



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2018-0078; FRL-9989-37-Region 4]

Air Plan Approval; North Carolina; Miscellaneous Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve changes to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality (NCDEQ), through letters dated April 4, 2017, August 22, 2017, and September 28, 2018. These SIP revisions make amendments, most of which are structural and minor, to North Carolina's source testing rules. This action is being taken pursuant to the Clean Air Act (CAA or Act).

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-2018-0078 at <http://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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Andres Febres, 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. Febres can be reached by telephone at (404) 562-8966 or via electronic mail at febres-martinez.andres@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What action is the EPA taking today?

Through letters dated April 4, 2017, August 22, 2017, and September 28, 2018, the State of North Carolina, through NCDEQ, submitted three SIP revisions for EPA approval.¹ These SIP revisions include structural amendments to 15A North Carolina Administrative Code (NCAC) 02D Section .0501 – *Compliance with Emission Control Standards*, and typographical amendments to 15A NCAC 02D Section .0536 – *Particulate Emissions from Electric Utility Boilers*.² Additionally, the SIP revisions incorporate, for primarily structural, organizational reasons, four new rules: 15A NCAC 02D Sections .2609 – *Particulate Testing Method*, .2610 – *Opacity*, .2611 – *Sulfur Dioxide Testing Methods*, and .2617 – *Total Reduced Sulfur*. EPA has preliminarily determined that a number of these changes to the North Carolina SIP are either

¹ EPA received the SIP revisions on April 28, 2017, September 6, 2017, and October 10, 2018, respectively.

² In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02D is referred to as “Subchapter 2D Air Pollution Control Requirements.”

structural or minor and ministerial and do not alter the meaning of any SIP provisions, that others are SIP-strengthening, and that all are consistent with federal regulations regarding source testing and are approvable pursuant to section 110 of the CAA. The changes that are the subject of this proposed rulemaking are described in further detail in section III below.

II. Background

On November 19, 2008, North Carolina submitted to EPA for approval a SIP revision which restructured the way the SIP identified source testing methods. The November 19, 2008, SIP revision removed all references to required source testing methods from the source-category rules of the SIP and compiled them into a new section: Subchapter 2D Section .2600, *Source Testing*. This new rule section consolidated North Carolina's testing protocols with federal air source testing methods formerly located throughout DEQ's rules and amended existing source-category standards to add cross-references to the applicable testing rules in the new section, 2D Section .2600. EPA partially approved the November 19, 2008, SIP revision, together with several other SIP revisions, but did not act on some of the proposed amendments at the time. *See* 78 FR 27065 (May 9, 2013).

Through a letter dated April 4, 2017, North Carolina submitted a request to withdraw some of the proposed changes from the November 19, 2008, SIP revision and to resubmit these changes for EPA's approval. In its request, North Carolina withdrew amendments to 2D Sections .0501 – *Compliance with Emission Control Standards*, .0536 – *Particulate Emissions from Electric Utility Boilers*, and .2609 – *Particulate Testing Methods*, as well as one rule under Subchapter 2Q, Section .0523 – *Changes Not Requiring Permit Revisions* and resubmitted these changes with an updated redline strikeout of each section.

Similarly, through a letter dated August 22, 2017, North Carolina withdrew from the November 19, 2008, SIP revision, new provisions found at 2D Sections .2610 – *Opacity*, .2611 – *Sulfur Dioxide Testing Methods*, and .2617 – *Total Reduced Sulfur*, and resubmitted these new provisions with an updated redline strikeout of each new section.

Lastly, in letters dated September 28, 2018, North Carolina submitted: (1) an additional SIP withdrawal and revision, and (2) a separate withdrawal. Specifically, the September 28, 2018, SIP revision withdrew the changes to 2D Sections .0501 and addition of .2609 from the April 4, 2017, SIP revision, and concurrently resubmitted these for incorporation into the SIP with updated redline strikeouts. In the separate withdrawal letter, also dated September 28, 2018, North Carolina withdrew 2Q Section .0523 from the April 4, 2017, SIP revision.³ North Carolina decided not to resubmit 2Q Section .0523 because this provision applies to North Carolina’s Title V permitting program and is not appropriate for approval into the SIP.

The changes proposed for approval herein are a part of North Carolina’s strategy to attain and maintain the national ambient air quality standards (NAAQS), and EPA has preliminarily determined that they are approvable pursuant to section 110 of the CAA. The changes that are the subject of this proposed rulemaking and EPA’s rationale for proposing to approve them are described in further detail below.

