

CAA. This proposed 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);

- 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 17, 2021.

**John Blevins,**

*Acting Regional Administrator, Region 4.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2021–0033; FRL–9278–01–R4]

#### Air Plan Approval; North Carolina; Mecklenburg: Source Testing

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision to the Mecklenburg County portion of the North Carolina SIP, hereinafter referred to as the Mecklenburg County Local Implementation Plan (LIP). The revision was submitted through the North Carolina Division of Air Quality (NCDAQ), on behalf of Mecklenburg County Air Pollution Control (MCAQ), via a letter dated April 24, 2020, which was received by EPA on June 19, 2020. This SIP revision includes changes to Mecklenburg County Air Pollution Control Ordinance (MCAPCO) rules incorporated into the LIP regarding performance testing for stationary sources of air pollution. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before December 27, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2021–0033 at [www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://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 [www2.epa.gov/dockets/commenting-epa-dockets](http://www2.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** D. Brad Akers, 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. Mr. Akers can be reached via electronic mail at [akers.brad@epa.gov](mailto:akers.brad@epa.gov) or via telephone at (404) 562–9089.

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Overview

The Mecklenburg LIP was submitted to EPA on June 14, 1990, and EPA approved the plan on May 2, 1991. See 56 FR 20140. Mecklenburg County is now requesting that EPA approve changes to the LIP for, among other things, general consistency with the North Carolina SIP.<sup>1</sup> Mecklenburg County prepared three submittals in order to update the LIP and reflect regulatory and administrative changes that NCDAQ made to the North Carolina SIP since EPA’s 1991 LIP approval.<sup>2</sup> The three submittals were submitted as follows: NCDAQ transmitted the October 25, 2017, submittal to EPA but later withdrew it from review through a letter dated February 15, 2019. On April 24, 2020, NCDAQ resubmitted the October 25, 2017, update to EPA and also submitted the January 21, 2016, and January 14, 2019, updates. Due to an inconsistency with public notices at the local level, these submittals were withdrawn from EPA through the letter dated February 15, 2019. Mecklenburg County corrected this error, and NCDAQ submitted the updates to EPA in a submittal dated April 24, 2020. This proposed rule proposes to modify the LIP by revising, adding, and removing several rules related to the source testing rules, located in MCAPCO Article 2.0000, *Air Pollution and Control Regulations and Procedures*. The specific sections addressed in this proposal are Section 2.2600, *Source*

<sup>1</sup> Hereinafter, the terms “North Carolina SIP” and “SIP” refer to the North Carolina regulatory portion of the North Carolina SIP (*i.e.*, the portion that contains SIP-approved North Carolina regulations).

<sup>2</sup> The Mecklenburg County, North Carolina revision that is dated April 24, 2020, and received by EPA on June 19, 2020, is comprised of three previous submittals—one dated January 21, 2016; one dated October 25, 2017; and one dated January 14, 2019.

Testing Section 2.0900, *Volatile Organic Compounds*, and Rule 2.0501 of Section 2.0500, *Compliance with Emission Control Standards*.

## II. What action is EPA proposing?

The April 24, 2020, SIP submittal revises the Mecklenburg LIP by primarily relocating testing methods and procedures for stationary sources to new Section 2.2600, *Source Testing*. Many of these provisions are being moved, or modified and moved, from existing LIP-approved Rule MCAPCO Rule 2.0501, *Compliance with Emission Control Standards*, or from several existing rules at Section 2.0900, *Volatile Organic Compounds*.

Specifically, the April 24, 2020, submittal transmits changes to existing Rule 2.0501, *Compliance with Emissions Control Standards*, at paragraph (c), wherein several subparagraphs are recodified at Section 2.2600, *Source Testing*, and in some cases further modified. Next, the submittal transmits changes to existing LIP-approved Rules 2.0901, *Definitions*; 2.0912, *General Provisions on Test Methods and Procedures*; 2.0943, *Synthetic Organic Chemical and Polymer Manufacturing*; and 2.0945, *Petroleum Dry Cleaning*. The April 24, 2020, submittal also transmits a removal and recodification to Section 2.2600 of the following Section 2.0900 Rules: 2.0913, *Determination of Volatile Content of Surface Coatings*; 2.0914, *Determination of VOC Emission Control System Efficiency*; 2.0915, *Determination of Solvent Metal Cleaning VOC Emissions*; 2.0916, *Determination: VOC Emissions from Bulk Gasoline Terminals*; 2.0939, *Determination of Volatile Organic Compound Emissions*; 2.0940, *Determination of Leak Tightness and Vapor Leaks*; and 2.0942, *Determination of Solvent in Filter Waste*. Finally, Rule 2.0941, *Alternative Method for Leak Tightness*, is removed.

