



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2024-0163; FRL-12823-01-R4]

Air Plan Approval; North Carolina; Revisions to Regulations for Sulfur Dioxide Emissions from Combustion Sources

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 North Carolina Division of Environmental Quality (NCDEQ), Division of Air Quality (DAQ) on November 28, 2023, for the purpose of revising regulations that establish sulfur dioxide (SO₂) emission limits and compliance parameters for SO₂-emitting combustion sources in the State. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act) and EPA regulations.

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-2024-0163 at [regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Matthew Bloemer, Multi-Air Pollutant Coordination 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) 562-9653. Mr. Bloemer can also be reached via electronic mail at Bloemer.Matthew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is proposing to approve a SIP revision submitted by the NCDEQ, on November 28, 2023, that revises Rule 15A North Carolina Administrative Code (NCAC) 02D .0516, *Sulfur Dioxide Emissions from Combustible Sources*. Rule 02D .0516 requires sources emitting SO₂ through combustion and discharging through a vent, stack, or chimney to comply with an emission standard of 2.3 pounds per million British thermal unit (lbs/MMBtu). The Rule also provides criteria for how affected sources should determine compliance with the emission standard. North Carolina's November 28, 2023, SIP revision seeks to modify the Rule 02D .0516 applicability criteria respecting control devices and the provisions for determining compliance with the SO₂ emission standard. More specifically, the SIP revision seeks to provide clarity and consistency with North Carolina's position that the use of supplemental fuels in combustion units beyond what is needed for proper operation is not a means for compliance with the SO₂ emission standard at Rule 02D .0516.

SO₂ is one of the group of gases called sulfur oxides (SO_x). EPA's SO₂ national ambient air quality standards (NAAQS)¹ are designed to protect against exposure to the entire group of

¹ The primary SO₂ NAAQS is 75 parts per billion (ppb) (measured as the 99th percentile of 1-hour daily maximum concentrations, averaged over 3 years). *See* 40 CFR 50.17. Short-term exposures to SO₂ can harm the respiratory

SO_x. Thus, control measures that reduce SO₂ emissions can generally be expected to reduce exposure to all gaseous SO_x. Emissions of SO₂ are mostly generated through the combustion of fuel or waste that contain sulfur.

North Carolina's November 28, 2023, SIP revision was developed in response to a declaratory ruling² issued by the State's Environmental Management Commission (EMC) that the plain language of Rule 02D .0516 does not prohibit the use of supplemental fuels, including natural gas, to determine compliance with the 2.3 lbs/MMBtu SO₂ emission standard. As a result, NCDEQ revised Rule 02D .0516 to align with its position that sources cannot demonstrate compliance with the SO₂ emission standard by burning excess supplemental fuel beyond what is necessary for proper operation of a combustion unit.

II. North Carolina's SIP Revision and EPA's Analysis

North Carolina's SIP revision modifies and reformats Rule 02D .0516 such that paragraph (a) is split into two separate paragraphs, (a) and (b); renumbers existing paragraph 02D .0516(b) to new paragraph 02D .0516(c); and includes minor grammatical and rewording edits for clarity. Changes to paragraph 02D .0516(a) include the addition of the phrase "air pollution control devices" and the term "flare" as well as minor grammatical edits due to these additions. These amendments clarify that any source of combustion includes air pollution control devices and that the rule applies to subject emissions discharged through a flare as well as a chimney, vent, or stack.

The compliance language at paragraph 02D. 0516(a) in the SIP states, "Sulfur dioxide

system and make breathing difficult. People with asthma, particularly children, are sensitive to these effects of SO₂. At high concentrations, gaseous SO_x can harm trees and plants by damaging foliage and decreasing growth.

² North Carolina's declaratory rulings are authorized by the State's Administrative Procedure Act pursuant to N.C. Gen. Stat. § 150B-4. Using this process, an individual aggrieved may request that an agency, in relevant part, "issue a declaratory ruling as to the validity of a rule or as to the applicability to a given state of facts of a statute administered by the agency or of a rule or order of the agency." N.C. Gen. Stat. § 150B-4(a). As set forth in N.C. Gen. Stat. § 150B-4(a), a declaratory ruling must fall into one of three categories: (1) a request regarding the validity of a rule, (2) a request regarding the application of a statute, rule, or order within the agency's purview "to a given state of facts," or (3) a request to resolve inconsistent interpretations of the agency's rules. *See* North Carolina's November 28, 2023, SIP revision in the docket.

formed by the combustion of sulfur in fuels, wastes, ores and other substances shall be included when determining compliance with this standard. Sulfur dioxide formed or reduced as a result of treating flue gases with sulfur trioxide or other materials shall also be accounted for when determining compliance with this standard.” This language is moved to paragraph 02D. 0516(b) as subparagraphs (b)(1)1 and (b)(1)2. The criteria at subparagraph (b)(1) is further amended by removing the phrase “included when determining compliance with this standard.” This language is repurposed as the introduction of paragraph (b), “When determining compliance with this standard” (i.e., the SO₂ emission standard at paragraph 02D. 0516(a)). The criteria at paragraph (b)(2) is revised by replacing the phrase “also be accounted for when determining compliance with this standard” with the phrase “be included in the computation of emissions.” This amendment clarifies the discharge or reduction of SO₂ through the stated process shall be included in the computation of emissions to determine compliance with the SO₂ emission standard.

The SIP revision also adds the following new compliance requirement at paragraph 02D. 0516(b)(3): “the determination of Btu input shall not include the contribution from any portion of fuels used exclusively to inflate the heat input value used to demonstrate compliance with the emission standard in Paragraph (a) of this Rule.” The addition of paragraph (b)(3) provides that the computation of emissions to determine compliance with the emission standard shall not include SO₂ emissions from the use of excess supplemental fuel beyond what is necessary to operate a combustion unit. The revisions to paragraph (b)(3) provide clarity and consistency with the State’s position that the use of supplemental fuel beyond what is needed for proper operation of a combustion unit is not a means for determining compliance with the 2.3 lbs/MMBtu SO₂ emission limit.

Former paragraph 02D. 0516(b) is renumbered to paragraph 02D. 0516(c) with no modifications to the original language. Lastly, DAQ’s SIP revision also makes non-substantive grammatical or typographical changes because of modifications to Rule 02D .0516. DAQ’s

revisions to Rule 15A NCAC 02D .0516 became state-effective on June 1, 2023.

For the reasons discussed above, these proposed changes will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. Therefore, EPA is proposing to approve North Carolina's November 28, 2023, SIP revision.

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, and as discussed in Sections I and II of this preamble, EPA is proposing to incorporate by reference North Carolina Rule 15A NCAC 02D .0516, *Sulfur Dioxide Emissions from Combustible Sources*, effective June 1, 2023, which clarifies that sources cannot demonstrate compliance with the SO₂ emission standard in the rule by burning excess supplemental fuel beyond what is necessary for proper operation of the combustion unit. 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 November 28, 2023, SIP revision at Rule 15A NCAC 02D .0516 to provide clarity and consistency with the State's position that the use of supplemental fuels in combustion units beyond what is needed for proper operation is not a means for compliance with the 2.3 lbs/MMBtu SO₂ emission standard at Rule 02D .0516.

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 CAA 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 proposed 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- 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.

In addition, 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 and will not impose

substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: August 6, 2025.

Kevin McOmber,

Regional Administrator,

Region 4.

[FR Doc. 2025-15460 Filed: 8/13/2025 8:45 am; Publication Date: 8/14/2025]