

Fees, OAR 340–216–8010 Table 1—Activities and Sources, and OAR 340–216–8020 Table 2—Air Contaminant Discharge Permits (fee schedule). Therefore, we are proposing to conclude that Oregon has satisfied the requirements of CAA section 110(a)(2)(L) for the ozone NAAQS.

110(a)(2)(M): Consultation/Participation by Affected Local Entities

CAA section 110(a)(2)(M) requires States to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP.

State submission: The Oregon submission refers to the following laws and regulations:

- ORS 468.020 Rules and Standards
- ORS 468.035 Functions of Department paragraphs (a), (c), (f), and (g)
- ORS 468A.010 Policy paragraphs (1)(b) and (c)
- ORS 468A.025 Air Purity Standards; Air Quality Standards; Treatment and Control of Emissions; Rules
- ORS 468A.035 General Comprehensive Plan
- ORS 468A.040 Permits; Rules
- ORS 468A.055 Notice Prior to Construction of New Sources; Order Authorizing or Prohibiting Construction; Effect of No Order; Appeal
- ORS 468A.070 Measurement and Testing of Contamination Sources; Rules
- ORS 468A.100–180 Regional Air Quality Control Authorities
- OAR 340–200 General Air Pollution Procedures and Definitions
- OAR 340–204 Designation of Air Quality Areas
- OAR 340–216 Air Contaminant Discharge Permits

EPA analysis: The regulations cited by Oregon were previously approved on December 27, 2011 (76 FR 80747) and provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. We are proposing to approve the Oregon SIP as meeting the requirements of CAA section 110(a)(2)(M) for the 2015 ozone NAAQS.

III. Proposed Action

The EPA is proposing to find the Oregon SIP meets the following CAA section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). This proposed action addresses only the interstate transport requirements of CAA sections 110(a)(2)(D)(i)(II), and 110(a)(2)(D)(ii).

We intend to address the remainder of the interstate transport requirements in a separate, future action. In addition, we are also proposing to approve into the Oregon SIP, and incorporate by reference at 40 CFR part 52, subpart MM, a revision to Oregon's Administrative Rule 340–200–0035(1) *Reference Materials* submitted as part of the Cleaner Air Oregon SIP on December 11, 2018.

IV. Incorporation by Reference

In this document, we are proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are proposing to incorporate by reference the provisions described above in Section V. Proposed Action. The EPA has made, and will continue to make, these documents generally available electronically through <https://www.regulations.gov> and in hard copy at the appropriate EPA office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 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. Accordingly, this proposed 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 proposed 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 it does not involve technical standards; 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).

In addition, 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 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: February 25, 2019.

Chris Hladick,

Regional Administrator, Region 10.

[FR Doc. 2019–04385 Filed 3–8–19; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0422; FRL–9990–68–Region 4]

Air Plan Approval; NC; Emission Control Standards, Open Burning, and Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of a revision to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina through the North Carolina Department of Environmental Quality (formerly the North Carolina Department of Environment and Natural Resources (NCDENR)), Division of Air Quality, on January 31, 2008. The revision includes changes to emission control standards and open burning regulations. The changes are part of North Carolina's strategy to meet and maintain the national ambient air quality standards (NAAQS). This action is being taken pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: Comments must be received on or before April 10, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0422 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: Nacosta C. Ward, 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. Ms. Ward can be reached via telephone at (404) 562–9140, or via electronic mail at ward.nacosta@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On January 31, 2008, the State of North Carolina, through NCDENR,¹ submitted changes to the North Carolina SIP for EPA approval. EPA is proposing to approve changes to the following regulations under 15A North Carolina Administrative Code (NCAC) 02D, Section .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emissions*; Section .0540, *Particulates From Fugitive Non-Process Dust Emissions*; and Section .1907, *Multiple Violations Arising From a Single Episode*.² These changes are a part of North Carolina's strategy to attain and maintain the NAAQS and are being proposed for approval pursuant to section 110 of the CAA. EPA has taken, will take, or, for various reasons, will not take separate action on all other changes submitted on January 31, 2008.³

II. Analysis of the State Submittals

The revision that is the subject of this proposed rulemaking makes changes to emission control standard regulations under Subchapter 2D of the North Carolina SIP. These changes revise the applicability of nitrogen dioxide (NO₂) and nitrogen oxides emissions standards to nitric acid plants, amend definitions and expand the applicability of provisions related to fugitive dust emissions, and add a new open burning rule for multiple violations that can occur from a single open burning event. The changes either do not interfere with attainment and maintenance of the NAAQS or they have the effect of strengthening the North Carolina SIP. Detailed descriptions of the changes are below:

1. Section .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emissions* is amended by removing the provision to limit NO₂ emissions from nitric acid manufacturing plants. This regulation

¹ NCDENR is now the North Carolina Department of Environmental Quality.