With regard to Section 2.2600, the April 24, 2020, submittal requests approval of the following Rules—as recodified and further modified from existing Rule 2.0501 and Section 2.0900: 2.2602, *General Provisions on Test Methods*; 2.2603, *Testing Protocol*; 2.2604, *Number of Test Points*; 2.2605, *Velocity and Volume Flow Rate*; 2.2606, *Molecular Weight*; 2.2607, *Determination of Moisture Content*; 2.2608, *Number of Runs and Compliance Determination*; Rule 2.2610, *Opacity*; 2.2612, *Nitrogen Oxide Testing Methods*; 2.2613, *Volatile Organic Compound Testing Methods*; 2.2614, *Determination of VOC Emission Control System Efficiency*; and 2.2615,

*Determination of Leak Tightness and Vapor Leaks*.<sup>3 4</sup>

EPA is proposing to approve the recodification and other substantive and non-substantive changes to Mecklenburg County's source testing provisions.

## III. EPA's Analysis of the State's Submittal of Mecklenburg's Regulations

The April 24, 2020, SIP revision transmits changes to existing Rule 2.0501, *Compliance with Emission Control Standards*, and certain rules from Section 2.0900, *Volatile Organic Compounds*, and also recodifies and revises source testing provisions from Rule 2.0501 and rules in Section 2.0900 to new rules at Section 2.2600, *Source Testing*. These revised rules are consistent with SIP-approved regulations for the State of North Carolina at 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Section .2600, *Source Testing*. The rules are discussed in further detail hereinafter.

### A. Rule 2.0501, Compliance With Emission Control Standards

The April 24, 2020, SIP revision modifies Rule 2.0501, *Compliance with Emission Control Standards*, first by removing language at former paragraph (b) noting that the owner must provide the means to allow for periodic sampling and measuring of emission rates. This language is recodified at 2.2602, which EPA is addressing in Section III.C of this notice of proposed rulemaking (NPRM). Former paragraph (b) also noted that data must be supplied to MCAQ upon request, and this is recodified at paragraph 2.2602(g) to instead require the information be provided without first needing the request. See Section III.C of this NPRM for more information. Furthermore, MCAQ retains authority to obtain such data, such as in Rules 1.5111, *General Recordkeeping, Reporting, and Monitoring Requirements*; 1.5232, *Issuance, Revocation, and Enforcement of Permits*; 2.0600, *Air Pollutants; Monitoring; Reporting*; 2.0903, *Recordkeeping; Reporting; Monitoring*; and 2.0912, *General Provisions on Test*

<sup>3</sup> Additionally, EPA notes that NCDAQ did not request EPA approval into the LIP of several Section 2.2600 rules, including: Rules 2.2616, *Fluorides*; 2.2618, *Mercury*; 2.2619, *Arsenic, Beryllium, Cadmium, Hexavalent Chromium*; and 2.2620, *Dioxins and Furans*. Provisions for these pollutants were not previously included in the Mecklenburg LIP.

<sup>4</sup> At this time, EPA is not taking action on Rules 2.2601, *Purpose and Scope*; 2.2609, *Particulate Testing Methods*; 2.2617, *Total Reduced Sulfur*; and 2.2621, *Determination of Fuel Content Using the F-Factor*.

*Methods and Procedures*. Next, the submittal revises former paragraph (d) to recodify the provision to paragraph (b), remove historical compliance deadlines for emission control standards, and retain language providing that all new sources must be in compliance prior to beginning operations.

Next, several subparagraphs under paragraph 2.0501(c) are recodified to rules at Section 2.2600, *Source Testing*. For more details on these changes, see Section III.C. of this NPRM. EPA is not acting on the changes to remove and recodify the prefatory text at 2.0501(c) and subparagraphs (c)(3), (c)(4), (c)(5), (c)(6), (c)(10), (c)(15), (c)(16), and (c)(18), which will remain in place and are state effective June 14, 1990.

Former paragraph 2.0501(e) is also recodified to paragraph 2.0501(c). This paragraph provides that if more stringent controls than those in Section 2.0500 are necessary to either prevent emissions from a source of air pollution from causing exceedances of the ambient air quality standards at 2.0400, *Ambient Air Quality Standards*, or to create offsets, those controls must be included in a permit.

Next, former paragraph 2.0501(f) describing the requirements for establishing bubble emission limits is recodified to paragraph 2.0501(d). The changes to the bubble concept provisions include the addition of language to (d)(1)(D) to clarify that the review of a potential alternative mix of controls and enforcement of any resulting permit will not require expenditures for Mecklenburg County “in excess of five times that which would otherwise be required” in place of LIP-approved language that it would not “require excessive expenditures on the part of Mecklenburg County.” Subparagraphs (d)(2)(D) and (d)(5) add language noting that the **Federal Register** notice cited is incorporated by reference with no subsequent amendments or editions. The bubble concept provisions also include ministerial minor changes such as including a reference to the MCAPCO throughout wherever regulations are referenced, other minor wording changes, and formatting changes. At this time, EPA is not acting on the addition of paragraph (e) to 2.0501, which prescribes procedures for issuing permits incorporating the bubble emission limits described at paragraph (d). The Mecklenburg LIP currently includes procedural language regarding approval of bubble emission limits in permitting at LIP-approved Rule 1.5213, *Action on Application; Issuance of Permit*, at paragraph (j).

