



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2021-0027; FRL-10988-01-R4]

Air Plan Approval;

South Carolina; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notification of administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is updating the materials that are incorporated by reference (IBR) into the South Carolina State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by South Carolina and approved by EPA. In this rule, EPA is also notifying the public of corrections and clarifying changes to the Code of Federal Regulations (CFR) tables that identify material incorporated by reference into the South Carolina SIP. This update affects the materials that are available for public inspection at the National Archives and Records Administration (NARA) and the EPA Regional Office.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The SIP materials whose incorporation by reference into 40 CFR part 52 is finalized through this action are available for inspection at the following locations:

Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303 and www.regulations.gov. To view the materials at the Region 4 Office, EPA requests that you

email the contact 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: Sarah LaRocca, Air Planning and

Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. LaRocca can be reached via telephone at (404) 562-8994 and via electronic mail at larocca.sarah@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Each State has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

Each State must formally adopt the control measures and strategies in the SIP after the public has had an opportunity to comment on them and then submit the proposed SIP revisions to EPA. Once these control measures and strategies are approved by EPA, and after notice and comment, they are incorporated into the federally-approved SIP and are identified in part 52 - "Approval and Promulgation of Implementation Plans," Title 40 of the Code of Federal Regulations (40 CFR part 52). The full text of the State regulation approved by EPA is not reproduced in its entirety in 40 CFR part 52 but is "incorporated by reference." This means that EPA has approved a given State regulation or specified changes to a given regulation with a specific effective date. The public is referred to the location of the full text version should they want to know which measures are contained in any given SIP. The information provided allows EPA and the public to monitor the extent to which a State implements a SIP to attain and maintain the NAAQS and to take enforcement action for violations of the SIP.

The SIP is a living document which the State can revise as necessary to address the unique air pollution problems in the State. Therefore, EPA from time to time must take action on proposed revisions containing new or revised State regulations. A submission from a State can revise one or more rules in their entirety or portions of rules. The State indicates the changes in the submission (such as by using redline/strikethrough text), and EPA then takes action on the

requested changes. EPA establishes a docket for its actions using a unique Docket Identification Number, which is listed in each action. These dockets and the complete submission are available for viewing on www.regulations.gov.

On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference, into the Code of Federal Regulations, materials approved by EPA into each SIP. These changes revised the format for the identification of the SIP in 40 CFR part 52, streamlined the mechanisms for announcing EPA approval of revisions to a SIP, and streamlined the mechanisms for EPA's updating of the IBR information contained for each SIP in 40 CFR part 52. The revised procedures also called for EPA to maintain "SIP Compilations" that contain the federally approved regulations and source-specific permits submitted by each State agency.

EPA generally updates these SIP Compilations on an annual basis. Under the revised procedures, EPA must periodically publish an informational document in the rules section of the *Federal Register* notifying the public that updates have been made to a SIP Compilation for a particular State. EPA applied the 1997 revised procedures to South Carolina on July 1, 1997 (62 FR 35441) and is providing this notice in accordance with such procedures.

II. EPA Action

In this action, EPA is providing notice of an update to the materials incorporated by reference into the South Carolina SIP as of November 14, 2022 and identified in 40 CFR 52.2120(c) and (d). This update includes SIP materials approved by EPA since the last IBR update. *See* 83 FR 14591 (April 5, 2018). In addition, EPA is providing notice of the following corrections and clarifying changes to 40 CFR 52.2120(c) and (d).

Changes Applicable to EPA-Approved South Carolina Laws and Regulations

A. Correcting the header of paragraph (c), from "*(c) EPA-Approved regulations.*" to "*(c) EPA-Approved Laws and Regulations.*"

B. Changing Table (c)'s title from "EPA-Approved South Carolina Regulations" to "EPA-

Approved South Carolina Laws and Regulations”

C. Correcting *Federal Register* citations to reflect the beginning page of the preamble as opposed to that of the regulatory text.

