



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2019-0153; FRL-10000-26-Region 4]

#### Air Plan Approval; North Carolina: Amendments of Air Quality Rules

**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 North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), through a letter dated March 21, 2018, readopting and amending air quality rules related to transportation conformity requirements in the state of North Carolina. EPA has determined that North Carolina's March 21, 2018, SIP revision is consistent with the federal transportation conformity requirements and the Clean Air Act (CAA or Act).

**DATES:** This rule is effective [**Insert date 30 days after date of publication in the Federal Register**].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2019-0153. 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 and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if 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 and Radiation 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**

EPA is approving a SIP revision submitted by DAQ, through a letter dated March 21, 2018, seeking to readopt and amend the air quality rules pertaining to transportation conformity in the North Carolina SIP.<sup>1</sup> North Carolina's SIP submission revises the following North Carolina regulations in 15A NCAC 2D Section .2000: Section .2001 *Purpose, Scope and Applicability*, Section .2002 *Definitions*, Section .2003 *Transportation Conformity*

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<sup>1</sup> EPA received the official electronic version of the submittal on April 4, 2018. EPA has already taken action on the other North Carolina changes submitted through the cover letter dated March 21, 2018, in a separate action. See 84 FR 14308.

*Determination*, and Section .2005 *Memorandum of Agreement*.<sup>2</sup> The changes submitted by North Carolina include updates to applicability and definitions, updates to references, clarifications regarding written commitments to implement control measures, and non-substantive wording, punctuation and formatting changes. EPA is approving the changes to rules .2001, .2002, .2003,<sup>3</sup> and .2005 because the changes do not alter transportation conformity requirements in North Carolina for any applicable area, nor do these changes conflict with the federal requirements for transportation conformity. Thus, the changes are consistent with the federal transportation conformity requirements and the CAA.

EPA proposed approval of the North Carolina March 21, 2018, SIP revision to amend the transportation conformity related state regulations, as mentioned above, on July 8, 2019 (84 FR 32359). The details of North Carolina's submission and the rationale for EPA's actions are explained in the proposed rulemaking. Comments were due on August 7, 2019, and EPA did not receive any comments on the proposed action. EPA is now taking final action to approve the above-referenced revisions.

## **II. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the following air quality rules under Subchapter 2D of North Carolina's SIP: Section .2001 *Purpose, Scope and Applicability*, Section .2002 *Definitions*,

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<sup>2</sup> The table at 40 CFR 52.1770(c), identifying the North Carolina regulations approved into the SIP, labels each rule as a "Sect." (i.e., Section) under the column titled "State citation." For consistency with the nomenclature used in the table, this notice uses the term "Section" when referring to individual North Carolina rules.

<sup>3</sup> With respect to Section .2003, EPA notes that it is approving a cross-reference to the entirety of 40 CFR 93.104 into North Carolina's SIP. Accordingly, EPA is removing the regulatory text in 40 CFR 52.1770(c)(1) that previously stated "Except for the incorporation by reference of 40 CFR 93.104(e) of the Transportation Conformity Rule."

Section .2003 *Transportation Conformity Determination*, and Section .2005 *Memorandum of Agreement* effective January 1, 2018, which amend the State’s transportation conformity requirements. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://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). Therefore, these materials have been approved by EPA for inclusion in the SIP, 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 in the next update to the SIP compilation.<sup>4</sup>

### **III. Final Action**

EPA is taking final action to approve North Carolina’s March 21, 2018, SIP revision, which amends and readopts the following rules in Subchapter 2D, Air Pollution Control Requirements: Section .2001 *Purpose, Scope and Applicability*, Section .2002 *Definitions*, Section .2003 *Transportation Conformity Determination*, and Section .2005 *Memorandum of Agreement*. EPA is taking final action to approve these revisions into the State of North Carolina’s SIP because they are consistent with the CAA.

### **IV. 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, if they meet the criteria of the CAA. This action merely approves state law as meeting Federal

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<sup>4</sup> *See* 62 FR 27968 (May 22, 1997).

requirements and does not impose additional requirements beyond those imposed by state law.

For that reason, this action:

- Does not contain 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);
- Is not subject to Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions 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 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);
- Does not contain economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Does not contain significant regulatory actions 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).

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.

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**

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

Dated: September 11, 2019.

Mary S. Walker,  
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 (1) in paragraph (c) is amended under “Subchapter 2D Air Pollution Control Requirements”, “Section .2000 Transportation Conformity” by revising the entries for “Section .2001”, “Section .2002”, “Section .2003”, and “Section .2005” to read as follows.

**§52.1770 Identification of plan.**

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(c) \* \* \*

**(1) EPA APPROVED NORTH CAROLINA REGULATIONS**

<b>State citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Explanation</b>
<b>Subchapter 2D Air Pollution Control Requirements</b>				
**	**	*	*	*
<b>Section .2000 Transportation Conformity</b>				
Section .2001	Purpose, Scope and Applicability	1/1/2018	[Insert date of publication in <u>Federal Register</u> ] [Insert citation of publication]	

Section .2002	Definitions	1/1/2018	[Insert date of publication in <u>Federal Register</u> ] [Insert citation of publication]	
Section .2003	Transportation Conformity Determination	1/1/2018	[Insert date of publication in <u>Federal Register</u> ] [Insert citation of publication]	
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Section .2005	Memorandum of Agreement	1/1/2018	[Insert date of publication in <u>Federal Register</u> ] [Insert citation of publication]	
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[FR Doc. 2019-20676 Filed: 9/27/2019 8:45 am; Publication Date: 9/30/2019]