III. Analysis of the State Submittal

EPA is proposing to approve into the North Carolina SIP amendments to Subchapter 2D Sections .0501 – *Compliance with Emission Control Standards*, and .0536 – *Particulate Emissions from Electric Utility Boilers*, as well as the addition of four new rules, Sections .2609

³ The September 28, 2018, withdrawal letter can be found in the docket for this proposed rulemaking.

– *Particulate Testing Methods*, .2610 – *Opacity*, .2611 – *Sulfur Dioxide Testing Methods*, and .2617 – *Total Reduced Sulfur*. Below is a description of these changes and our rationale for proposing to approve them.

A. Section .0501 – *Compliance with Emission Control Standards*

Section .0501 is amended by removing all language regarding testing methods for determining compliance with emission control standards, which was previously found in paragraphs (b) and (c)(1) through (c)(18). As mentioned in Section II, above, North Carolina’s November 19, 2008, SIP revision included a new set of rules at 2D Section .2600, *Source Testing*. As described in more detail below, the operative portions of the deleted language from Section .0501 have all been relocated to the appropriate subsections of 2D Section .2600, some of which were previously approved into the SIP in 2013. *See* 78 FR 27065 (May 9, 2013). Other subsections of 2D Section .2600 are now being proposed for SIP approval through the April 4, 2017, August 22, 2017, and September 28, 2018, SIP revisions. In addition, all of the corresponding deletions of Section .0501 language are now being proposed for SIP approval. Further details on the proposed deletions of the Section .0501 testing methods and their current or new locations are presented below.

1. Whereas the relocation of Section .0501’s testing methods to Section .2600 was previously approved in the 2013 final rule for the November 19, 2008, SIP revision, the corresponding deletion of the paragraphs from Section .0501 now being proposed for approval is as follows⁴:

⁴ Paragraph (c)(9) language is found in Section .2616 – *Fluorides*, and paragraph (c)(11) language is found in Section .2618 – *Mercury*, but these Sections are currently not part of the North Carolina SIP. Sections .2616 and

- Paragraphs (b), (c)(14), and (c)(18) language is found in current Section .2602 – *General Provisions on Test Methods and Procedures.*
 - Paragraph (c)(1) language is found in current Section .2604 – *Number of Test Points.*
 - Paragraph (c)(2) language is found in current Section .2605 – *Velocity and Volume Flow Rate.*
 - Paragraph (c)(7) language is found in current Section .2612 – *Nitrogen Oxide Testing Methods.*
 - Paragraph (c)(12) language is found in current Section .2608 – *Number of Runs and Compliance Determination.*
 - Paragraph (c)(13) language is found in current Section .2606 – *Molecular Weight.*
 - Paragraph (c)(15) language is found in current Section .2621 – *Determination of Fuel Heat Content Using F-Factor.*
 - Paragraph (c)(17) language is found in current Section .2613 – *Volatile Organic Compound Testing Methods.*
2. Deletion being proposed for approval through the April 4, 2017, SIP revisions:
- Paragraph (c)(3) and (c)(16) language is found in new Section .2609 – *Particulate Testing Methods.*
3. Deletion being proposed for approval through the August 22, 2017, SIP revision:
- Paragraph (c)(4), (c)(5), and (c)(6) language is found in new Section .2611 – *Sulfur Dioxide Testing Methods.*

.2618 have not been incorporated into the SIP because North Carolina withdrew its request to adopt them into its SIP on September 1, 2016, letter. These rules pertain to CAA section 111(d) or 129 plans and not CAA section 110.

- Paragraph (c)(8) language is found in new Section .2610 – *Opacity*.
- Paragraph (c)(10) language is found in new Section .2617 – *Total Reduced Sulfur*.

If EPA finalizes this proposed approval, all of the necessary testing methods will have been deleted from Section .0501 and relocated to one of the current or new subsections in Section .2600. EPA has reviewed these changes to Section .0501 and has preliminarily determined that they are approvable pursuant to section 110 of the CAA because they are structural in nature and the deleted language is relocated and retained in 2D Section .2600 of the North Carolina SIP.

B. Section .0536 – *Particulate Emissions from Electric Utility Boilers*

Section .0536 is amended by updating cross-references that identify the location of the testing method procedures and requirements. Previously, Section .0536 referred to Section .0501 to identify the applicable procedures and requirements for stack testing when measuring emission rates for electric utility boilers. Because North Carolina has relocated all language regarding testing methods to Section .2600, amendments to Section .0536 substitute all cross-references to Section .0501 with cross-references to Section .2600.

