

Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9222. Ms. Sheckler can also be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's implementation plan revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: August 4, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017–17239 Filed 8–16–17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0389; FRL–9966–16–Region 4]

Approval and Promulgation of Implementation Plans; South Carolina; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; supplemental.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a supplement to its proposed approval of a revision to the South Carolina State Implementation Plan (SIP) submitted by the State of South Carolina through the South Carolina Department of Health and Environmental Control (SC DHEC) on December 28, 2012. South Carolina's SIP revision (Progress Report) addresses requirements of the Clean Air Act (CAA or Act) and EPA's rules that require each state to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing SIP addressing regional haze (regional haze

plan). EPA's proposed approval of South Carolina's Progress Report was published in the **Federal Register** on January 17, 2014. This supplemental proposal addresses the potential effects on EPA's proposed approval from the April 29, 2014, decision of the United States Supreme Court (Supreme Court) remanding to the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) EPA's Cross-State Air Pollution Rule (CSAPR) for further proceedings and the D.C. Circuit's July 28, 2015, decision on remand.

DATES: Comments must be received on or before September 18, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0389 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:

Michele Notarianni, 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. Notarianni can be reached via telephone at (404) 562–9031 and via electronic mail at notarianni.michele@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Each state is required to submit a progress report in the form of a SIP revision during the first implementation period that evaluates progress towards the RPGs for each mandatory Class I

federal area (Class I area)¹ within the state and in each mandatory Class I area outside the state that may be affected by emissions from within the state. *See* 40 CFR 51.308(g). In addition, the provisions under 40 CFR 51.308(h) require states to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze plan. The first progress report is due five years after submittal of the initial regional haze plan.

SC DHEC submitted its first regional haze plan on December 17, 2007, and submitted its Progress Report on December 28, 2012. The Progress Report and accompanying cover letter included a determination that South Carolina's existing regional haze plan requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. EPA proposed to find that the State's Progress Report satisfied the requirements of 40 CFR 51.308(g) and (h) in a notice of proposed rulemaking (NPRM) published on January 17, 2014 (79 FR 3147). Today's notice supplements that 2014 NPRM by more fully explaining and soliciting comment on the basis for the Agency's proposed approval as it relates to the Clean Air Interstate Rule (CAIR) and CSAPR.

II. Summary of South Carolina's Progress Report and EPA's 2014 NPRM

In accordance with requirements in EPA's Regional Haze Rule (RHR), South Carolina's Progress Report describes the progress made towards the RPGs of Class I areas in and outside South Carolina that are affected by emissions from South Carolina's sources.² *See* 40 CFR 51.308(g). This Progress Report also included an assessment of whether South Carolina's existing regional haze plan is sufficient to allow it and other nearby states with Class I areas to achieve their RPGs by the end of the first implementation period. *See* 40 CFR 51.308(h). In the 2014 NPRM, EPA proposed to approve the State's Progress Report as adequately addressing 40 CFR

¹ Areas designated as mandatory Class I federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). These areas are listed at 40 CFR part 81, subpart D.

² EPA promulgated a rule to address regional haze, the RHR, on July 1, 1999. *See* 64 FR 35713. The RHR revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. *See* 40 CFR 51.308 and 51.309. EPA revised the RHR on January 10, 2017. *See* 82 FR 3078.

51.308(g) and (h). EPA's proposed conclusions in the 2014 NPRM regarding South Carolina's Progress Report are briefly summarized below.

South Carolina's Progress Report included a description of the status of measures in its regional haze plan; a summary of the emissions reductions achieved; an assessment of the visibility conditions for Cape Romain Wilderness Area, the only Class I area in the State; an analysis of the changes in emissions from sources and activities within the State; an assessment of any significant changes in anthropogenic emissions within or outside the State that have limited or impeded visibility improvement progress in Class I areas impacted by the State's sources; an assessment of the sufficiency of the regional haze plan to enable South Carolina and states affected by South Carolina's sources to meet the RPGs for their Class I areas; and a review of the State's visibility monitoring strategy. As explained in the 2014 NPRM, EPA proposed to find that South Carolina's Progress Report adequately addressed the applicable provisions under 40 CFR 51.308(g).

