



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2019-0613; FRL- 10019-20-Region 4]

#### **Air Plan Approval; North Carolina: Revisions to Annual Emissions Reporting**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving 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 modifies 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 approving this revision pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is 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-2019-0613. 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 may not be 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 can either be

retrieved electronically via [www.regulations.gov](http://www.regulations.gov) or in hard copy at the 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. 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.

**FOR FURTHER INFORMATION CONTACT:** Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 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](mailto: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).<sup>1</sup> In 2008, EPA revised the level of the 8-hour ozone standard to 0.075 ppm. *See* 73 FR 16436 (March 27, 2008).<sup>2</sup> 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.<sup>3</sup> *See*

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

<sup>2</sup> EPA revised the level of the 8-hour ozone standard to 0.070 ppm in 2015 and designated the entire state as attainment/unclassifiable for that NAAQS in 2017. *See* 80 FR 65296 (October 22, 2015) and 82 FR 54232 (November 16, 2017).

<sup>3</sup> 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

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”).<sup>4</sup> 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”).<sup>5</sup> EPA redesignated North Carolina’s 1979 ozone nonattainment areas to attainment in a series of actions from 1993 to 1995,<sup>6</sup> 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<sub>x</sub>) or volatile organic compounds (VOC) within the nonattainment area to provide certified annual emissions statements to the state showing actual annual NO<sub>x</sub> and VOC emissions from the sources.

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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.

<sup>4</sup> 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.

<sup>5</sup> 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 Lincolnton 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.

<sup>6</sup> See 58 FR 47391 (November 9, 1993), 59 FR 18300 (April 18, 1994), and 60 FR 34859 (July 5, 1995).

On August 1, 1997 (62 FR 41277), EPA approved the State's annual emissions reporting requirement at 15A NCAC Subchapter 02Q Section .0207,<sup>7</sup> *Annual Emissions Reporting*, into the North Carolina SIP for the geographic areas designated as nonattainment for the 1979 ozone NAAQS.<sup>8</sup> 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.<sup>9</sup> 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 tpy or more of NOx or VOC are required to report by June 30<sup>th</sup> of each year the actual emissions of NOx and VOC during the previous year. Paragraph (d) identifies the date that the annual reporting requirement in paragraph (c) shall begin.

## **II. Analysis of State's Submission**

EPA is approving North Carolina's July 10, 2019 SIP revision which amends the emissions reporting requirement at 15A NCAC Subchapter 02Q Section .0207, *Annual Emissions Reporting*. Specifically, the revision removes 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, the revision updates the calendar year that the emissions reporting requirement begins from 2007 to 2017 in paragraph (d) and makes several minor editorial changes to the rule.

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<sup>7</sup> 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."

<sup>8</sup> Section .0207 also contains an annual reporting requirement at paragraph (a) for owners and operators of title V facilities in the State.

<sup>9</sup> 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.

In a notice of proposed rulemaking (NPRM) published on October 27, 2020 (85 FR 68026), EPA proposed to approve North Carolina's SIP revision. The October 27, 2020, NPRM provides additional detail regarding the SIP revision and rationale for EPA's action. Comments on the October 27, 2020, NPRM were due on or before November 27, 2020.

### **III. Response to Comments**

EPA received one comment on the October 27, 2020, NPRM. A summary of the comment and EPA's response is provided below. The full comment is in the docket for this rulemaking.

**Comment:** The Commenter recommends that EPA freeze its actions until the Biden administration has the authority to promulgate rules and regulations. The Commenter then states that "Leaving clean air and water to the states can be a mistake unless it is California which leads in regulatory emissions."

**Response:** The majority of the comment is beyond the scope of EPA's action on North Carolina's July 10, 2019 SIP submittal. With respect to this action, Section 110(k) of the CAA requires EPA to approve SIP submittals that meet all applicable CAA requirements and to do so within specific timeframes. EPA is approving the State's submittal because the Agency has concluded that the submittal meets CAA requirements and the Commenter did not provide any information indicating otherwise. Furthermore, the statutory deadline to act on this submittal is January 10, 2021, prior to the change in presidential administration. EPA's statutory obligation to act on SIP submittals is not tolled due to a pending change in administration.

### **IV. Incorporation by Reference**

In this document, 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 15A NCAC Subchapter 02Q Section .0207, *Annual Emissions Reporting*, state effective April 1, 2018, which removes the 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](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). Therefore, these materials have been approved by EPA for inclusion in the SIP, 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 in the next update to the SIP compilation.<sup>10</sup>

## **V. Final Action**

EPA is approving North Carolina’s July 10, 2019, SIP submission, which revises 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 is approving this revision pursuant to the CAA.

## **VI. 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 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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<sup>10</sup> *See* 62 FR 27968 (May 22, 1997).

- 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.

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

#### **Signing Statement**

This document of the Environmental Protection Agency was signed on December 22, 2020, by Mary Walker, Regional Administrator, pursuant to the Statutory Deadline of the Clean Air Act. That document with the original signature and date is maintained by EPA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned EPA Official re-signs the document for publication, as an official document of the Environmental Protection Agency. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Dated: February 23, 2021.

John Blevins,

*Acting Regional Administrator,*

*Region 4.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 amend Table 1 in paragraph (c) under Subchapter 2Q Air Quality Permits under Section .0200 Permit Fees by revising the entry for “Section .0207” to read as follows:

**§ 52.1770 Identification of plan.**

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(c) \* \* \*

**(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>
**	**	*	*	*
<b>Subchapter 2Q Air Quality Permits</b>				
**	**	*	*	*
<b>Section .0200 Permit Fees</b>				
Section .0207	Annual Emissions Reporting	4/1/2018	[Insert citation of publication], [Insert date of Publication in FEDERAL REGISTER]	
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