

of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 10, 2023. 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: August 1, 2023.

**Casey Sixkiller,**

*Regional Administrator, Region 10.*

For the reasons set forth in the preamble, 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 C—Alaska**

- 2. In § 52.70, paragraph (c), table 1 is amended by:
  - a. Revising the entry “18 AAC 50.025”;
  - b. Removing the entry “18 AAC 50.080”; and
  - c. Revising the entries “18 AAC 50.502”, “18 AAC 50.540”, and “18 AAC 50.542”.

The revisions read as follows:

**§ 52.70 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED ALASKA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
* * * * *	<b>18 AAC 50—Article 1. Ambient Air Quality Management</b>			
18 AAC 50.025 .....	Visibility and Other Special Protection Areas .....	5/16/2022	8/9/2023, [INSERT Federal Register CITATION]..	
* * * * *	<b>18 AAC 50—Article 5. Minor Permits</b>			
18 AAC 50.502 .....	Minor Permits for Air Quality Protection .....	5/16/2022	8/9/2023, [INSERT Federal Register CITATION].	
18 AAC 50.540 .....	Minor Permit: Application .....	5/16/2022	8/9/2023, [INSERT Federal Register CITATION].	
18 AAC 50.542 .....	Minor Permit: Review and Issuance .....	5/16/2022	8/9/2023, [INSERT Federal Register CITATION].	
* * * * *				

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[FR Doc. 2023–16796 Filed 8–8–23; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R04–OAR–2021–0406; FRL–10991–02–R4]

**Air Plan Approval; North Carolina; Bulk Gasoline Plants, Terminals Vapor Recovery Systems**

**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 (NCDEQ), Division of Air Quality (DAQ), via a letter dated April 13, 2021. This SIP revision includes changes to NCDEQ’s regulations regarding bulk gasoline terminals and plants, gasoline cargo tanks and vapor collection

systems, and leak tightness and vapor leak requirements. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective September 8, 2023.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2021-0406. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information may not be 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 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 and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. Mrs. Sheckler can be reached via electronic mail at [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov) or via telephone at (404) 562-9222.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. This Action**

EPA is approving changes to North Carolina's SIP that were provided to EPA through NCDEQ via a letter dated April 13, 2021.<sup>1</sup> Specifically, EPA is approving changes to 15A North Carolina Administrative Code (NCAC), Subchapter 02D, Rules .0926, *Bulk Gasoline Plants*;<sup>2</sup> .0927, *Bulk Gasoline Terminals*;<sup>3</sup> .0932, *Gasoline Cargo*

<sup>1</sup> EPA notes that the April 13, 2021, submittal was received by EPA on April 14, 2021.

<sup>2</sup> In Paragraph (n) of Rule .0926, North Carolina's Rule references Rule 02D .0960 which is not in the SIP. DAQ has withdrawn that reference in Paragraph (n) from the April 13, 2021, SIP revision.

<sup>3</sup> Similar to the changes in Rule 02D .0926(n), Rule 02D .0927(k) also references Rule 02D .0960 which is not in the SIP. DAQ has withdrawn that

*Tanks and Vapor Collection Systems*; and .2615, *Determination of Leak Tightness and Vapor Leaks*.<sup>4</sup> These changes include adding, removing, and revising definitions; removing obsolete language; clarifying some requirements; and making general grammar and formatting updates. Through a notice of proposed rulemaking (NPRM), published on June 13, 2023, (88 FR 38436), EPA proposed to approve the April 13, 2021, changes to North Carolina Rules 15 NCAC 02D .0926, .0927, .0932, and .2615. The details of North Carolina's submission, as well as EPA's rationale for approving the changes, are described in more detail in the June 13, 2023, NPRM. Comments on the June 13, 2023, NPRM were due on or before July 13, 2023. No comments were received on the June 13, 2023, NPRM, adverse or otherwise.

##### **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, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of 15A NCAC Subchapter 02D, Rules .0926, *Bulk Gasoline Plants*,<sup>5</sup> and .0927, *Bulk Gasoline Terminals*,<sup>6</sup> both state-effective on November 1, 2020; as well as Rules .0932, *Gasoline Cargo Tanks and Vapor Collection Systems*, and .2615, *Determination of Leak Tightness and Vapor Leaks*, both state-effective October 1, 2020. 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 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

reference in Paragraph (k) from the April 13, 2021, SIP revision.

<sup>4</sup> EPA notes that the Agency received several revisions to the North Carolina SIP transmitted with the same April 13, 2021, cover letter. EPA is not acting on revisions to the North Carolina SIP in this document that are not explicitly identified herein, and EPA may act on these other SIP revisions in separate rulemakings.

<sup>5</sup> Except for references to Rule 02D .0960 found in paragraph .0926(n).

<sup>6</sup> Except for references to Rule 02D .0960 found in paragraph .0927(k).

be incorporated by reference in the next update to the SIP compilation.<sup>7</sup>

##### **III. Final Action**

EPA is approving the aforementioned changes to the SIP. Specifically, EPA is finalizing the approval of the April 13, 2021, SIP revision that incorporate changes to North Carolina's rules in 02D Section .0926, *Bulk Gasoline Plants*; .0927, *Bulk Gasoline Terminals*; .0932, *Gasoline Cargo Tanks and Vapor Recovery Collection Systems*; and .2615, *Determination of Leak Tightness and Vapor Leaks* into the federally approved SIP.