Changes Applicable to EPA-Approved South Carolina Source-Specific Requirements

A. Correcting the header of paragraph (d), from “(d) *EPA-Approved State source-specific requirements.*” to “(d) *EPA-Approved State Source-Specific Requirements.*”

III. Good Cause Exemption

EPA has determined that this action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). This administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs, makes typographical/ministerial revisions to the tables in the CFR, and makes ministerial changes to the prefatory heading to the tables in the CFR. Under section 553(b)(3)(B) of the APA, an agency may find good cause where procedures are “impracticable, unnecessary, or contrary to the public interest.” Public comment for this administrative action is “unnecessary” and “contrary to the public interest” since the codification (and corrections) only reflect existing law, and the changes to the prefatory heading to the tables are ministerial in nature. Immediate notice of this action in the *Federal Register* benefits the public by providing the public notice of the updated South Carolina SIP Compilation and notice of typographical corrections and ministerial changes to the South Carolina “Identification of Plan” portion of the CFR. Further, pursuant to section 553(d)(3), making this action immediately effective benefits the public by immediately updating both the SIP Compilation and the CFR “Identification of plan” section (which includes table entry corrections).

IV. 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 regulations promulgated by South Carolina, previously approved by EPA and federally effective before November 14, 2022, contained in “South Carolina, Volume 1, 40 CFR 52.2120(c), State Implementation Plan Compilation, EPA-Approved Laws and Regulations” and “South Carolina, Volume 2, 40 CFR 52.2120(d), State Implementation Plan Compilation, EPA-Approved Source-Specific Requirements”. The IBR changes are further described in sections I and II of this preamble. 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).

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. Accordingly, this final rule and notification of administrative change 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 3821, January 21, 2011);
- 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); and
- 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.

Because this action merely updates and corrects regulatory text in the CFR tables for regulations previously submitted by South Carolina and approved by EPA, this action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120 (Settlement Act), “all state and local environmental laws and regulations apply to the Catawba Indian Nation and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” The CIN also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by State law or local governing bodies, in accordance with the Settlement Act.

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental

effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.” EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

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).

EPA also believes that the provisions of section 307(b)(1) of the CAA pertaining to petitions for judicial review are not applicable to this action. This is because prior EPA rulemaking actions for each individual component of the South Carolina SIP Compilation previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking

action. Thus, EPA believes judicial review of this action under section 307(b)(1) is not available.

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.

Jeaneanne Gettle,
Acting Regional Administrator,
Region 4.

40 CFR part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority for citation for part 52 continues to read as follows:

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

Subpart PP—South Carolina

2. In § 52.2120, paragraphs (b), (c), and (d) are revised as follows:

§ 52.2120 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to November 14, 2022, was approved for incorporation by reference by the Director of the *Federal Register* in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval and notice of any change in the material will be published in the *Federal Register*. Entries in paragraphs (c) and (d) of this section with EPA approval dates after November 14, 2022, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State

Implementation Plan as of the dates referenced in paragraph (b)(1) of this section.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street, SW., Atlanta, GA 30303. To obtain the material, please call (404) 562-9022. You may inspect the material with an EPA approval date prior to November 14, 2022, for South Carolina at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA email fedreg.legal@nara.gov or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(c) *EPA-Approved Laws and Regulations.*

Table 1 to Paragraph (c) – EPA -Approved South Carolina Laws and Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
Regulation No. 62.1	Definitions and General Requirements			
Section I	Definitions	4/24/2020	10/28/2021, 86 FR 59641	
Section II	Permit Requirements	6/24/2005	6/2/2008, 73 FR 31369	Except for Section II.L, approved on October 13, 2022 with a state effective date of September 23, 2016
Section III	Emissions Inventory and Emissions Statement	4/24/2020	5/9/2022, 87 FR 27528	
Section IV	Source Tests	6/27/2014	8/21/2017, 82 FR 39537	
Section V	Credible Evidence	4/24/2020	5/9/2022, 87 FR 27528	
Regulation No. 62.2	Prohibition of Open Burning	12/27/2013	6/25/2018, 83 FR 29455	
Regulation No. 62.3	Air Pollution Episodes			
Section I	Episode Criteria	4/26/2013	8/21/2017, 82 FR 39541	
Section II	Emission Reduction Requirements	4/22/1988	10/3/1989, 54 FR 40659	