In addition, South Carolina simultaneously submitted a determination pursuant to 40 CFR 51.308(h) that its regional haze plan is sufficient to enable the State and states affected by South Carolina's sources to achieve the RPGs for Class I areas affected by South Carolina's sources. The State also declared that further revision of the existing regional haze plan was not needed at that time. As explained in detail in the 2014 NPRM, EPA proposed to determine that South Carolina had adequately addressed 40 CFR 51.308(h) because visibility has improved at Cape Romain; sulfur dioxide (SO₂) emissions from the State's sources have decreased beyond original projections;³ additional electric generating unit (EGU) control measures not relied upon in the State's regional haze plan have occurred or will occur in the implementation period; and the SO₂ emissions from EGUs in South Carolina are already below the levels projected for 2018 in the regional haze plan and are expected to continue to

trend downward, as will the SO₂ emissions from EGUs in the other VISTAS states. In the 2014 NPRM, EPA proposed to approve South Carolina's Progress Report SIP as meeting the requirements of 40 CFR 51.308(g) and (h).

III. Impact of CAIR and CSAPR on South Carolina's Progress Report

Decisions by the courts regarding EPA rules addressing the interstate transport of pollutants have had a substantial impact on EPA's review of the regional haze plans of many states. In 2005, EPA issued regulations allowing states to rely on CAIR to meet certain requirements of the RHR. *See* 70 FR 39104 (July 6, 2005).⁴ Like many other states subject to CAIR, South Carolina relied on CAIR in its regional haze plan to meet certain requirements of the RHR, including the criteria for alternatives to the best available retrofit technology (BART) requirements for emissions of SO₂ and nitrogen oxides (NO_x) from certain EGUs in the State. This reliance was consistent with EPA's regulations. *See* 70 FR 39104 (July 6, 2005). However, in 2008, the D.C. Circuit remanded CAIR to EPA without vacatur to preserve the environmental benefits provided by the rule. *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and issued Federal Implementation Plans (FIPs) to implement the rule in CSAPR-subject states.⁵ Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program. However, numerous parties filed petitions for review of CSAPR, and at the end of 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. Order of December 30, 2011, in *EME Homer City Generation, L.P. v. EPA*, D.C. Cir. No. 11–1302.

⁴ CAIR created regional cap-and-trade programs to reduce SO₂ and NO_x emissions in 27 eastern states, including South Carolina, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) and/or the 1997 fine particulate matter (PM_{2.5}) NAAQS. *See* 70 FR 25162 (May 12, 2005).

⁵ CSAPR requires 27 Eastern states to limit their statewide emissions of SO₂ and/or NO_x in order to mitigate transported air pollution unlawfully impacting other states' ability to attain or maintain four NAAQS: The 1997 ozone NAAQS, the 1997 annual PM_{2.5} NAAQS, the 2006 24-hour PM_{2.5} NAAQS, and the 2008 8-hour ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide budgets for emissions of annual SO₂, annual NO_x, and/or ozone-season NO_x by each covered state's large EGUs.

On June 28, 2012 (77 FR 38509), EPA finalized a limited approval of South Carolina's regional haze plan addressing the first implementation period for regional haze. In a separate action, published on June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of regional haze plans from South Carolina and several other states because these plans relied on CAIR to meet certain regional haze requirements, and also amended the Regional Haze Rule to provide that participation by a state's EGUs in a CSAPR trading program for a given pollutant—either a CSAPR federal trading program implemented through a CSAPR FIP or an integrated CSAPR state trading program implemented through an approved CSAPR SIP revision—qualifies as a BART alternative for those EGUs for that pollutant.⁶ *See* 40 CFR 51.308(e)(4). In that same June 7, 2012, action, EPA also finalized FIPs to replace reliance on CAIR with reliance on CSAPR to address deficiencies in CAIR-dependent regional haze plans of several states, including South Carolina's regional haze plan.