Additionally, North Carolina is adding a reference in Section .0536 to its quality assurance program found in Section .0613 and making a minor typographical change by substituting the word “director” with “Director” throughout Section .0536.

EPA has reviewed these changes and has preliminarily determined that the amendments to Section .0536 are minor ministerial changes that do not result in a change to the existing source testing requirements in the North Carolina SIP and are approvable pursuant to section 110 of the Act.

C. Section .2609 – Particulate Testing Methods

As noted in Section III.A.2, above, most of the language of new Section .2609 was previously found in paragraphs (c)(3) and (c)(16) of Section .0501, which are now being proposed for deletion. Section .2609 adopts the federal testing Method 5 of Appendix A of 40 CFR part 60, and Method 202 of Appendix M of 40 CFR part 51, which are meant to demonstrate compliance with particulate matter (PM) emission standards. As an alternative to Method 5, Section .2609 also adopts Method 17 of Appendix A of 40 CFR Part 60, which can be used under certain testing conditions. For steam generators that use soot blowing as a routine method of cleaning heat transfer surfaces, Section .2609 also establishes specific testing requirements to account for the soot's contribution to particulate emissions. Lastly, paragraph (f) of Section .2609 establishes requirements for sources to use Method 201 or 201A, in combination with Method 202, to demonstrate compliance specifically for PM₁₀ emission standards.

Method 5 and Method 17, which are meant to measure filterable PM, were testing method options previously found in Section .0501 that are now relocated to new Section .2609. A source's total particulate emissions, however, also includes condensable PM, and is measured using different testing methods. The additional requirement in .2609 to use Method 202 to demonstrate compliance with particulate emission standards, as well as the option to use a combination of Methods 201 or 201A in conjunction with Method 202 for PM₁₀ compliance, are new provisions to this rule that require testing of condensable PM as well as filterable PM. North Carolina requires the use of testing methods for both filterable and condensable PM to capture total particulate emissions.

EPA has reviewed this change and has preliminarily determined that the addition of Section .2609, including the additional test methods, is consistent with federal regulations. The addition of new Section .2609 both retains and strengthens the existing source testing requirements of the North Carolina SIP.

D. Section .2610 – Opacity

As noted in Section III.A.3, above, most of the language of new Section .2610 was previously found in paragraph (c)(8) of Section .0501, which is being proposed for deletion. Section .2610 adopts the federal Method 9 of Appendix A of 40 CFR part 60, which is meant to determine compliance with opacity standards by visual observation, and Method 22 of Appendix A of 40 CFR part 60, which is meant to determine compliance with opacity standards when they are based upon the frequency of fugitive emissions from stationary sources as specified in an applicable rule.

The requirement to use Method 9 when determining opacity by visual observation was previously found in Section .0501 and is now relocated to new Section .2610. A new provision not found in Section .0501 is the option to use Method 22 for determining compliance with opacity standards based upon the frequency of fugitive emissions from stationary sources. The use of Method 22, as described in Section .2609, is allowed only in cases where this method is required by a permit condition or another applicable regulation.

EPA has reviewed this change and has preliminarily determined that the addition of new Section .2610, including the option to use Method 22, is consistent with federal regulations. The addition of new Section .2610 both retains and strengthens the existing source testing requirements of the North Carolina SIP.

E. Section .2611 – Sulfur Dioxide Testing Methods

As noted in Section III.A.3, above, the language of this new provision, Section .2611, was previously found in paragraphs (c)(4), (5), and (6) of Section .0501, which are being proposed for deletion. Section .2611 establishes testing methods and methodologies for sulfur dioxide in different types of sources, specifically:

- a. If compliance is to be demonstrated for a combustion source through stack sampling, the procedures described in Method 6 or Method 6C of Appendix A of 40 CFR part 60 shall be used. When using Method 6 procedures to demonstrate compliance, compliance shall be determined by averaging six 20-minute samples taken over such a period of time that no more than 20 minutes elapses between any two consecutive samples. The 20-minute run requirement applies to Method 6 only, not to Method 6C. Method 6C is an instrumental method and the sampling is done continuously.
- b. Fuel burning sources not required to use continuous emissions monitoring to demonstrate compliance with sulfur dioxide emission standards may determine compliance with sulfur dioxide emission standards by stack sampling or by analyzing the sulfur content of the fuel.
- c. For stationary gas turbines, Method 20 of 40 CFR part 60 shall be used to demonstrate compliance with applicable sulfur dioxide emissions standards.
- d. When compliance is to be demonstrated for a combustion source by analysis of sulfur in fuel, sampling, preparation, and analysis of fuels shall be according to American Society of Testing and Materials (ASTM) methods. The Director may approve ASTM methods different from those described in the regulation if they will provide equivalent or more reliable results. The Director may prescribe alternate ASTM methods on an individual basis

if that action is necessary to secure reliable test data. Paragraph (d)(1) of Section .2611 outlines specific ASTM methods for Coal Sampling, and paragraph (d)(2) outlines specific ASTM methods for Oil Sampling.