Regulation No. 62.4	Hazardous Air Pollution Conditions	12/20/1978	1/29/1980, 45 FR 6572	
Regulation No. 62.5	Air Pollution Control Standards			
<i>Standard No. 1</i>	Emissions from Fuel Burning Operations			
Section I	Visible Emissions	9/23/2016	10/13/2022, 87 FR 62037	
Section II	Particulate Matter Emissions	6/27/2014	6/25/2018, 83 FR 29455	
Section III	Sulfur Dioxide Emissions	6/27/2014	6/25/2018, 83 FR 29455	
Section IV	Opacity Monitoring Requirements	9/23/2016	9/18/2020, 85 FR 58283	
Section V	Exemptions	5/24/1985	10/3/1989, 54 FR 40659	
Section VI	Periodic Testing	6/27/2014	6/25/2018, 83 FR 29455	
<i>Standard No. 2</i>	Ambient Air Quality Standards	4/24/2020	9/30/2021, 86 FR 54105	
<i>Standard No. 4</i>	Emissions From Process Industries			
Section I	General	2/28/1986	2/17/1987, 52 FR 4772	
Section II	Sulfuric Acid Manufacturing	6/27/2014	6/25/2018, 83 FR 29455	
Section III	Kraft Pulp and Paper Manufacturing Plants	6/27/2014	6/25/2018, 83 FR 29455	
Section V	Cotton Gins	6/27/2014	6/25/2018, 83 FR 29455	
Section VI	Hot Mix Asphalt Manufacturing	5/24/1985	10/3/1989, 54 FR 40659	
Section VII	Metal Refining	2/28/1986	2/17/1987, 52 FR 4772	
Section VIII	Other Manufacturing	6/24/2016	6/25/2018, 83 FR 29455	

Section IX	Total Reduced Sulfur Emissions of Kraft Pulp Mills	9/23/2016	10/13/2022, 87 FR 62034	
Section X	Non-Enclosed Operations	4/22/1988	7/2/1990, 55 FR 27226	
Section XI	Total Reduced Sulfur Emissions of Kraft Pulp Mills	9/23/2016	10/13/2022, 87 FR 62037	
Section XII	Periodic Testing	6/24/2016	6/25/2018, 83 FR 29455	
<i>Standard No. 5</i>	Volatile Organic Compounds			
Section I	General Provisions			
Part A	Definitions	4/26/2013	8/16/2017, 82 FR 38825	
Part B	General Applicability	10/26/2001	5/7/2002, 67 FR 30594	
Part C	Alternatives and Exceptions to Control Requirements	10/26/2001	5/7/2002, 67 FR 30594	
Part D	Compliance Schedules	10/26/2001	5/7/2002, 67 FR 30594	
Part E	Volatile Organic Compound Compliance Testing	6/26/1998	8/10/2004, 69 FR 48395	
Part F	Recordkeeping, Reporting, Monitoring	10/26/2001	5/7/2002, 67 FR 30594	
Part G	Equivalency Calculations	4/26/2013	8/16/2017, 82 FR 38825	
Section II	Provisions for Specific Sources			
Part A	Surface Coating of Cans	11/27/2015	8/16/2017, 82 FR 38825	
Part B	Surface Coating of Coils	11/27/2015	8/16/2017, 82 FR 38825	
Part C	Surface Coating of Paper, Vinyl, and Fabric	8/24/1990	2/4/1992, 57 FR 4158	