Next, former paragraph 2.0501(g), which noted that the version of the methods referenced were those which appeared in the **Federal Register** notice dated November 1, 1986, is being removed. This language is being removed because Section 2.2600 will now specify the appropriate testing methods.

A general statement is then added at the end of Rule 2.0501 which directs owners and operators of sources or control equipment subject to Section 2.0500, *Emission Control Standards*, to procedures for determining compliance at Section 2.2600, *Source Testing*. Finally, because EPA is not acting on certain subparagraphs of existing paragraph 2.0501(c) as identified above, revising former paragraph 2.0501(e) to paragraph 2.0501(c) leaves the section with two paragraphs (c), one with a state effective date of June 14, 1990, for the identified subparagraphs, and one with a state effective date of June 1, 2008. The remaining subparagraphs of paragraph (c) with the state effective date of June 14, 1990 in Rule 2.0501 will be addressed in a separate action.

#### B. Section 2.0900, Volatile Organic Compounds

The April 24, 2020, SIP revision modifies much of Section 2.0900, *Volatile Organic Compounds*, including the recodification of several rules to Section 2.2600, *Source Testing*. In this NPRM, EPA is only considering changes to those Section 2.0900 rules which are either recodified to Section 2.2600, or include updated cross-references to new Section 2.2600 for source testing procedures, among their other changes. EPA will consider the remaining changes to other Section 2.0900 rules in a separate action. Specifically, in this NPRM, EPA is proposing to remove and recodify to Section 2.2600 the following Rules: 2.0913, *Determination of Volatile Content of Surface Coatings*; 2.0914, *Determination of VOC Emission Control System Efficiency*; 2.0915, *Determination of Solvent Metal Cleaning VOC Emissions*; 2.0916, *Determination: VOC Emissions from Bulk Gasoline Terminals*; 2.0939, *Determination of Volatile Organic Compound Emissions*; 2.0940, *Determination of Leak Tightness and Vapor Leaks*; and 2.0942, *Determination of Solvent in Filter Waste*. EPA is also proposing to repeal Rule 2.0941, *Alternative Method for Leak Tightness*. Finally, EPA is addressing changes to the following Rules: 2.0901, *Definitions*; 2.0912, *General Provisions on Test Methods and Procedures*; 2.0943, *Synthetic Organic Chemical and*

*Polymer Manufacturing*; and 2.0945, *Petroleum Dry Cleaning*.

The April 24, 2020, SIP revision modifies Rule 2.0901, *Definitions*, by clarifying existing definitions applicable to Section 2.0900 and by adding one definition. First, the April 24, 2020, SIP revision removes unnecessary language at (a)(7) defining “high solids coating.” The deleted language noted that this term would apply to coatings that would have potentially lower volatile organic compounds (VOC) emission and is often applied to coatings meeting EPA’s Control Technique Guidelines. Next, the definition of “potential emissions” in (a)(15) is clarified by noting that the referenced permit is a federally enforceable permit. Additional changes include, writing out “degrees Fahrenheit” in the definition for “standard conditions” at (a)(21) instead of abbreviating, adding the definition of “Stage I” vapor recovery,<sup>5</sup> renumbering paragraphs due to the addition of the “Stage I” definition, and clarifying that a “topcoat” applies to multiple or single coat operations at renumbered (a)(25). The “Stage I” definition affects owners and operators of gasoline service stations and gasoline tank trucks. The incorporation of this definition of “Stage I” is intended to clarify a term used in existing LIP-approved Rule 2.0928,<sup>6</sup> *Gasoline Service Stations Stage I*, and is consistent with the SIP-approved definition at 15A NCAC 02D .0901.<sup>7</sup>

Next, the definition of “volatile organic compound” as renumbered at 2.0901(a)(29) is updated to cross-reference Section 2.2600 for the procedure that determines volatile content of a compound of carbon, instead of Rules 2.0913 and 2.0939, which are being recodified and repealed. The definition of VOC is also updated by replacing the listed excluded compounds with a reference to EPA’s definition at 40 CFR 51.100(s), which lists the compounds that have been determined to have negligible photochemical reactivity by the Agency. These changes more closely align Rule 2.0901 with the SIP-approved state rule at 15A NCAC 02D .0901 *Definitions*.

Next, Rule 2.0912, *General Provisions on Test Methods and Procedures*, is revised to cross-reference Section

<sup>5</sup> Stage I vapor recovery is the control of gasoline vapors emitted during the transfer of gasoline from tank trucks to stationary gasoline storage tanks.

<sup>6</sup> The April 20, 2020, submittal transmits changes to Rule 2.0928, *Gasoline Service Stations Stage I*, which will be considered by EPA in a separate action.

