



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0186; FRL-10014-23-Region 4]

Air Plan Approval; North Carolina; Revisions to Construction and Operation Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina through the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), on July 10, 2019. The SIP revision seeks to modify the State's construction and operation permitting regulations by making minor changes that do not significantly alter the meaning of the regulations. EPA is proposing to approve this revision 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-2020-0186 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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Pearlene Williams, 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. Ms. Williams can be reached via telephone at (404) 562-9144, or via electronic mail at williams.pearlene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 10, 2019, the State of North Carolina submitted changes to the North Carolina SIP for EPA approval. EPA is proposing to approve changes to the following regulations under 15A North Carolina Administrative Code (NCAC) Subchapter 02Q,¹ Section .0300, *Construction and Operation Permits*: Section .0301, *Applicability*; Section .0303, *Definitions*; Section .0304, *Applications*; Section .0305, *Application Submittal Content*; Section .0307, *Public Participation Procedures*; Section .0308, *Final Action on Permit Applications*; Section .0309, *Termination, Modification and Revocation of Permits*; Section .0310, *Permitting of Numerous Similar Facilities*; Section .0311, *Permitting of Facilities at Multiple Temporary Sites*; Section .0312, *Application Processing Schedule*; Section .0313, *Expedited Application Processing Schedule*; Section .0314, *General Requirements for All Permits*; Section .0315, *Synthetic Minor*

¹ In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02Q is referred to as “Subchapter 2Q Air Quality Permits.”

Facilities; Section .0316, *Administrative Permit Amendments*; and Section .0317, *Avoidance Conditions*.²

II. Analysis of North Carolina’s SIP Revision

The revision that is the subject of this proposed rulemaking make changes to construction and operating permitting regulations under Subchapter 2Q of the North Carolina SIP. These changes revise the applicability of permit exemptions, permit application and processing procedures, and revise related definitions. EPA is proposing to find that the changes do not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable CAA requirement. Detailed descriptions of the changes are below:

1. Section .0301, *Applicability* is revised to make clarifying edits to the rule text, such as reformatting the regulatory citations and minor wording changes. In addition, changes are made to reflect that owners or operators of sources required to have permits under 15A NCAC 2Q Section .0300 (Construction and Operation Permits) are also subject to the requirements of 15A NCAC 2Q Section .0700 (Toxic Air Pollutant Procedures); these changes provide clarity that sources are subject to both regulations.
2. Section .0303, *Definitions* is revised to update the definitions “modified facility,” “new facility,” “Title IV source,” and “Title V source”; to add the definition of “responsible official”; and to alphabetize the definitions in this section. The term “modified facility” is revised to make administrative updates to the rule text and reformat a sentence. In addition, minor wording changes are made to the definition of “New facility.” The terms “Title IV source” and “Title V source” are revised to reformat the regulatory citations.

² The State submitted the SIP revision following the readoption of several air regulations, including .0301, .0303, .0304, .0305, .0307, .0308, .0309, .0310, .0311, .0312, .0313, .0314, .0315, .0316, and .0317, pursuant to North Carolina’s 10-year regulatory readoption process at North Carolina General Statute 150B-21.3A.

The term “Responsible official” is added and defined in three subsections to include officials in different types of organizations: corporations; partnerships or sole proprietorships; and government or public agencies. With respect to corporations, a responsible official is defined as a president, secretary, treasurer, or vice-president who is in charge of a principal business or any other person who performs similar policy or decision-making functions, or a duly-authorized representative of such person who meets certain criteria. With respect to partnerships or sole proprietorships, a responsible official is defined as a general partner or the proprietor, respectively. With respect to government or public agencies, a responsible official is defined as either a principal executive officer or ranking elected official; for purposes of a federal agency, a principal executive officer includes a chief executive officer having responsibility for overall operations of a principal geographic unit within the agency.

3. Section .0304, *Applications* is revised to make minor, clarifying edits to punctuation, to reformat the regulatory citations, and to adjust capitalization. In addition, minor changes are made to require that certain permit applications be signed by the “responsible official” as defined in the new definition at Section .0303. Edits that add clarity include changing “letter” to “application” and removing now redundant language regarding the signing of permit application, including a list of persons who must sign permit applications, as the requirements for signature are now identified with the requirements for the particular type of permit application (see e.g., .0305(a)(1)(E)). 15A NCAC 02Q .0304(b)(3) is revised to require an applicant to use certain submission forms or systems to file emissions inventories. In addition, changes are made to remove duplicative language in .0304(d) (to remove language regarding applications for permit ownership

change with no modifications) and .0304(j) (to remove language regarding signatures of application).

4. Section .0305, *Application Submittal Content* is revised to state that applications are considered incomplete for processing instead of “returned” if they do not contain specific required information and to allow for changes of ownership to be completed through a form provided by DAQ rather than by letter. This rulemaking is also proposing to amend minor changes, such as to revise the required number of copies needed for permit renewals, name changes, ownership changes, corrections of typographical errors and the application package. In addition, language is revised to clarify that if there is an ownership change and the seller and buyer choose to send notification letters to DAQ rather than the aforementioned form, the buyer and seller must sign such letters. Last, Section .0305 is revised to make minor clarifying edits; for example, to add punctuation, reformat regulatory citations, and update the regulation with defined terms instead of cross references.
5. Section .0307, *Public Participation Procedures* is revised to remove the requirement to pay for copies of permitting documents, to make minor wording changes and punctuation updates, to correct typographical errors, and to reformat the regulatory citations contained in this section. The changes also remove a provision regarding a mailing list for air permit notices.
6. Section .0308, *Final Action on Permit Applications* is revised to make minor changes, such as removing language specifying the type of document for name changes or ownership to reflect changes in .0305(a)(4), and to modify punctuation and wording. This rulemaking is also revised to include the state law citation that outlines guidelines

for appeals of permit applications.