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."

³ On February 5, 2015 (80 FR 6455), EPA took final action on 2D Section .1004. On July 18, 2017 (82 FR 32767), EPA took direct final action on 2D Sections .1901, .1902 and .1903. EPA will be taking separate action on 15A NCAC Sections 2D .1904 and 2Q .0102. EPA is not taking action on 2D Sections .0516 and .0521, because the changes to these rules reference incinerator rules under CAA sections 111(d) and 129 and 40 CFR part 60 and are not a part of the federally-approved SIP. EPA is not taking action on changes to 2Q Section .0506 because the changes reference a regulation not approved into the SIP. Lastly, EPA is not taking action on changes to 2D Sections .0524, .0960, .1201, .1202, .1208, .1211, and .2303 because the State withdrew these regulations from its January 31, 2008, submittal.

covers existing nitric acid manufacturing plants only, and the provision limiting NO₂ emissions from sulfuric acid manufacturing plants remains unchanged. The provision limiting NO₂ emissions from existing nitric acid manufacturing plants is removed because at the time of the regulations changes there were no nitric acid plants in the State (nor are there any currently operating in the State). Section .0519 is also amended by adding a provision clarifying that boilers subject to emission standards under regulations under Subchapter 2D of the North Carolina SIP, Sections .0524, *New Source Performance Standards* or .1418, *New Generating Units, Large Boilers and Internal Combustion Engines*, must meet the requirements of those regulations instead of the requirements in Section .0519. To demonstrate that this change does not interfere with the maintenance and attainment of the NAAQS, North Carolina submitted a noninterference demonstration supporting this change to its SIP on April 11, 2017.⁴ North Carolina confirmed in its noninterference demonstration that there are currently no nitric acid plants operating in the State, and any new nitric acid plants with affected boilers or engines will be required to comply with the New Source Performance Standards or new generating units, large boilers and internal combustion engines Sections at .0524 and .1418 that are more stringent than the standards being removed. EPA is proposing to find that the rationale in North Carolina's noninterference demonstration sufficiently establishes that the revisions to Section .0519 will not interfere with attainment and maintenance of the NAAQS pursuant to CAA section 110(l).⁵

2. Section .0540, *Particulates From Fugitive Non-Process Dust Emissions* is amended to make the Section applicable to *all* fugitive dust emissions instead of only fugitive *non-process* dust emissions. Section .0540 requires that the owner or operator of a facility shall not cause or allow fugitive dust emissions to cause or contribute to substantive complaints or visible emissions in excess of prescribed levels. Preliminarily, EPA views the expanded applicability of Section .0540 as SIP strengthening. To effectuate this expanded applicability, the substitution

⁴ This noninterference demonstration is a part of the docket for this action.

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.

of the term “fugitive non-process dust emissions” with “fugitive dust emissions” has been made throughout the Section to reflect this change. Other changes to this regulation are as follows:

- The title has been changed from “*Particulates From Fugitive Non-Process Dust Emissions*” to “*Particulates From Fugitive Dust Emission Sources*;

- The term “fugitive non-process dust emissions” has been modified to eliminate “non-process,” and the corresponding definition has been modified;

- The terms “excess fugitive dust emissions,” “production of crops,” and “public parking,” along with definitions thereof, have been added, and the definitions have been renumbered to reflect these additions;

- A provision clearly identifying certain activities that are excluded from the regulation’s expanded applicability has been added under paragraph (b). These activities include: Abrasive blasting covered under Subchapter 2D Section .0541; cotton ginning operations covered under Subchapter 2D Section .0542; non-production military base operations; land disturbing activities; and public roads, public parking, timber harvesting, or production of crops. As a preliminary matter, EPA believes the exclusion of these activities from the expanded applicability of .0540 does not result in the North Carolina SIP being less stringent. This is because, in the current North Carolina SIP, these activities are already not subject to the requirements of Section .0540 due to the fact that applicability of the current SIP-approved regulation is limited to non-process fugitive dust emissions from only four specified source categories and the activities now proposed for explicit exclusion in the new version of the regulation were effectively excluded under the old regulation.

- The requirements related to substantive complaints regarding fugitive dust emissions from facilities have been revised to provide clarity to the requirements that an owner or operator must meet in order to comply with the regulation. The regulation is amended by adding an objective method (reference method 22) for determining opacity at the property boundary to assist inspectors in application of the regulation. The regulation is also amended to include the processes that need to be followed when excess fugitive emissions substantive complaints are received.

As noted above, the current SIP-approved version of Section .0540 applies to only four source categories that reference regulation Section .0540

regarding control of non-process fugitive dust emissions: Section .0506, *Hot Mix Asphalt Plants*; Section .0509, *Mica or Feldspar Processing Plants*; Section .0510, *Sand, Gravel, or Crushed Stone Operations*; and Section .0511, *Light Weight Aggregate Processes*. The amendments to the regulation now expand its applicability to require sources with no permit, and that are not subject to one of the aforementioned four categories, to abate fugitive dust that is due to poor collection and/or control systems or non-process fugitive emissions. The focus of the regulation is no longer limited to non-process fugitive emissions, and the amendments eliminate any differentiation between fugitive non-process and fugitive process emissions.