<sup>7</sup> Finding it consistent with statutory and regulatory requirements, EPA approved the definition into the North Carolina SIP on May 9, 2013. See 78 FR 27065.

2.2600, *Source Testing*, and remove explanations of testing expectations and schedules to more closely align the rule with the SIP-approved state rule at 15A NCAC 02D .0912, *General Provisions on Test Methods and Procedures*. The explanations of testing expectations and schedules were transferred to new Section 2.2600 at Rule 2.2602, “*General Provisions on Test Methods and Procedures*,” which is described in more detail in Section III.C of this NPRM.

Next, EPA is proposing to remove Rule 2.0941, *Alternative Method for Leak Testing*, from the Mecklenburg LIP. This rule provided for an alternative method for determining leak testing specifically for gasoline tank trucks, which were subject to Method 27 of Appendix A to 40 CFR part 60 under 2.0940, *Determination of Leak Tightness and Vapor Leaks*, which is removed and recodified at Rule 2.2615.<sup>8</sup> The federal Method 27 continues to be an appropriate test for determining vapor tightness of tank trucks, and the removal of this alternative method simply removes a flexibility previously allowed in the rules.

The April 24, 2020, revision next modifies Rule 2.0943, *Synthetic Organic Chemical and Polymer Manufacturing*, by updating a cross-reference from repealed and recodified Rule 2.0939 and replacing it with a reference to Section 2.2600 for quarterly VOC monitoring requirements. Next, the April 24, 2020, revision modifies Rule 2.0945, *Petroleum Dry Cleaning*, by clarifying that filter paper is included in the definition of “cartridge filter” in paragraph (a), clarifying a reference to Rule 2.0903 in paragraph (e), updating a cross-reference to Rule 2.0939 with a reference to Section 2.2600, removing an unnecessary statement that only suggests the point for measuring the flow rate of recovered solvents in paragraph (g), and including minor grammatical changes.

EPA is proposing to approve the updates to Rules 2.0901, 2.0912, 2.0943, and 2.0945 because they are clarifying changes, better align the Mecklenburg LIP with the State’s approved SIP, and will not interfere with any applicable CAA requirements. EPA is also proposing to remove Rule 2.0941 for the reasons discussed above. Finally, EPA is proposing to remove and recodify to Section 2.2600 with additional changes the following Rules: 2.0913, 2.0914, 2.0915, 2.0916, 2.0939, 2.0940, and 2.0942. For more details on the

<sup>8</sup> For more information on the recodification of Rule 2.0940, *Determination of Leak Tightness and Vapor Leaks*, see Section III.C of this NPRM.

recodification of Rules 2.0913, 2.0914, 2.0915, 2.0916, 2.0939, 2.0940, and 2.0942 and other changes in the recodified rules, see Section III.C. of this NPRM.

### C. Section 2.2600, Source Testing

The April 24, 2020, SIP revision adds Section 2.2600, *Source Testing*, including recodification of several source testing provisions from LIP-approved Rule 2.0501, *Compliance with Emission Control Standards*, and Section 2.0900, *Volatile Organic Compounds*. At this time, EPA is not acting on the changes to add the following Rules in Section 2.2600: 2.2601, *Purpose and Scope*; portions of 2.2602,<sup>9</sup> *General Provisions on Test Methods*; 2.2609, *Particulate Testing Methods*; 2.2611, *Sulfur Dioxide Testing Methods*; 2.2617, *Total Reduced Sulfur*; and 2.2621, *Determination of Fuel Content Using the F-Factor*.<sup>10</sup> The requirements addressed in these provisions will remain at the prefatory text at existing paragraph 2.0501(c) and subparagraphs (c)(3), (c)(4), (c)(5), (c)(6), (c)(10), (c)(15), (c)(16), and (c)(18), state effective June 14, 1990. EPA will act on these other changes in a separate action.

First, Rule 2.2602, *General Provisions on Test Methods and Procedures*, is established from general procedures formerly included in 2.0501 and 2.0912. Portions of paragraph 2.0912(a) are recodified to paragraph 2.2602(a), which notes that the owner or operator will perform any required test at their own expense, and paragraph 2.2602(b), which notes that the final test report must describe the training and air experience of the individual conducting the test. Paragraph 2.2602(c) provides that air emission testing protocols be provided to the MCAQ Director prior to testing, which is partially recodified from 2.0912(c). This paragraph also provides that the protocols are not required to be pre-approved by the Director ahead of testing, but that the Director will review protocols for pre-approval if they are provided at least 45 days in advance. Paragraph 2.2602(d) is recodified from portions of 2.0912(c) and requires that the protocol for a test intended to demonstrate compliance with an applicable emission standard must provide notice ahead of the test such that the Director may elect to observe the test, but with 15 days as the lead time instead of 21 days as provided in 2.0912(c). Former 2.0912(c) also

contained specific requirements for the contents of a testing notification to the Director, some of which are covered in Rule 2.2603, as discussed below. One effect of the recodification of testing notification procedures from former paragraphs 2.0912(c) to 2.2602(c) and (d) is that the requirements are more broadly applicable for all required source testing instead of only testing for VOCs.

