



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2019-0613; FRL- 10015-83-Region 4]

Air Plan Approval; NC: Revisions to Annual Emissions Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision 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 annual emissions reporting regulation by removing the annual emissions reporting requirement for certain non-Title V facilities in geographic areas that have been redesignated to attainment for the 1979 1-hour ozone national ambient air quality standards ("NAAQS" or "standards") and in the areas listed in the rule that have been redesignated to attainment for the 1997 8-hour ozone NAAQS, with the exception of the geographic areas that have been redesignated to attainment for the 2008 8-hour ozone NAAQS. The SIP revision also makes minor changes that do not significantly alter the meaning of the regulation. 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-2019-0613 at 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.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, 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) 562-9088. Ms. Bell can also be reached via electronic mail at bell.tiereny@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In 1979, EPA promulgated a NAAQS for ozone, setting the standard at 0.12 parts per million (ppm) averaged over a 1-hour time frame. *See* 44 FR 8202 (February 8, 1979). In 1997, EPA promulgated a revised NAAQS for ozone, setting the standard at 0.08 ppm averaged over an 8-hour time frame. *See* 62 FR 38856 (July 18, 1997).¹ In 2008, EPA revised the level of the

¹ EPA has revoked the 1979 and 1997 ozone standards. *See* 69 FR 23951 (April 30, 2004) and 80 FR 12264 (March 6, 2015), respectively.

8-hour ozone standard to 0.075 ppm. *See* 73 FR 16436 (March 27, 2008). The promulgation of a new or revised NAAQS triggers a CAA requirement for EPA to designate as nonattainment any area that violates the NAAQS or contributes to a violation in a nearby area.

On November 6, 1991, EPA published designations and classifications for the 1979 1-hour ozone NAAQS.² *See* 56 FR 56694. EPA initially published designations and classifications for the revised 1997 8-hour and revised 2008 8-hour ozone standards on April 30, 2004 (69 FR 23858) and May 21, 2012 (77 FR 30088), respectively. The geographic areas designated as nonattainment in North Carolina for the 1997 8-hour ozone standard included the Charlotte-Gastonia-Rock Hill, NC-SC Area (the North Carolina portion is hereinafter the “1997 Charlotte Area”).³ The geographic areas designated as nonattainment in North Carolina for the 2008 ozone standard are part of an area known as the Charlotte-Rock Hill, NC-SC Area (the North Carolina portion is hereinafter the “2008 Charlotte Area”).⁴ EPA redesignated North Carolina’s 1979 ozone nonattainment areas to attainment in a series of actions from 1993 to

² EPA designated the following geographic areas in North Carolina as nonattainment for the 1979 ozone standard: Davidson, Durham, Forsyth, Gaston, Guilford, Mecklenburg, and Wake Counties, the Dutchville Township in Granville County, and that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to the Yadkin River.

³ The geographic areas designated as nonattainment in North Carolina for the 1997 ozone standard included all geographic areas designated as nonattainment for the 1979 ozone standard as well as additional areas. The 1997 Charlotte Area consists of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, and Union Counties and Davidson Township and Coddle Creek Township in Iredell County.

⁴ The 2008 Charlotte Area is a subset of the 1997 Charlotte Area and consists of Central Cabarrus Township, Concord Township, Georgeville Township, Harrisburg Township, Kannapolis Township, Midland Township, Mount Pleasant Township, New Gilead Township, Odell Township, Poplar Tent Township, and Rimertown Township in Cabarrus County; Crowders Mountain Township, Dallas Township, Gastonia Township, Riverbend Township, and South Point Township in Gaston County; Davidson Township and Coddle Creek Township in Iredell County; Catawba Springs Township, Ironton Township, and Lincoln Township in Lincoln County; Atwell Township, China Grove Township, Franklin Township, Gold Hill Township, Litaker Township, Locke Township, Providence Township, Salisbury Township, Steele Township, and Unity Township in Rowan County; and Goose Creek Township, Marshville Township, Monroe Township, Sandy Ridge Township, and Vance Township in Union County.

1995,⁵ redesignated the 1997 Charlotte Area to attainment on December 2, 2013 (78 FR 72036), and redesignated the 2008 Charlotte Area to attainment on July 28, 2015 (80 FR 44873).

North Carolina was required to develop nonattainment SIP revisions addressing the CAA requirements for its ozone nonattainment areas. Among other things, North Carolina was required to address the annual emissions reporting requirement in CAA section 182(a)(3)(B), which requires each state with an ozone nonattainment area to submit a SIP revision requiring stationary sources that emit 25 tons per year (tpy) or more of nitrogen oxides (NO_x) or volatile organic compounds (VOC) within the nonattainment area to provide certified annual emissions statements to the state showing actual annual NO_x and VOC emissions from the source.