The other major change to the regulation includes the addition of reference method 22 for visible emissions determination. Compliance with the regulation was previously determined by the presence of physical evidence to verify a complaint (*i.e.*, dust that must be attributed solely to a source). The addition of reference method 22 allows an inspector to determine compliance based on any opacity at the property boundary that occurs more than six minutes in an hour and includes all fugitive dust. The amendments also include the processes that need to be followed when excess fugitive emissions or two (or more) substantive complaints are received. The amendment requires immediate abatement measures for identified fugitive dust emission sources within 30 days and permanent plans for fugitive dust abatement within 90 days (60 days from the first report).

EPA has preliminarily determined that the changes to Section .0540 have the effect of strengthening the SIP by covering both process and non-process fugitive dust from facilities subject to an emission standard or a permit, whereas the current SIP-approved version of the regulation applies only to non-process fugitive dust from four source categories. EPA also believes, as a preliminary matter, that the amendments related to the specified exclusions do not make the SIP less stringent because the excluded activities were already effectively excluded under the old regulation. The changes also provide clarity to definitions, exclusions, and the requirements applicable to substantive complaints. For the reasons noted above, EPA is proposing approval of the changes to this regulation and proposing to find that these amendments to Section .0540 and the revisions to the SIP satisfy CAA section 110(l) and do not interfere with

attainment and maintenance of the NAAQS or any other applicable requirement of the Act.

3. Section .1907, *Multiple Violations Arising From a Single Episode* is a new open burning regulation being added to the North Carolina SIP. North Carolina added this provision to allow assessment of multiple civil penalties with respect to a single open burning event because multiple violations may occur during a single episode. EPA believes, as a preliminary matter, that this new regulation is SIP-strengthening and on this basis EPA is proposing approval of North Carolina’s request to add this regulation to its SIP.

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, EPA is proposing to incorporate by reference the North Carolina regulations under Subchapter 2D Air Pollution Control Requirements, Section .0519, *Control of Nitrogen Dioxide and Nitrogen Oxides Emissions*; Section .0540, *Particulates From Fugitive Dust Emission Sources*; and Section .1907, *Multiple Violations Arising from a Single Episode*, which had a state effective date of July 1, 2007. These changes are proposed to revise the applicability of NO₂ and nitrogen oxides emissions standards to nitric acid plants, amend definitions and the applicability of provisions related to fugitive dust emissions, and add a new open burning rule for multiple violations that can occur from a single open burning event. 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

For the reasons described above, EPA is proposing to approve the aforementioned changes to the North Carolina SIP submitted by the State of North Carolina on January 31, 2008, pursuant to section 110 because these changes are consistent with the CAA.

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. This 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 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 (Pub. L. 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).

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

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

Dated: February 25, 2019.

Mary S. Walker,

Acting Regional Administrator, Region 4.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Chapter IV

Office of the Secretary

45 CFR Subtitle A

[CMS–9921–NC]

RIN 0938–ZB45

Patient Protection and Affordable Care Act; Increasing Consumer Choice Through the Sale of Individual Health Insurance Coverage Across State Lines Through Health Care Choice Compacts

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Request for information.

SUMMARY: This request for information (RFI) solicits comment from interested parties on how to eliminate barriers to and enhance health insurance issuers' ability to sell individual health insurance coverage across state lines, primarily pursuant to Health Care Choice Compacts. This RFI was written in connection with Executive Order 13813, "Promoting Healthcare Choice and Competition Across the United States," which directs the Administration, including the Department of Health and Human Services (HHS), to the extent consistent with law, to facilitate the purchase of health insurance coverage across state lines. HHS is committed to increasing health insurance coverage options under Title I of the Patient Protection and Affordable Care Act.

DATES: *Comment Date:* To be assured consideration, comments must be received at one of the addresses

provided below, no later than 5 p.m. on May 6, 2019.

ADDRESSES: In commenting, please refer to file code CMS–9921–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9921–NC, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9921–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section. **FOR FURTHER INFORMATION CONTACT:** Cam Moultrie Clemmons, (206) 615–2338.

SUPPLEMENTARY INFORMATION:

Submission of Comments: All submissions received must include the Agency file code CMS–9921–NC for this notice.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that website to view public comments.

I. Background

On October 12, 2017, President Trump issued Executive Order 13813, "Promoting Healthcare Choice and Competition Across the United States," which states the policy of the Administration will be "to the extent consistent with law, to facilitate the purchase of insurance across State lines and the development and operation of a