7. Section .0309, *Termination, Modification and Revocation of Permits* is revised to make minor changes to the rule text including changes to punctuation, capitalization, and regulatory citation format. In addition, minor wording changes are made. Last, this section is revised to clarify the circumstances in which the DAQ Director may terminate, modify, or revoke a permit; and to clarify the requirement for a permittee to furnish records to the Director.
8. Section .0310, *Permitting of Numerous Similar Facilities* is revised to remove unnecessary text. In addition, it makes minor clarifying edits to the rule text, such as simplifying the wording in a manner that does not change the requirements for such facilities or conditions under which the Director will issue single permits for more than one facility.
9. Section .0311, *Permitting of Facilities at Multiple Temporary Sites* is revised to make minor clarifying edits to the rule text, such as simplifying the wording in a manner that does not change the requirements for issuing single permits authorizing emissions from a facility or source at multiple temporary sites.
10. Section .0312, *Application Processing Schedule* is revised to make minor clarifying edits to the rule text, such as updating language, removing unnecessary language, reformatting regulatory citations, and altering punctuation. This section is updated to require the Director to cease processing permit applications when additional information is requested but not provided and when an application contains insufficient information to complete review; the changes also remove the schedule for processing certain requests for synthetic minor facility status.

11. Section .0313, *Expedited Application Processing Schedule* is revised to make minor clarifying edits to the rule text, such as minor wording changes, removing unnecessary language, and reformatting regulatory citations and capitalization.
12. Section .0314, *General Requirements for All Permits* is revised to revise the title from “GENERAL PERMIT REQUIREMENTS” to “GENERAL REQUIREMENTS FOR ALL PERMITS.” This section is also revised to make minor changes, such as punctuation changes, reformatting of regulatory citations, and clarifying edits.
13. Section .0315, *Synthetic Minor Facilities* is revised to make minor clarifying edits to the rule text, such as reformatting the regulatory citations. In addition, changes are made to clarify that that North Carolina’s Title V major source operating permit requirements are not applicable to synthetic minor permits, to clarify that the applicant may request to have permit restrictions added to the permit; to clarify that a modification to a permit to remove synthetic minor conditions must follow the procedures of North Carolina’s Title V regulations or Section .0315, and to clarify that a synthetic minor permit is issued pursuant to Section .0315.
14. Section .0316, *Administrative Permit Amendments* is revised to make minor clarifying edits to the rule text, such as updating punctuation. In addition, changes are made to the text of .0316(b)(2) to provide that the Director shall make administrative amendments using the criteria in paragraph (a) of the same rule.
15. Section .0317, *Avoidance Conditions* is revised to make minor clarifying edits to the rule text, such as reformatting regulatory citations and stating that the Director may require monitoring, recordkeeping, and reporting necessary to assure compliance with the terms and conditions placed in a permit that includes an avoidance condition pursuant to

Section .0317.

EPA has preliminarily determined that the changes to the regulations above provide clarity to the applicability of permit exemptions, permit application and processing procedures, and definitions. The changes are minor changes that do not significantly alter the meaning of the regulations. The revisions to the SIP satisfy CAA section 110(l) and do not interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the Act. Therefore, EPA is proposing approval of the changes to these regulations.

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 the following sections of 15A NCAC Subchapter 2Q with a state-effective date of April 1, 2018: Section .0301, *Applicability*; Section .0303, *Definitions*; Section .0304, *Applications*; Section .0305, *Application Submittal Content*; Section .0307, *Public Participation Procedures*; Section .0308, *Final Action on Permit Applications*; Section .0309, *Termination, Modification and Revocation of Permits*; Section .0310, *Permitting of Numerous Similar Facilities*; Section .0311, *Permitting of Facilities at Multiple Temporary Sites*; Section .0312, *Application Processing Schedule*; Section .0313, *Expedited Application Processing Schedule*; Section .0314, *General Requirements for All Permits*; Section .0315, *Synthetic Minor Facilities*; Section .0316, *Administrative Permit Amendments*; and Section .0317, *Avoidance Conditions*. These changes are proposed to revise the applicability of permit exemptions, revise permit application and processing procedures, and amend definitions. EPA has made, and will continue to make, these materials generally available through 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 North Carolina’s July 10, 2019 SIP revision, which contains changes to the following regulations under 15A NCAC Subchapter 02Q, Section .0300, *Construction and Operation Permits*: Section .0301, *Applicability*; Section .0303, *Definitions*; Section .0304, *Applications*; Section .0305, *Application Submittal Content*; Section .0307, *Public Participation Procedures*; Section .0308, *Final Action on Permit Applications*; Section .0309, *Termination, Modification and Revocation of Permits*; Section .0310, *Permitting of Numerous Similar Facilities*; Section .0311, *Permitting of Facilities at Multiple Temporary Sites*; Section .0312, *Application Processing Schedule*; Section .0313, *Expedited Application Processing Schedule*; Section .0314, *General Requirements for All Permits*; Section .0315, *Synthetic Minor Facilities*; Section .0316, *Administrative Permit Amendments*; and Section .0317, *Avoidance Conditions*. The proposed changes are consistent with the CAA.

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

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

Dated: September 1, 2020.

Mary Walker,

Regional Administrator,

Region 4.