minor NSR regulations found at 40 CFR 51.160 – 164.

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<sup>1</sup> EPA received the submittal on September 22, 2009.

<sup>2</sup> EPA received a supplemental submittal of corrected redline/strikeout changes for 02Q Section .0304 on June 7, 2019. See the docket for this action.

<sup>3</sup> EPA received the submittal on October 4, 2016.

<sup>4</sup> EPA notes Section 02Q .0203, - "Permit and Application Fees" was submitted as well. However, this Section is not approved into the SIP, and is not appropriate for the SIP. EPA will therefore not take action on this Section.

<sup>5</sup> North Carolina's September 16, 2016, submittal also removes Rule 02D Section .800, *Complex Sources*, and Rule 02Q Section .0600, *Transportation Facilities Procedures*. EPA previously approved this portion of the submittal on May 12, 2017 (82 FR 22086).

<sup>6</sup> EPA is only proposing action on these portions of North Carolina's July 10, 2019 submittal. EPA will act on other portions of that submittal in a separate action.

## II. Analysis of North Carolina’s Submittals

### A. September 18, 2009, Submittal<sup>7</sup>

The September 18, 2009, submittal makes changes to Rule 15A NCAC 02Q .0304, *Applications*, to make clarifying and ministerial updates to the required elements of applications for obtaining, modifying, or renewing a permit. Specifically, redundant language is removed and minor edits are made to clarify applicable provisions. Accordingly, EPA is proposing to approve these changes as minor clarifying amendments.

### B. September 16, 2016, Submittal

The September 16, 2016, submittal makes several rule changes. First, Subchapter 02D is revised at 15A NCAC 02D .0101, *Definitions*, to make ministerial edits throughout the rule, including changes to punctuation, numbering, and other minor language edits. Next, the submittal adds a definition for “transportation facility,” which notes that such a facility is a “complex source,” as defined by General Statutes, Article 21, *Water and Air Resources*, § 143-213, *Definitions* at 213(22). North Carolina’s SIP includes an identical definition in 02Q .0103, *Definitions*. EPA is preliminarily concluding that the inclusion of this definition in 02D .0101 is consistent with applicable CAA requirements.

Next, 02Q .0101, *Required Air Quality Permits*, is changed to include ministerial edits at paragraph (a), including changes to punctuation and other minor language edits. Additionally, paragraph (b) is changed to remove “Transportation Facility Construction Permits” as a listed type of required permit. This type of permit was previously included in the North Carolina SIP

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<sup>7</sup> At this time, EPA is not acting on changes to 02Q Section .0902 as submitted on September 18, 2009, and supplemented with a June 7, 2019, letter transmitting corrected redline/strikeout changes. EPA will take action on this portion of the submittal at a later date.

under 02D Section .0800 and 02Q Section .0600, but those Sections have since been removed from the SIP. *See* 82 FR 22086 (May 12, 2017). As a result, EPA is proposing approval of this change to 02Q .0101.

Finally, 02Q .0103, *Definitions*; and .0104, *Where to Obtain and File Permit Applications*, are revised to include ministerial edits throughout (e.g., changes to punctuation and other minor language edits) and to remove or revise language that previously cross-referenced 02D Section .0800 and 02Q Section .0600. As described above, these changes are necessary to accurately reflect the current SIP requirements given the removal of 02D .0800 and 02Q .0600. EPA is proposing to approve these changes as minor clarifying amendments.

C. July 10, 2019, Submittal

North Carolina's July 10, 2019, submittal makes several rule changes. First, the revision makes non-substantive and ministerial edits to the following: 15A NCAC 02Q .0101, *Required Air Quality Permits*; .0103, *Definitions*; .0104, *Where to Obtain and File Permit Applications*; .0107, *Confidential Information*; .0108, *Delegation of Authority*; .0109, *Compliance Schedule for Previously Exempted Activities*; .0110, *Retention of Permit at Permitted Facility*; and .0111, *Applicability Determinations*. For example, the proposed edits include changes to punctuation, numbering, and other minor language edits.

In 15A NCAC 02Q .0105, *Copies of Referenced Documents*, DAQ updated the agency name and the addresses of offices for which reference documents can be located. Additionally, the changes to 15A NCAC 02Q .0106, *Incorporation by Reference*, replace the address where a copy of the CFR can be purchased to a link to the Government Printing Office where a digital

copy of the CFR can be obtained for free. These ministerial updates will better serve the regulated community and the public.

EPA views these changes in the July submittal as either non-substantive or otherwise necessary to clarify applicability. Therefore, EPA proposes to find that the changes will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act, consistent with CAA section 110(l).

### **III. Incorporation by Reference**

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference 15A NCAC 02D .0101, *Definitions*, state effective January 1, 2015; 15A NCAC 02Q .0101, *Required Air Quality Permits*; .0103, *Definitions*; .0104, *Where to Obtain and File Permit Applications*; .0105, *Copies of Referenced Documents*; .0106, *Incorporation by Reference*; .0107, *Confidential Information*; .0108, *Delegation of Authority*; .0109, *Compliance Schedule for Previously Exempted Facilities*; .0110, *Retention of Permit at Permitted Facility*; and .0111, *Applicability Determinations*, state effective April 1, 2018; and 15A NCAC 02Q .0304, *Applications*, state effective September 1, 2010. These changes are either non-substantive or otherwise necessary to clarify applicability. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

### **IV. Proposed Action**

EPA is proposing to approve the changes described above to North Carolina’s SIP

submitted on September 18, 2009, September 16, 2016, and July 10, 2019.

## **V. 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. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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).

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.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Mary Walker,  
Regional Administrator,  
Region 4.

[FR Doc. 2020-08500 Filed: 4/24/2020 8:45 am; Publication Date: 4/27/2020]