Paragraph 2.2602(e) requires that the owner and operator of the source shall provide for the physical infrastructure to conduct testing, as recodified and consolidated from former 2.0912(e) and 2.0501(b). Paragraph 2.2602(f) is recodified from a portion of 2.0939(a) and requires that the test results be reported in the same units as the emission limits given in the applicable rule. Paragraph (f) also provides that the units can be different if required by the applicable permit at the time of the test, or if specified in the protocol review by the Director. This possible alternative to expressing the results in the same units as the emission limits given in the applicable rule is a new flexibility, but would not prevent MCAQ from determining compliance with the applicable SIP emission limit. The remainder of 2.0939(a) included references to Methods 25, 25A, or 25B of Appendix A to Part 60 “[w]here the test methods are applicable.” However, these test methods were not specified in the LIP for any source categories. This language is removed and not recodified at Section 2.2600, except to the extent that those methods are available via a provision in Rule 2.2613, *Volatile Organic Compound Testing Methods*, which includes a general reference to Appendix A of 40 CFR part 60 for determining applicable testing methods where a specific method is not otherwise specified in 2.2613.

Paragraph 2.2602(g) is recodified from former 2.0501(c)(14) and a portion of paragraph 2.0501(b) and provides that the owner or operator shall arrange for controlling and measuring the production rates during the period of testing, and requires that the individual conducting the test report the process used to obtain accurate process data and report the average production rates during each test. Former 2.0501(b) provided that the Director could request information on the emission rates, while recodified 2.2602(g) provides instead that the information shall be reported to the Director.

Paragraph 2.2602(h) recodifies the requirement in former 2.0912(c) to submit a test report to the Director no later than 60 days after testing. As modified, paragraph (h) instead requires

that a final test report be submitted to the Director no later than 30 days after sample collection, but that the owner or operator may submit a request for an extension on the report, which the Director will approve if they concur that extension is the result of actions beyond the control of the owner or operator. With the final report due generally within 30 days, there is no longer a need for the owner or operator to share preliminary results in 30 days, so that requirement was not carried over from 2.0912(c). EPA is not acting on paragraph (i) in this NPRM, which corresponds to LIP-approved 2.0501(c)(18), and it will be considered in a separate action. Finally, paragraph 2.2602(j) is recodified and revised from former 2.0912(g), and provides that the Director may authorize independent tests of any source subject to a rule in Section 2.2600 to determine compliance status or verify test data submitted. This paragraph also provides that tests conducted by the Division of Air Quality with the appropriate methods would take precedence for their purposes in determining compliance. Former 2.0912(g) also provided similar language noting that EPA could verify any test and that tests conducted by EPA would similarly take precedence. This language was not carried over to 2.2602(j).

Next, Rule 2.2603, *Testing Protocol*, specifies the information that must be included in the testing protocol to be provided to the MCAQ, as recodified from former paragraph 2.0912(c) for VOC testing and now made applicable more broadly to all source testing. This rule requires that technical, facility, and case-specific information be included in testing protocols and also requires that deviations from the protocol must be documented. Former 2.0912(c) also required a timetable to be submitted with the protocol, but this is covered in (1) 2.2602(d), which requires that the director be notified at least 15 days ahead of a test, and (2) 2.2602(h), which specifies that final reports from the test are due within 30 days, as stated above. These procedures would be newly applicable to source testing other than VOC testing in the Mecklenburg LIP.

Rule 2.2604, *Number of Test Points*, is reorganized and recodified from existing paragraph 2.0501(c)(1) and requires the use of Method 1 of Appendix A of 40 CFR part 60 to select a suitable measurement site and the appropriate number of test points for several source tests, including: Particulate testing, velocity and/or volume flow rate measurements, testing for acid mist or other pollutants which occur in liquid droplets, sampling for which velocity

<sup>9</sup> EPA is not proposing to act on paragraph 2.2602(i) at this time. This provision will instead remain at 2.0501(c)(18), and the recodification to 2.2602(i) with additional changes will be considered in a separate action.

<sup>10</sup> See footnote 5 of this NPRM.

and volume flow rate measurements are required, or any sampling which specifies isokinetic sampling. Paragraph 2.2604(a) also includes testing for VOC as one of the situations covered by Method 1 at 2.2604(a), as removed and relocated from 2.0939(a). The only remaining changes are related to reformatting from 2.0501(c)(1), such as breaking out paragraph 2.2604(b) from former 2.0501(c)(1)(E), which includes clarifications to Method 1. Similarly, Rule 2.2605, *Velocity and Volume Flow Rate*, is recodified from existing 2.0501(c)(2) and requires that Method 2 of 40 CFR part 60 be used concurrently in any test in which velocity and volume flow rate measurements are required.