Following these EPA actions, however, the D.C. Circuit issued a decision in *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7 (D.C. Cir. 2012), vacating and remanding CSAPR to EPA and ordering continued implementation of CAIR pending the promulgation of a valid replacement. On April 29, 2014, the Supreme Court reversed the D.C. Circuit's decision on CSAPR and remanded the case to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling.⁷ *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets for a number of states. *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118

⁶ Legal challenges to the CSAPR Better-than-BART rule from state, industry, and other petitioners are pending. *Utility Air Regulatory Group v. EPA*, No. 12–1342 (D.C. Cir. filed August 6, 2012).

⁷ After the Supreme Court's decision, EPA filed a motion to lift the stay on CSAPR and asked the D.C. Circuit to toll CSAPR's compliance deadlines by three years, so that the Phase 1 emissions budgets apply in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit granted EPA's motion. Order of October 23, 2014, in *EME Homer City Generation, L.P. v. EPA*, D.C. Cir. No. 11–1302. EPA subsequently issued an interim final rule to clarify how EPA would implement CSAPR consistent with the D.C. Circuit's order lifting the stay and tolling the rule's deadlines. *See* 79 FR 71663 (December 3, 2014) (interim final rulemaking). Pursuant to the interim final rulemaking, EPA began implementation of CSAPR on January 1, 2015.

³ In its regional haze plan and Progress Report, South Carolina focused its assessment on SO₂ emissions from EGUs because the regional planning organization, the Visibility Improvement State and Tribal Association of the Southeast (VISTAS), determined that sulfates accounted for more than 70 percent of the visibility-impairing pollution in the Southeast and that SO₂ point source emissions in 2018 represent more than 95 percent of the total SO₂ emissions inventory. In its Progress Report, South Carolina states that sulfates continue to be the biggest single contributor to regional haze at Cape Romain.

(D.C. Cir. 2015). The remanded budgets include the Phase 2 SO₂ emissions budget and ozone-season NO_x budget for South Carolina. The CSAPR litigation ultimately delayed implementation of the rule for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets, originally promulgated to begin on January 1, 2014, took effect on January 1, 2017.

On May 26, 2017, South Carolina submitted a draft SIP revision for parallel processing that adopts provisions for participation in the CSAPR annual NO_x and annual SO₂ trading programs, including annual NO_x and annual SO₂ budgets that are equal to the budgets for South Carolina in EPA's CSAPR FIP. EPA signed a NPRM on July 28, 2017 proposing to approve the SIP revision. As approval of that SIP revision would eliminate South Carolina's remanded federally-established Phase 2 SO₂ budget, it is EPA's opinion that finalization of approval of that action would address the judicial remand of South Carolina's federally-established Phase 2 SO₂ budget.⁸

CAIR was in effect at the time that South Carolina submitted its Progress Report on December 28, 2012, and the State included an assessment of the emission reductions from the implementation of CAIR in its report. South Carolina's Progress Report discussed the status of the litigation concerning CAIR and CSAPR, but because CSAPR was not at that time in effect, South Carolina did not take actual emissions reductions from CSAPR into account in assessing its regional haze plan. For the same reason, in the 2014 NPRM, EPA did not assess at that time the impact of CSAPR nor the CSAPR FIP on the abilities of South Carolina and its neighbors to meet their RPGs.

The purpose of this supplemental proposal is to seek comment on the effect of the D.C. Circuit's 2015 decision on the Agency's assessment of South

Carolina's Progress Report and the State's determination that its existing regional haze plan need not be revised at this time. Given the complex background summarized above, EPA is proposing to determine that South Carolina appropriately took CAIR into account in its Progress Report. CAIR was in effect during the 2007–2011 period addressed by South Carolina's Progress Report. EPA approved South Carolina's regulations implementing CAIR as part of the South Carolina SIP on October 16, 2009 (74 FR 53167), and at the time of submission of its Progress Report, neither South Carolina nor EPA had taken any action to remove CAIR from the South Carolina SIP. *See* 40 CFR 52.2120(c). Therefore, EPA proposes to find that South Carolina appropriately evaluated and relied on CAIR reductions to demonstrate the State's progress towards meeting its RPGs.