- e. When compliance is shown for sulfuric acid manufacturing plants or spodumene ore roasting plants through stack sampling using the methods provided in Sections .0517 and .0527, respectively, the procedures described in Method 8 of Appendix A of 40 CFR part 60 shall be used. When Method 8 of Appendix A of 40 CFR part 60 is used to determine compliance, compliance shall be determined by averaging emissions measured by three one-hour test runs unless otherwise specified in the applicable rule or subpart of 40 CFR part 60.
- f. When compliance is shown for a combustion source emitting sulfur dioxide not covered under paragraphs (a) through (e) of Section .2611 through stack sampling, the procedures described in Method 6 or Method 6C of Appendix A of 40 CFR part 60 shall be used. When using Method 6 procedures to demonstrate compliance, compliance shall be determined by averaging six 20-minute samples taken over such a period of time that no more than 20 minutes elapses between any two consecutive samples. The 20-minute run requirement applies to Method 6 only, not to Method 6C. Method 6C is an instrumental method and the sampling is done continuously.

All of the above the testing methods identified in Section .2611 were previously found in Section .0501, with the exception of Method 6C. This new alternative method allows for the use of a sampling instrument that tests continuously rather than periodically.

EPA has reviewed this change and has preliminarily determined that the addition of new Section .2611, including the addition of Method 6C as an alternative method, is consistent with

federal regulations. The addition of new Section .2611 both retains and strengthens the existing source testing requirements of the North Carolina SIP.

F. Section .2617 – Total Reduced Sulfur

As noted in Section III.A.3, above, the language of this new provision, Section .2617, was previously found in paragraph (c)(10) of Section .0501, which is being proposed for deletion. Section .2617 adopts the use of federal testing Method 16 of Appendix A of 40 CFR Part 60 or Method 16A of Appendix A of 40 CFR part 60 to demonstrate compliance with total reduced sulfur emissions standards. The rule also adopts the federal testing Method 15 of Appendix A of 40 CFR part 60 to be used as an alternative to determine total reduced sulfur emissions from tail gas control units of sulfur recovery plants, hydrogen sulfide in fuel gas for fuel gas combustion devices, and where specified in other applicable subparts of 40 CFR part 60.

The requirement to use Method 16 or 16A was previously found in Section .0501 and is now relocated to new Section .2617. The option to use Method 15 in certain circumstances is a new provision to this rule. Although Method 15 has a slightly different process of testing for reduced sulfur, the resulting conclusions are the same. Additionally, consistent with section 1.2.1 of Method 15 in the CFR, Section .2617 provides that Method 15 may be used only as an alternative in certain specified sources, as described in the paragraph above, or where specified in other applicable federal subparts.

EPA has reviewed this change and has preliminarily determined that the addition of Section .2617, including the addition of Method 15 for certain sources, is consistent with federal regulations. EPA is proposing to approve all changes in this section of this rulemaking pursuant to section 110 of the Act.

IV. Incorporation by Reference

In this rule, 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, EPA is proposing to incorporate by reference under Subchapter 2D, of the North Carolina SIP, Sections .0501 – *Compliance with Emission Control Standards*, .0536 – *Particulate Emissions from Electric Utility Boilers*, .2609 – *Particulate Testing Methods*, .2610 – *Opacity*, .2611 – *Sulfur Dioxide Testing Methods*, and .2617 – *Total Reduced Sulfur*, state effective June 1, 2008. 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. Proposed Actions

EPA is proposing to approve North Carolina’s April 4, 2017, August 22, 2017, and September 28, 2018, SIP revisions. Specifically, EPA is proposing to approve under Subchapter 2D of the North Carolina SIP, the adoption of new Sections .2609, .2610, .2611, and .2617, as well as amendments to existing Sections .0501 and .0536. EPA is proposing to approve these revisions under section 110 of the CAA, including section 110(l), for the reasons stated above.⁵

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,

⁵ Section 110(l) requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.

provided that they meet the criteria of the CAA. These actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not significant regulatory actions 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);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are 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
- Do 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 21, 2018.

Mary S. Walker
Acting Regional Administrator,
Region 4.