Next, Rule 2.2606, *Molecular Weight*, is recodified from existing paragraph 2.0501(c)(13) and requires Method 3 of Appendix A to 40 CFR part 60 be used in determining the molecular weight of a gas being sampled to determine the fraction of carbon dioxide, oxygen, carbon monoxide, and nitrogen. This rule maintains at paragraph (b) the alternative to use the grab sample technique with instruments such as Bacharyte Fyrite™ in specific circumstances. This rule does not retain the alternative ability for fuel burning sources to determine concentrations of oxygen and nitrogen from combustion reactions for various fuels from 2.0501(c)(3), which means the aforementioned Method 3 must be used.

Next, Rule 2.2607, *Determination of Moisture Content*, is a new rule which appropriately requires the use of Method 4 of Appendix A to 40 CFR part 60 concurrently with any test method requiring the determination of gas moisture content.

Rule 2.2608, *Number of Runs and Compliance Determination*, is modified and recodified from paragraph 2.0501(c)(12). This rule requires that three repetitions must be used for tests (except for fuel sampling), and the SIP revision adds language to provide that in circumstances where a third run could not be completed due to “an unavoidable and unforeseeable event,” the Director may approve the arithmetic average of two samples. This approach in 2.2608 is consistent with the flexibility provided for showing compliance with the federal New Source Performance Standards in 40 CFR Section 60.8(f). Accordingly, EPA is proposing to approve this change as an appropriate amendment to the required number of test runs.

Rule 2.2610, *Opacity*, is recodified from paragraph 2.0501(c)(8), and is further modified to include an alternative test at paragraph (b), which

specifies Method 22 of Appendix A to 40 CFR part 60 in instances where compliance is determined by the frequency of fugitive emissions. This alternative method is appropriate for determining the presence of visual emissions, whereas Method 9 is useful for determining the characteristics of visual emissions (e.g., percent opacity).

Rule 2.2612, *Nitrogen Oxide Testing Methods*, is recodified from paragraph 2.0501(c)(7), retaining the use of Method 7 of Appendix A to 40 CFR part 60 for combustion sources. This rule also adds the alternative of Method 7E where appropriate for determining compliance via continuous sampling. Rule 2.2612 is also modified to include Method 20 of Appendix A to 40 CFR part 60 at paragraph (b) to include a method for stationary gas turbines. This is an appropriate addition to the nitrogen oxide testing methods for determining compliance at these units.

Rule 2.2613, *Volatile Organic Compounds Testing Methods*, is established with recodified rules from Section 2.0900, which are simultaneously removed. Paragraph (a) is recodified from 2.0913, *Determination of Volatile Content of Surface Coatings*, and requires Method 24 Appendix A to 40 CFR part 60, for surface coating materials. Paragraph (b) is similarly recodified from 2.0913 and requires Method 24A for printing inks and related coatings. Paragraph (c) includes procedures for conducting a material balance for solvent metal cleaning and is recodified from 2.0915, *Determination of Solvent Metal Cleaning VOC Emissions*. Paragraph (d) prescribes 40 CFR 60.503, *Test Methods and Procedures*, from 40 CFR part 60, subpart XX, *Standards of Performance for Bulk Gasoline Terminals* for those bulk gasoline terminals, which is a recodification of former 2.0916, *Determination: VOC Emissions from Bulk Gasoline Terminals*. Paragraph (e) is recodified from former 2.0939, *Determination of Volatile Organic Compound Emissions* at paragraph (b), which prescribes Method 21 of Appendix A to 40 CFR part 60 for organic process equipment leaks. This covers the remaining portion of 2.0939, which is removed.

Paragraph 2.2613(f) provides procedures for identifying filter waste, which is a recodification of former Rule 2.0942, *Determination of Solvent Filter Waste*. Next, paragraph (g) is added to include a general statement that for sources of VOCs not covered by paragraphs 2.2613(b)–(e), the applicable methods in Appendix M to 40 CFR part 51 or Appendix A to 40 CFR part 60 shall be used. These Appendices are

appropriate references for determining applicable test methods for source categories which are not specifically covered in the LIP.

Paragraph 2.2613(h) includes a provision that compounds excluded from the definition of volatile organic compound at Rule 2.0901, *Definitions*, are to be treated as water. This is appropriate because other volatile compounds that have been determined to have negligible reactivity photochemical reactivity are not regulated as VOCs pursuant to 40 CFR part 51, as established at 40 CFR 51.100(s). Additionally, with the creation of 2.2613, 2.0501(c)(17) was no longer accurate because it stated that emissions of VOCs would be measured via test procedures in Section 2.0900 instead of 2.2600. Therefore, with cross-references within 2.0900 to 2.2600 for the appropriate test methods, 2.0501(c)(17) is no longer needed and is removed from the SIP.