On August 1, 1997 (62 FR 41277), EPA approved the State's annual emissions reporting requirement at 15A NCAC Subchapter 02Q Section .0207,⁶ *Annual Emissions Reporting*, into the North Carolina SIP for the geographic areas designated as nonattainment for the 1979 ozone NAAQS.⁷ On January 31, 2008, North Carolina submitted a SIP revision adding the 1997 Charlotte Area to its annual emissions reporting requirement as a result of EPA's nonattainment designations for the 1997 8-hour ozone standard.⁸ On April 24, 2012 (77 FR 24382), EPA approved that SIP revision and added the 1997 Charlotte Area to the annual emissions reporting requirement in the North Carolina SIP to meet the requirements of CAA section 182(a)(3)(B).

Paragraph (c) of Section .0207 lists the geographic areas in North Carolina where owners or operators of certain non-title V facilities with actual emissions of 25 tons per year or more of

⁵ See 58 FR 47391 (November 9, 1993), 59 FR 18300 (April 18, 1994), and 60 FR 34859 (July 5, 1995).

⁶ In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC Subchapter 02Q is referred to as "Subchapter 2Q Air Quality Permits."

⁷ Section .0207 also contains an annual reporting requirement at paragraph (a) for owners and operators of title V facilities in the State.

⁸ The SIP revision added Cabarrus, Lincoln, Rowan, and Union Counties and Davidson Township and Coddle Creek Township in Iredell County to the emissions reporting requirement.

NO_x or VOC are required to report by June 30th of each year the actual emissions of NO_x and VOC during the previous year. Paragraph (d) identifies the date that the annual reporting requirement in paragraph (c) shall begin.

II. Analysis of North Carolina's Submittal

North Carolina's July 10, 2019, SIP revision⁹ updates Section .0207 in several ways. First, the SIP revision proposes to revise paragraph (c) by removing the annual emissions reporting requirement for certain non-Title V facilities located in geographic areas that were previously designated nonattainment for the 1979 1-hour ozone standards and in the redesignated 1997 Charlotte Area, with the exception of the geographic areas that are in the redesignated 2008 Charlotte Area.¹⁰ The SIP revision retains the annual emissions reporting requirement for certain non-Title V facilities located in the geographic areas that comprise the redesignated 2008 Charlotte Area by listing those specific areas in paragraph (c). The SIP revision also makes changes to paragraph (d) by removing specific counties and townships and replacing them with a cross-reference to paragraph (c).

Currently, 55 facilities are required under paragraph (c) to submit annual emissions statements to North Carolina DAQ by June 30th of each year. The proposed rule change would remove the reporting requirement for 43 of these 55 facilities, thus reducing administrative reporting requirements for the 43 affected facilities. These facilities are still required to comply with their operating permits.

⁹ The State submitted the SIP revision following the readoption of several air regulations, including 15A NCAC Subchapter 02Q .0207, pursuant to North Carolina's 10-year regulatory readoption process at North Carolina General Statute 150B-21.3A.

¹⁰ As noted above, the 2008 Charlotte Area is a subset of the 1997 Charlotte Area.

Section 110(l) of the CAA prevents EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable CAA requirement. EPA proposes to determine that the changes described above are approvable because they would not interfere with attainment or maintenance of any NAAQS and because the geographic areas removed from the rule have been redesignated to attainment and are therefore no longer required to meet the emissions statement requirements in section 182(a)(3)(B) of the CAA.

Second, North Carolina's July 10, 2019, SIP revision makes changes to paragraph (d) of Section .0207 to update the calendar year that the emissions reporting requirement begins from 2007 to 2017 to coincide with the year during which North Carolina adopted the rule changes. EPA proposes to approve this change because it is administrative in nature.

Finally, the SIP revision makes minor grammatical changes in paragraphs (a) and (b) of Section .0207 and adds a citation in paragraph (e) that identifies the DAQ Director's statutory authority to require reporting. EPA proposes to approve these edits because they are minor changes that do not alter the meaning of the regulation.

III. Incorporation by Reference

In this proposed rule, 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 Subchapter 02Q Section .0207, *Annual Emissions Reporting*, state effective April 1, 2018, which removes annual emissions reporting requirement for certain non-Title V facilities; updates the calendar year when the annual emissions reporting requirement begins; and makes several minor editorial changes. 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 the North Carolina SIP revision submitted on July 10, 2019, revising 15A NCAC Subchapter 02Q Section .0207, *Annual Emissions Reporting*. Specifically, EPA is proposing to approve removal of the annual emissions reporting requirement for certain non-Title V facilities in geographic areas that have been redesignated to attainment for the 1979 1-hour ozone NAAQS and in the redesignated 1997 Charlotte Area, while retaining the requirement for the redesignated 2008 Charlotte Area. Additionally, EPA is proposing to approve the change in paragraph (d) that updates the calendar year that the emissions reporting requirement begins from 2007 to 2017 and several minor editorial changes to the rule.

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 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 20, 2020.

Mary Walker,
Regional Administrator,
Region 4.