##### **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, 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 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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

<sup>7</sup> *See* 62 FR 27968 (May 22, 1997).

application of those requirements would be inconsistent with the CAA.

In addition, 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 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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and

commercial operations or programs and policies.”

DAQ did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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 October 10, 2023. 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

**Jeaneanne Gettle,**

*Acting Regional Administrator, Region 4.*

For the reasons stated in the preamble, EPA amends 40 CFR Part 52 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, amend the table in paragraph (c)(1) by removing the entries “Section .0926,” “Section .0927,” “Section .0932,” and “Section .2615” and adding in their place entries “Rule .0926,” “Rule .0927,” “Rule .0932,” and “Rule .2615,” respectively, to read as follows:

**§ 52.1770 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

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

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * * * *				
<b>Section .0900 Volatile Organic Compounds</b>				
* * * * *				
Rule .0926	Bulk Gasoline Plants	11/1/2020	8/9/2023, [Insert citation of publication].	Except for references to Rule 02D .0960 found in paragraph .0926(n).
Rule .0927	Bulk Gasoline Terminals	11/1/2020	8/9/2023, [Insert citation of publication].	Except for references to Rule 02D .0960 found in paragraph .0927(k).
* * * * *				
Rule .0932	Gasoline Cargo Tanks and Vapor Collection Systems.	10/1/2020	8/9/2023, [Insert citation of publication].	
* * * * *				
<b>Section .2600 Source Testing</b>				
* * * * *				
Rule .2615	Determination of Leak Tightness and Vapor Leaks.	10/1/2020	8/9/2023, [Insert citation of publication].	
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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R04-OAR-2022-0428; FRL-9991-02-R4]

**Air Plan Approval; North Carolina; Air Quality Control, Revisions to Particulates From Fugitive Dust Emissions Sources Rule****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing the approval of changes to the North Carolina State Implementation Plan (SIP), submitted by the State of North Carolina through the North Carolina Division of Air Quality (NCDAQ) through a letter dated September 10, 2021. The SIP revision includes changes to the State's air pollution control requirements in the SIP that modify several definitions, clarify its applicability requirements, adjust the requirement for fugitive dust control plan submissions, and make minor language and formatting changes. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective September 8, 2023.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2022-0428. All documents in the docket are listed on the [regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information may not be 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 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:** Pearlene Williams-Miles, Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, North Carolina 30303-8960. The telephone number is (404) 562-9144. Ms. Williams-Miles can also be reached via electronic mail at [WilliamsMiles.Pearlene@epa.gov](mailto:WilliamsMiles.Pearlene@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On September 10, 2021, NCDAQ submitted a revision to North Carolina's Rule 15A North Carolina Administrative Code (NCAC) 02D .0540, *Particulates from Fugitive Non-Process Dust Emission Sources*.<sup>1 2</sup> The submittal makes changes to the State's air pollution control requirements by revising several definitions, clarifying applicability requirements, updating language, and making other minor changes to the corresponding particulate matter fugitive emission control regulation in the North Carolina SIP.<sup>3</sup> EPA believes that the changes to Rule 02D .0540 provide additional clarity to the applicability of control plans and control plan procedures, rule exemptions, and definitions for fugitive dust emission sources. EPA has determined that the changes to the SIP do not interfere with attainment and maintenance of the NAAQS or any other applicable requirement of the Act.

Through a notice of proposed rulemaking (NPRM), published on March 23, 2023 (88 FR 17479), EPA proposed to approve the September 10, 2021, changes to North Carolina Rule 15 NCAC 02D .0540. The details of North Carolina's submission, as well as EPA's rationale for approving the changes, are described in more detail in the March 23, 2023, NPRM. Comments on the March 23, 2023, NPRM were due on or before April 24, 2023. No comments were received on the March 23, 2023, NPRM.

<sup>1</sup> EPA received the September 10, 2021, submittal on September 14, 2021. For clarity, throughout this rulemaking EPA will refer to the September 14, 2021, submission by its cover letter date of September 10, 2021.

<sup>2</sup> The September 10, 2021, submittal included several changes to other North Carolina SIP-approved rules that are not addressed in this rulemaking. EPA will act on those rule revisions in separate actions.

<sup>3</sup> NCDAQ submitted a letter to EPA on January 25, 2023, withdrawing the changes to Rule .0540(e)(1) from consideration for inclusion in the North Carolina SIP. For this reason, EPA is not acting on the changes to paragraph (e)(1) in this rulemaking.

**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, and as discussed in section I of this preamble, EPA is finalizing the incorporation by reference of 15A NCAC 02D .0540, *Particulates from Fugitive Dust Emission Sources*, State effective on September 1, 2019, into the North Carolina SIP with the exception of paragraph (e)(1).<sup>4</sup> 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 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 in the next update to the SIP compilation.<sup>5</sup>

**III. Final Action**

EPA is finalizing the approval of the September 10, 2021, SIP revision to incorporate various changes to North Carolina's fugitive emission dust control regulation. Specifically, EPA is proposing to approve various changes to Rule 02D .0540, *Particulates from Fugitive Dust Emission Sources*, as explained herein. EPA is proposing to approve these changes for the reasons discussed above.

**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, 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,

<sup>4</sup> Paragraph (e)(1) remains in the SIP with a State effective date of August 1, 2007.

<sup>5</sup> See 62 FR 27968 (May 22, 1997).