Rule 2.2614, *Determination of VOC Emission Control System Efficiency*, is recodified from former 2.0914. This rule is also modified by clarifying the procedures by which the control efficiency is determined. First, a provision at former paragraph 2.0914(b)(2) that the efficiency of any control and capture system would use accepted engineering practices for the computation and be approved by the Director is removed in favor of 2.2614(c), which is added to instead specify the procedures for determining the control efficiency as outlined in an EPA guidance document.<sup>11</sup> Next, former 2.0914(b)(4), which cited to former 2.0939 “or a method approved by the director” for determining the total combustible VOCs is removed. Rule 2.2613 adequately prescribes which methods are to be used to determine the VOC content. Paragraph (d), which is new, then notes that the EPA document cited in paragraph (c) is incorporated by reference.

Finally, Rule 2.2615, *Determination of Leak Tightness and Vapor Leaks*, is recodified from Rule 2.0940. The framework of the rule and procedures from former 2.0940 do not change for leak testing included at paragraph (a). The certification requirements at paragraph (b) are rewritten to eliminate a cross-reference to 2.0941, *Alternative Method for Leak Tightness*,<sup>12</sup> and

<sup>11</sup> Mecklenburg cites to EPA guidance from the Air Emissions Measurement Center, entitled “Guidelines for Determining Capture Efficiency,” available at: <https://www.epa.gov/sites/production/files/2020-08/documents/gd-035.pdf>.

<sup>12</sup> Rule 2.0941 is removed in the April 24, 2020, submittal. See Section III.B of this NPRM for more details.

exclusively require Method 27 of Appendix A to 40 CFR part 60 for truck tanks equipped with vapor collection systems. This rule is also revised to clarify that the certification is an annual requirement, as specified in 2.0932. Consistent with SIP-approved procedures for the State of North Carolina, paragraph (b) includes minor differences in wording from Method 27 of Appendix A to 40 CFR part 60, and subparagraph (b)(3) does not allow for any alternative procedures that the federal method allows for at Section 16.0 of Method 27. Additionally, Appendices B and C of a cited EPA document in paragraph (a) are incorporated by reference via paragraph (c). Considering the elimination of the cross-reference to possible alternative procedures in Rule 2.0941, which is removed, and the clarifying nature of other changes to the test methods, Rule 2.2615 is at least as stringent as LIP-approved 2.0940.

The changes to the Mecklenburg LIP as described in this Section would maintain and/or add source testing procedures, if approved. These procedures are necessary components of the SIP, consistent with 40 CFR part 51, subpart K, *Source Surveillance*, at 51.212, *Testing, inspection, enforcement, and complaints*. These rules are also consistent with the SIP-approved provisions for the State at 15A NCAC 02D Section .2600 and would not interfere with any applicable requirements. EPA has preliminarily determined that these rules are consistent with federal requirements.

#### IV. 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 following Mecklenburg County rules, with an effective date of June 1, 2008: 2.0501, *Compliance with Emission Control Standards*;<sup>13</sup> 2.0912, *General Provisions on Test Methods and Procedures*; 2.0943, *Synthetic Organic Chemical and Polymer Manufacturing*;

<sup>13</sup> Except for the addition of paragraph 2.0501(e), with an effective date of June 1, 2008, and except for changes to remove and recodify the prefatory text at 2.0501(c) and subparagraphs (c)(3), (c)(4), (c)(5), (c)(6), (c)(10), (c)(15), (c)(16), and (c)(18), which will remain unchanged with a state effective date of June 14, 1990. Because EPA is acting on other portions of Rule 2.0501, which includes moving former paragraph (e) to paragraph (c) with an effective date of June 1, 2008, there will be two paragraphs 2.0501(c), with different effective dates. EPA will consider the remaining portions of the June 14, 1990 version of paragraph (c) in a separate action.

2.0945, *Petroleum Dry Cleaning*; 2.2602, *General Provisions on Test Methods and Procedures*;<sup>14</sup> 2.2603, *Testing Protocol*; 2.2604, *Number of Test Points*; 2.2605, *Velocity and Volume Flow Rate*; 2.2606, *Molecular Weight*; 2.2607, *Determination of Moisture Content*; 2.2608, *Number of Runs and Compliance Determination*; 2.2610, *Opacity*; 2.2612, *Nitrogen Oxide Testing Methods*; 2.2613, *Volatile Organic Compound Testing Methods*; 2.2614, *Determination of VOC Emission Control System Efficiency*; and 2.2615, *Determination of Leak Tightness and Vapor Leaks*. EPA is also proposing to incorporate by reference Rule 2.0901, *Definitions*, with an effective date of January 1, 2009. Also in this document, EPA is proposing to remove provisions of the EPA-Approved Mecklenburg County rules from the Mecklenburg portion of the North Carolina State Implementation Plan, which are incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make, the State Implementation Plan generally available 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 Action

EPA is proposing to approve the April 24, 2020, SIP revision to revise and recodify, to new rules at Section 2.2600, *Source Testing*, portions of Rule 2.0501, *Compliance with Emission Control Standards*, and certain rules from Section 2.0900, *Volatile Organic Compounds*. Specifically, EPA is proposing to approve the source testing methods and procedures identified in Section III of this NPRM into the LIP. EPA is proposing to approve these changes for the reasons discussed above.