Part D	Surface Coating of Metal Furniture and Large Appliances	8/24/1990	2/4/1992, 57 FR 4158	
Part E	Surface Coating of Magnet Wire	10/26/2001	5/7/2002, 67 FR 30594	
Part F	Surface Coating of Miscellaneous Metal Parts and Products	10/26/2001	5/7/2002, 67 FR 30594	
Part G	Surface Coating of Flat Wood Paneling	2/25/1983	10/31/1983, 48 FR 50078	
Part H	Graphic Arts - Rotogravure Flexography	2/25/1983	10/31/1983, 48 FR 50078	
Part N	Solvent Metal Cleaning	10/26/2001	5/7/2002, 67 FR 30594	
Part O	Petroleum Liquid Storage in Fixed Roof Tanks	2/25/1983	10/31/1983, 48 FR 50078	
Part P	Petroleum Liquid Storage in External Floating Roof Tanks	2/25/1983	10/31/1983, 48 FR 50078	
Part Q	Manufacture of Synthesized Pharmaceutical Products	4/26/2013	8/16/2017, 82 FR 38825	
Part R	Manufacture of Pneumatic Rubber Tires	2/25/1983	10/31/1983, 48 FR 50078	
Part S	Cutback Asphalt	6/13/1979	12/16/1981, 46 FR 61268	
Part T	Bulk Gasoline Terminals and Vapor Collection Systems	2/25/1983	10/31/1983, 48 FR 50078	
<i>Standard No. 5.2</i>	Control of Oxides of Nitrogen (NO _x)	6/25/2004	8/26/2005, 70 FR 50195	
<i>Standard No. 7</i>	Prevention of Significant Deterioration	4/24/2020	10/28/2021, 86 FR 59646	
<i>Standard No. 7.1</i>	Nonattainment New Source Review	4/24/2020	10/28/2021, 86 FR 59646	Except for paragraph (H) and the ethanol

				production facilities exclusion in paragraphs (A)(10)(t) and (B)(22)(c)(xx).
Regulation No. 62.6	Control of Fugitive Particulate Matter			
Section I	Control of Fugitive Particulate Matter in Non-Attainment Areas	11/27/2015	8/21/2017, 82 FR 39541	
Section II	Control of Fugitive Particulate Matter in Problem Areas	5/24/1985	10/3/1989, 54 FR 40659	
Section III	Control of Fugitive Particulate Matter Statewide	12/27/2013	8/21/2017, 82 FR 39541	
Section IV	Effective Date	5/24/1985	10/3/1989, 54 FR 40659	
Regulation No. 62.7	Good Engineering Practice Stack Height			
Section I	General	5/23/1986	5/28/1987, 52 FR 19858	
Section II	Applicability	5/23/1986	5/28/1987, 52 FR 19858	
Section III	Definitions and Conditions	5/23/1986	5/28/1987, 52 FR 19858	
Section IV	Public Participation	5/23/1986	5/28/1987, 52 FR 19858	
Regulation No. 62.96	Nitrogen Oxides (NO _x) Budget Program	1/25/2019	7/29/2020, 85 FR 45541	
Regulation No. 62.97	Cross-State Air Pollution Rule (CSAPR) Trading Program	8/25/2017	10/13/2017, 82 FR 47936	
Regulation No. 62.99	Nitrogen Oxides (NO _x) Budget Program Requirements for Stationary Sources Not in the Trading Program	5/24/2002	6/28/2002, 67 FR 43546	

S.C. Code Ann.	Ethics Reform Act			
Section 8-13-100(31)	Definitions	1/1/1992	8/1/2012, 77 FR 45492	
Section 8-13-700(A) and (B)	Use of official position or office for financial gain; disclosure of potential conflict of interest	1/1/1992	8/1/2012, 77 FR 45492	
Section 8-13-730	Membership on or employment by regulatory agency of person associated with regulated business	1/1/1992	8/1/2012, 77 FR 45492	

(d) *EPA-Approved State Source-Specific Requirements.*

Table 2 to Paragraph (d) - EPA-Approved South Carolina State Source-Specific Requirements

Name of source	Permit No.	State effective date	EPA approval date	Comments
Transcontinental Gas Pipeline Corporation Station 140	2060-0179-CD	4/27/2004	4/23/2009, 74 FR 18471	This permit is incorporated in fulfillment of the NO _x SIP Call Phase II requirements for South Carolina.

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[FR Doc. 2023-14534 Filed: 7/12/2023 8:45 am; Publication Date: 7/13/2023]