The State's Progress Report also demonstrated that Class I areas in other states impacted by South Carolina sources were on track to meet their RPGs as discussed in the 2014 NPRM. *See* 79 FR 3151. EPA's intention in requiring the progress reports pursuant to 40 CFR 51.308(g) was to ensure that emission management measures in the regional haze plans are being implemented on schedule and that visibility improvement appears to be consistent with the RPGs. *See* 64 FR 35713, 35747 (July 1, 1999). CAIR was in effect in South Carolina through 2014, providing the emission reductions relied upon in South Carolina's regional haze plan. Thus, EPA is proposing to determine that South Carolina appropriately took into account CAIR reductions in assessing the implementation of measures in the regional haze plan for the 2007–2011 timeframe, and EPA believes that it is appropriate to rely on CAIR emission reductions for purposes of assessing the adequacy of South Carolina's Progress Report demonstrating progress during this timeframe because CAIR remained effective and provided the requisite emission reductions.

In addition, EPA also believes that reliance upon CAIR reductions to show South Carolina's progress towards meeting its RPGs from 2007–2011 is consistent with the Agency's prior actions. During the continued implementation of CAIR per the direction of the D.C. Circuit through October 2014, EPA approved redesignations of areas to attainment of the 1997 PM_{2.5} NAAQS in which states relied on CAIR as an "enforceable measure." *See* 77 FR 76415 (December 28, 2012) (redesignation of Huntingdon-Ashland, West Virginia); 78 FR 59841

(September 30, 2013) (redesignation of Wheeling, West Virginia); and 78 FR 56168 (September 12, 2013) (redesignation of Parkersburg, West Virginia). While EPA did previously state in a rulemaking action on the Florida regional haze plan that a five-year progress report may be the appropriate time to address changes, if necessary, for RPG demonstrations and long term strategies, EPA does not believe that the implementation of CSAPR impacts the adequacy of the South Carolina regional haze plan to address reasonable progress from 2007 through 2011 or to meet requirements in 40 CFR 51.308(g) and (h) because CAIR was implemented during the time period evaluated by South Carolina for its Progress Report. *See generally* 77 FR 73369, 73371 (December 10, 2012) (proposed action on the Florida regional haze plan).

EPA's December 3, 2014, interim final rule sunset CAIR compliance requirements on a schedule coordinated with the implementation of CSAPR compliance requirements. Because CSAPR should result in greater emissions reductions of SO₂ and NO_x than CAIR throughout the affected region, including in South Carolina and neighboring states, EPA expects South Carolina to maintain and continue its progress towards its RPGs for 2018 through continued, and additional, SO₂ and NO_x reductions. *See generally* August 8, 2011 (76 FR 48208) (promulgating CSAPR). Although the implementation of CSAPR was tolled for three years, the Rule is now being implemented, and by 2018, the endpoint for calculating RPGs for the first regional haze implementation period, CSAPR will reduce emissions of SO₂ and NO_x from EGUs in South Carolina by the same amount assumed by EPA when it issued the CSAPR FIP for South Carolina in June 2012. *See* 76 FR 48208 (CSAPR promulgation), and 77 FR 33642 (limited disapproval of South Carolina regional haze plan and FIP for South Carolina for certain regional haze requirements).

At the present time, the requirements of CSAPR apply to sources in South Carolina under the terms of a FIP. If EPA approves South Carolina's May 26, 2017, SIP revision that incorporates the CSAPR requirements into its SIP, the requirements of CSAPR for annual NO_x and SO₂ emissions will apply to sources in the State through its SIP at budget levels equal to those in the CSAPR FIP. The RHR requires an assessment of whether the current "implementation plan" is sufficient to enable the states to meet all established RPGs under 40 CFR 51.308(g). The term "implementation

⁸ On September 7, 2016, EPA finalized an update to the CSAPR ozone-season program. *See* 81 FR 74504 (October 26, 2016). The update addresses summertime transport of ozone pollution in the eastern United States that crosses state lines to help downwind states and communities meet and maintain the 2008 8-hour ozone NAAQS and addresses the remanded Phase 2 ozone season NO_x budgets. The update withdraws the remanded ozone-season NO_x budgets, sets new Phase 2 CSAPR ozone season NO_x emissions budgets for eight of the eleven states with remanded budgets, and removes the other three states from the CSAPR ozone season NO_x trading program.