#### 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, provided that they meet the criteria of the CAA. This proposed 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:

<sup>14</sup> Except for paragraph 2.2602(i), which corresponds to 2.0501(c)(18).

- 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);

- 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: November 17, 2021.

**John Blevins,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2021–25528 Filed 11–24–21; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2021–0558; FRL–9224–01–R3]

#### **Air Plan Approval; Pennsylvania; Revision of the Maximum Allowable Sulfur Content Limit for Number 2 and Lighter Commercial Fuel Oil in Allegheny County**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision updates Allegheny County's portion of the Pennsylvania SIP, which includes regulations concerning sulfur content in fuel oil. This revision pertains to the reduction of the maximum allowable sulfur content limit for Number 2 (No. 2) and lighter commercial fuel oil, generally sold and used for residential and commercial furnaces and oil heat burners for home or space heating, water heating or both, from the current limit of 500 parts per million (ppm) to 15 ppm. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before December 27, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2021–0558 at <http://www.regulations.gov>, or via email to [Gordon.Mike@epa.gov](mailto:Gordon.Mike@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For 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:** Sean Silverman, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–5511. Mr. Silverman can also be reached via electronic mail at [Silverman.Sean@epa.gov](mailto:Silverman.Sean@epa.gov).

**SUPPLEMENTARY INFORMATION:** On December 1, 2020, the Allegheny County Health Department (ACHD) through the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to its SIP to reduce the SIP-approved maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil from a limit of 500 ppm of sulfur to 15 ppm. The proposed SIP revision continues to allow for the limited sale of higher sulfur fuel under certain specified circumstances, as provided for under the current SIP.

#### **I. Background**

The revision consists of an amendment to the Pennsylvania SIP to incorporate a reduction in the SIP-approved maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil in Allegheny County from a limit of 500 ppm of sulfur to 15 ppm.<sup>1</sup>

Combustion of sulfur-containing commercial fuel oil releases sulfur dioxide (SO<sub>2</sub>) emissions, which contribute to the formation of regional haze and fine particulate matter (PM<sub>2.5</sub>), both of which impact the environment and human health. Regional haze is pollution produced by sources and activities that emit fine particles and their precursors which impairs visibility through scattering and absorption of light. Fine particles may be emitted directly or formed from emissions of precursors, the most important of which includes SO<sub>2</sub>. PM<sub>2.5</sub> pollution exposure has been linked to a variety of health

problems. In addition to improving public health and the environment, decreased emissions of SO<sub>2</sub>, and therefore subsequently PM<sub>2.5</sub>, will contribute to the attainment or maintenance, or both, of their respective national ambient air quality standards (NAAQS).

Pennsylvania is a member of the Mid-Atlantic/Northeast Visibility Union (MANE–VU) Regional Planning Office (RPO), established in 2001, to assist the Mid-Atlantic and Northeast states in planning and developing their regional haze SIP revisions. The other MANE–VU states are Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont. The District of Columbia, certain Native American tribes in the Region, the EPA, the United States Fish and Wildlife Service, and the United States Forest Service are also members of MANE–VU. ACHD revised Article XXI, § 2104.10 and the PADEP is submitting it to EPA as a SIP revision in response to a 2017 “MANE–VU Ask” to pursue adoption of a maximum allowable sulfur content limit of 15 ppm for No. 2 and lighter commercial fuel oil statewide for purposes of reducing regional haze and visibility impairment in Pennsylvania and affected Federal Class I areas.<sup>2</sup>

#### **II. Summary of SIP Revision and EPA Analysis**

Through the December 2020 SIP revision submittal, Pennsylvania seeks to revise its SIP by including amendments to ACHD's Rules and Regulations in Article XXI, Air Pollution Control, namely, § 2104.10, Commercial Fuel Oil. The amendments to Article XXI, § 2104.10, reduce the SIP-approved maximum allowable sulfur content limit for No. 2 and lighter commercial fuel oil, generally sold for and used in residential and commercial furnaces and oil heat burners for home or space heating, water heating, or both, in Allegheny County from a limit of 500 ppm of sulfur to 15 ppm. These ACHD amendments to Article XXI, § 2104.10, became effective on September 1, 2020.

Commercial Fuel that was stored by the ultimate consumer in Allegheny County prior to the September 1, 2020 effective date may be used by the ultimate consumer on or after

<sup>2</sup> Areas statutorily designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). There are 156 mandatory Class I areas. The list of areas to which the requirements of the visibility protection program apply is in 40 CFR part 81, subpart D.

<sup>1</sup> On June 3, 2019, EPA approved a SIP revision incorporating the maximum allowable sulfur content of No. 2 and lighter fuel oil at 500 ppm in Allegheny County (84 FR 18738).