



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2016-0217; FRL-9962-30-Region 4]

Air Plan Approval; South Carolina: Air Emissions Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve changes to the South Carolina State Implementation Plan (SIP) to address requirements for the reporting of emissions of criteria air pollutants (CAPs) and their precursors. EPA is approving a SIP revision submitted on June 14, 2010, by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), and portions of subsequent SIP revisions submitted on August 8, 2014 and November 4, 2016, which further revise the regulations concerning the reporting of emissions. This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective **[Insert date 60 days after date of publication in the Federal Register]** without further notice, unless EPA receives adverse comment by **[Insert date 30 days after date of publication in the Federal Register]**. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2016-

0217 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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Akers can be reached via telephone at (404) 562-9089 or via electronic mail at akers.brad@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Air Emissions Reporting Requirements (AERR), set forth at 40 CFR part 51, subpart A, are requirements for the reporting of CAPs and precursors for all point sources, mobile sources, and nonpoint sources. The requirements for reporting of point source emissions from

states to the emissions inventory system (EIS) is outlined in Appendix A to subpart A, which sets an annual or triennial reporting period based on thresholds of potential to emit. This set of reporting requirements and schedules, promulgated October 17, 2008 (73 FR 76539), replaced the Consolidated Emissions Reporting Requirements (CERR) established on June 10, 2002 (67 FR 39602). The CERR replaced prior reporting requirements under 40 CFR part 51, subpart Q. It expanded the pollutants covered and geographic areas reporting, and served as the basis for data collection in the EIS, which is used to develop the national emissions inventory (NEI). The AERR rulemaking was promulgated in an effort to harmonize various reporting requirements for the states, including those previously established with the CERR, additional reporting required for ozone and carbon monoxide nonattainment areas, and reporting requirements under the oxides of nitrogen (NO_x) SIP Call. The AERR was later revised on February 19, 2015, to make those reporting requirements for nonattainment areas and the NO_x SIP Call optional under 40 CFR part 51, subpart A, among other changes. *See* 80 FR 8787.

II. Analysis of State's Submittal

This SIP revision, submitted first in the June 14, 2010, submittal, and later updated in the August 8, 2014, and November 4, 2016, submittals, clarifies federal requirements for reporting of point source emissions as revised in the AERR at South Carolina Regulation 61-62.1, Section III - "Emissions Inventory and Emissions Statements." South Carolina previously adopted the CERR provisions for major source reporting, which were approved into the SIP on December 7, 2006 (71 FR 70880). The June 14, 2010, submittal and the portions of the August 8, 2014, and November 4, 2016, submittals addressed in this action update those requirements to be consistent with the AERR. EPA is not acting on the portion of the August 8, 2014, submittal that formally

adopted the emissions statement requirement in South Carolina's SIP for sources of NO_x and volatile organic compounds (VOC) pursuant to CAA section 182(a)(3)(B), covering nonattainment areas for the ozone national ambient air quality standards (NAAQS). This portion of the August 8, 2014, submittal was approved on June 12, 2015 (80 FR 33413). EPA is also not acting on other portions of the August 8, 2014, and November 4, 2016, submittals revising other South Carolina regulations.¹

The three submittals from SC DHEC addressed in this action formally adopt the federal AERR provisions and thresholds for point sources into the SIP, thereby providing a mechanism for the state to collect emissions from sources and report those to EPA. The point source reporting in the AERR generally applies to major sources, as defined in 40 CFR part 70, the title V regulations. These types of sources are required to report annual emissions in a triennial period. For certain larger point sources, emissions are required to be reported annually through the EIS.