plan” is defined for purposes of the RHR to mean “any [SIP], [FIP], or Tribal Implementation Plan.” See 40 CFR 51.301. EPA is, therefore, proposing to determine that the Agency may consider measures in any issued FIP as well as those in a state’s regional haze plan in assessing the adequacy of the “existing implementation plan” under 40 CFR 51.308(g)(6) and (h). Because CSAPR will ensure the control of SO₂ and NO_x emissions reductions relied upon by South Carolina and other states in setting their RPGs beginning in January 2015 at least through the remainder of the first implementation period in 2018, EPA is proposing to approve South Carolina’s finding that there is no need for revision of the existing implementation plan for South Carolina to achieve the RPGs for Cape Romain and the Class I areas impacted by South Carolina sources.

EPA notes that the RHR provides for periodic evaluation and assessment of a state’s reasonable progress towards achieving the national goal of natural visibility conditions under the CAA section 169A(b). The regional haze regulations at 40 CFR 51.308 required states to submit initial SIPs in 2007 providing for reasonable progress towards the national goal for the first implementation period from 2008 through 2018. See 40 CFR 51.308(b). Pursuant to 40 CFR 51.308(f), SIP revisions reassessing each state’s reasonable progress towards the national visibility goal are due by July 31, 2021, July 31, 2028, and every ten years thereafter. For such subsequent regional haze plans, 40 CFR 51.308(f) requires each state to reassess its reasonable progress and all the elements of its regional haze plan required by 40 CFR 51.308(d), taking into account improvements in monitors and control technology, assessing the state’s actual progress and effectiveness of its long term strategy, and revising RPGs as necessary. See 40 CFR 51.308(f)(1)–(3). Therefore, South Carolina has the opportunity to reassess its RPGs and the adequacy of its regional haze plan, including its reliance first upon CAIR and now upon CSAPR for emission reductions from EGUs, when it prepares and submits its second regional haze plan to cover the implementation period from 2018 through 2028. As discussed in the 2014 NPRM and in South Carolina’s Progress Report, emissions of SO₂ from EGUs are below original projections for 2018. In addition, the visibility data provided by South Carolina show that Cape Romain is currently on track to achieve its RPGs.

IV. Summary of Reproposal

In summary, EPA proposes to approve South Carolina’s Progress Report. EPA solicits comments on this supplemental proposal, but only with respect to the specific issues raised in this notice concerning the Agency’s interpretation of the term “implementation plan” in the RHR, and EPA’s proposed agreement with South Carolina’s assessment that the current regional haze plan for South Carolina, in combination with EPA’s CSAPR FIP or an approved CSAPR SIP, need not be revised at this time to achieve the established RPGs for South Carolina and other impacted states in light of the status of CAIR through 2014 and CSAPR starting in 2015. EPA is not reopening the comment period on any other aspect of the January 17, 2014, NPRM as an adequate opportunity to comment on those issues has already been provided. The purpose of this supplemental proposal is limited to review of South Carolina’s Progress Report in light of the D.C. Circuit’s 2015 ruling on CSAPR. This supplemental proposal reflects EPA’s desire for public input into how it should proceed in light of this decision when acting on the State’s pending Progress Report, in particular the requirements that the State assess whether the current implementation plan is sufficient to ensure that RPGs are met. See 40 CFR 51.308(g) and (h).⁹

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 Act. Accordingly, 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,

⁹ EPA previously determined that CSAPR (like CAIR before it) was “better than BART” because it would achieve greater reasonable progress toward the national goal than would source-specific BART. See 77 FR 33642 (June 7, 2012). EPA is not taking comment in this supplemental proposal on whether the South Carolina regional haze plan meets the BART requirements or whether CSAPR is an alternative measure to source-specific BART in accordance with 40 CFR 52.301(e)(2).

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 mandates 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 Act; 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).

In addition, this proposed rule for South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the state of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” EPA notes this action will not 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 oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: August 4, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0359; FRL-9966-48-Region 4]

Air Plan Approval; South Carolina: Minor Source Permit Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve changes to South Carolina's State Implementation Plan (SIP) to revise minor new source review (NSR) regulations. EPA is proposing to approve portions of SIP revisions modifying these regulations as submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), on the following dates: October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, January 20, 2016, and July 27, 2016. This action is being proposed pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before September 18, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0359 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: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mr. Akers can be reached via telephone at (404) 562-9089 or via electronic mail at akers.brad@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What action is EPA proposing?

