



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2018-0020; FRL-9984-23-Region 4]

### Air Plan Approval; North Carolina; Inspection and Maintenance Program

**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 on November 17, 2017, through the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), for the purpose of removing 26 counties from North Carolina's expanded inspection and maintenance (I/M) program, which was previously approved into the SIP for use as a component of the State's Nitrogen Oxides (NO<sub>x</sub>) Budget and Allowance Trading Program. The EPA has determined that North Carolina's November 17, 2017, SIP revision is approvable because it is consistent with the Clean Air Act (CAA or Act) and with the EPA's regulations.

**DATES:** This rule will be effective [insert date of publication in the Federal Register].

**ADDRESSES:** The EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0020. 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 is not 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 are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the 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. 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:** Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9222. Ms. Sheckler can also be reached via electronic mail at [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov)

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On November 17, 2017, DAQ submitted a SIP revision seeking to remove 26 counties from the expanded I/M program contained in the North Carolina SIP. This removal consequently removes reliance on the I/M reduction credits gained from the 26 counties' participation in the expanded I/M program from the State's NO<sub>x</sub> emissions budget – a component of the State's response to the NO<sub>x</sub> SIP Call. North Carolina indicated that it no longer needs these reduction credits in order to meet its obligations under the NO<sub>x</sub> SIP Call. In

addition, North Carolina provided a technical demonstration showing that removing the 26 counties from the expanded I/M program will not interfere with North Carolina's attainment or maintenance of any National Ambient Air Quality Standard (NAAQS) or with any other applicable requirement of the CAA.

The EPA published a proposed rulemaking on July 26, 2018 (83 FR 35444), proposing to approve this SIP revision. The proposed approval was based on the EPA's proposed findings that the removal of the 26 counties from the State's expanded I/M program will not interfere with North Carolina's obligations under the NO<sub>x</sub> SIP Call and will not interfere with North Carolina's attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA. The details of North Carolina's submittal and the rationale for the EPA's action are explained in the proposed rulemaking. The comment period for this proposed rulemaking closed on August 27, 2018. The EPA received two comments supporting the proposed action. The remaining comments received were not relevant.

## **II. Final Action**

The EPA is taking final action to approve the November 17, 2017, revision to the North Carolina SIP. Specifically, the EPA is approving the removal of Brunswick, Burke, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Edgecombe, Granville, Harnett, Haywood, Henderson, Lenoir, Moore, Nash, Orange, Pitt, Robeson, Rutherford, Stanly, Stokes, Surry, Wayne, Wilkes, and Wilson counties from the SIP-approved expanded I/M program. Additionally, the EPA is finding that North Carolina's removal of the 26 counties from the SIP-approved expanded I/M program (and the removal of reliance on the I/M emissions reductions generated from those counties as part of the "credits" in North Carolina's NO<sub>x</sub> emissions budget)

will not interfere with the State's obligations under the NO<sub>x</sub> SIP Call to meet its Statewide NO<sub>x</sub> emissions budget. The EPA is also finding that the removal of the 26 counties from the SIP-approved I/M program will not interfere with continued attainment or maintenance of any applicable NAAQS or with any other applicable requirement of the CAA, and that North Carolina has satisfied the requirements of section 110(l) of the CAA.

The EPA has determined that this action is effective immediately upon publication under the authority of 5 U.S.C. 553(d)(1). The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Section 553(d)(1) allows an effective date less than 30 days after publication if a substantive rule "relieves a restriction." This action qualifies for the exception under section 553(d)(1) because it relieves the 26 counties identified above from the requirements of North Carolina's SIP-approved expanded I/M program.

### **III. 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, the 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 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 the 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 the 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. The 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 11, 2018.

Onis “Trey” Glenn, III,  
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 II—North Carolina**

2. In §52.1770, the table in paragraph (e) is amended by adding the entry “North Carolina Removal of 26 Counties from Inspection and Maintenance Program and 110(l) Non – Interference Demonstration” at the end of the table to read as follows:

**§52.1770 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS**

<b>Provision</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Federal Register citation</b>	<b>Explanation</b>
**	**	*	*	*
North Carolina Removal of 26 Counties from Inspection and Maintenance Program and 110(l) Non – Interference Demonstration	11/17/2017	[insert date of publication in the Federal Register]	[insert Federal Register citation]	

[FR Doc. 2018-20748 Filed: 9/24/2018 8:45 am; Publication Date: 9/25/2018]