The AERR also provides for triennial reporting of VOCs for minor sources in "serious," "severe," and "extreme" ozone nonattainment areas for sources that emit greater than or equal to 50 tpy, 25 tpy and 10 tpy, respectively. The AERR also requires reporting of emissions of particulate matter with a diameter of 10 micrometers or less (PM₁₀) that are greater than or equal

¹ EPA is not acting on the additional changes made in the August 8, 2014, submittal to the following rules: Regulation 61-62.1, Section I - "Definitions;" Regulation 61-62.1, Section II - "Permit Requirements;" Regulation 61-62.1, Section IV - "Source Tests;" Regulation 61-62.1, Section V - "Credible Evidence;" Regulation 61-62.5, Standard No. 1 - "Emissions from Fuel Burning Operations;" or Regulation 61-62.5, Standard No. 4 - "Emissions from Process Industries." EPA is also not acting on the additional changes made in the November 4, 2016, submittal to the following rules: Regulation 61-62.1, Section II - "Permit Requirements;" Regulation 61-62.5, Standard No. 1 - "Emissions from Fuel Burning Operations;" Regulation 61-62.5, Standard No. 2 - "Ambient Air Quality Standards;" or Regulation 61-62.5, Standard No. 4 - "Emissions from Process Industries." EPA will address these additional changes to the South Carolina SIP in a separate action. Finally, EPA is not acting on the change made to Regulation 61-62.60 - "South Carolina Designated Facility Plan and New Source Performance Standards" because this is not part of the federally approved SIP.

to 70 tpy in any area designated as “serious” nonattainment for PM₁₀. South Carolina’s June 14, 2010, August 8, 2014, and November 4, 2016, submittals adopt these nonattainment inventory reporting requirements in full.

In addition, the AERR was recently updated on February 19, 2015, to provide for a lower threshold for the reporting of lead emissions, independent of the designation with respect to the lead NAAQS (80 FR 8787). The lead reporting requirement is based on a threshold of 0.5 tpy of monitored emissions, which means reporting is triggered by actual emissions rather than potential emissions. South Carolina’s November 4, 2016, submittal, incorporates this update to the AERR.

Finally, emissions other than CAPs are at the state’s discretion to report to the EIS, such as hazardous air pollutants (HAPs) (40 CFR 51.15(a)(4)). South Carolina originally included the reporting of HAPs in its June 14, 2010, adoption of AERR provisions, but removed this requirement in its August 8, 2014, update to its rules. The net effect of these revisions is that HAPs are not required to be reported in this format.

EPA is approving South Carolina’s adoption of federal AERR provisions as described above pursuant to the CAA.

III. 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 incorporate by reference of SC DHEC Regulation 61-62.1, Section III, entitled “Emissions Inventory,” effective September 23, 2016. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, 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 by the Director of the Federal Register in the next update to the SIP compilation.² EPA has made, and will continue to make, these documents generally available electronically through <https://www.regulations.gov> and/or in hard copy at the EPA Region 4 office (see the ADDRESSES section of this preamble for more information).

IV. Final Action

EPA is approving changes to South Carolina Regulation 61-62.1, Section III, made on June 14, 2010, and later revised on August 8, 2014, and November 4, 2016. These changes revise South Carolina's emissions reporting requirements for point sources in its SIP to be consistent with federal regulations.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days after date of publication in the Federal Register] without further notice unless the Agency receives adverse comments by [Insert date 30 days after date of publication in the Federal Register].

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not

² 62 FR 27968 (May 22, 1997).

institute a second comment period. Parties interested in commenting should do so at this time.

If no such comments are received, the public is advised that this rule will be effective on [Insert date 60 days after date of publication in the Federal Register] and no further action will be taken on the proposed 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 that they meet the criteria of the CAA. Accordingly, 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 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);
- 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).

In addition, this direct final rule for South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within York County in South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “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.” EPA notes that today’s action will not 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 27, 2017.

V. Anne Heard,

Acting Regional Administrator,

Region 4.

40 CFR part 52 is amended 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 PP – South Carolina

2. Section 52.2120(c) is amended by revising an entry under “Regulation No. 62.1” entitled “Section III” to read as follows:

§ 52.2120 Identification of plan.

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 (c) * * * *

Air Pollution Control Regulations for South Carolina

State citation	Title/subject	State effective date	EPA approval date	Federal Register notice
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Section III	Emission Inventory and Emissions Statement	9/23/2016	[Insert date of publication in the <u>Federal Register</u>]	[Insert Federal Register page citation]
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[FR Doc. 2017-10920 Filed: 5/30/2017 8:45 am; Publication Date: 5/31/2017]