On October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, January 20, 2016, and July 27, 2016, SC DHEC submitted SIP revisions to EPA for approval that involve changes to South Carolina's minor source permitting regulations to clarify and streamline the State's federally-approved preconstruction and operating permitting program. This program requires minor stationary sources planning to construct or modify sources of air pollutants to first obtain a construction permit and to obtain and maintain operating permits in accordance with the South Carolina Code of Regulations Annotated (S.C. Code Ann. Regs.) at Regulation 61-62.1, Section II—"Permit Requirements." The portion of the SIP-approved permitting program covering construction permits is generally referred to as the minor source permitting program or the minor NSR program to distinguish it from additional permitting requirements for major sources of air pollutants.¹ The portion of the SIP-approved permitting program covering minor source operating permits is referred to as the federally enforceable state operating permit (FESOP) program. The changes made in these submittals clarify the applicability, streamline the permitting process, provide more options for the

minor source permitting program, and generally reduce the overall burden on the state permitting program and the regulated community. The changes addressed in this proposed rulemaking also correct typographical errors, make internal references consistent, and recodify sections of the existing rules. In this action, EPA is proposing to approve certain portions of these SIP submissions that make changes to South Carolina's minor NSR regulations and FESOP requirements.

EPA is not acting on a portion of the revisions to Regulation 61-62.1, Section II—"Permit Requirements." Specifically, EPA is not acting on the renumbering and minor administrative language changes to paragraph G.6—"Emergency Provisions," in the October 1, 2007, submittal, nor the minor additional language changes to this portion of the minor source permitting regulations included in the August 8, 2014, submittal.²

At this time, EPA is not acting on the following changes included in the October 1, 2007, submittal: Regulation 61-62.5, Standard No. 4—"Emissions from Process Industries"; and Regulation 61-62.5, Standard No. 5.2—"Control of Oxides of Nitrogen (NO_x)."

EPA is also not acting on changes in the July 18, 2011, submittal to the following regulations in South Carolina's SIP: Regulation 61-62.1, Section I—"Definitions"; Regulation 61-62.3—"Air Pollution Episodes"; Regulation 61-62.5, Standard No. 1—"Emissions from Fuel Burning Operations"; Regulation 61-62.5, Standard No. 4—"Emissions from Process Industries"; Regulation 61-62.5, Standard No. 6—"Alternative Emission Limitation Options (Bubble)"; Regulation 61-62.5, Standard No. 7—"Prevention of Significant Deterioration"; and Regulation 61-62.5, Standard No. 7.1—"Nonattainment New Source Review." EPA approved the changes to Regulation 61-62.5, Standard No. 2—"Ambient Air Quality Standards," included in the July 18, 2011, submittal, on April 3, 2013 (78 FR 19994).

EPA is not acting on the changes included in the June 17, 2013, submittal to the following regulations: Regulation 61-62.1, Section I—"Definitions"; Regulation 61-62.1, Section IV—"Source Tests"; Regulation 61-62.3—"Air Pollution Episodes"; Regulation 61-62.5, Standard No. 4—"Emissions from Process Industries"; and

¹ EPA's regulations governing the implementation of NSR permitting programs are contained in 40 CFR 51.160-.166; 52.21, .24; and part 51, Appendix S. The CAA NSR program is composed of three separate programs: prevention of significant deterioration (PSD), nonattainment new source review (NNSR), and Minor NSR. PSD is established in part C of title I of the CAA and applies to major stationary sources in areas that meet the national ambient air quality standards (NAAQS)—"attainment areas"—as well as areas where there is insufficient information to determine if the area meets the NAAQS—"unclassifiable areas." The NNSR program is established in part D of title I of the CAA and applies to major stationary sources in areas that are not in attainment of the NAAQS—"nonattainment areas." The Minor NSR program applies to stationary sources that do not require PSD or NNSR permits. Together, these programs are referred to as the NSR programs.

² In this action, EPA is not proposing to approve or disapprove revisions to any existing emission limitations that apply during start up, shut down and malfunction events.