

visibility as required by CAA Section 110(a)(2)(D)(i)(II).

## VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 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 Clean Air Act. Accordingly, 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 Clean Air Act; and
- Does not interfere with Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) because EPA lacks the discretionary authority to address environmental justice in this rulemaking.

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that

it 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, Intergovernmental relations, Nitrogen oxides, Sulfur dioxide, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 9, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region 9.*

[FR Doc. 2011-15238 Filed 6-21-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2011-0386-201137; FRL-9322-5]

### Approval and Promulgation of Air Quality Implementation Plans; North Carolina: Clean Smokestacks Act

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of North Carolina for the purpose of establishing in North Carolina's SIP the system-wide emission limitations from the North Carolina Clean Smokestacks Act (CSA). On August 21, 2009, the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NC DENR), Division of Air Quality (DAQ), submitted an attainment demonstration for the Hickory-Morganton-Lenoir and Greensboro-Winston Salem-High Point 1997 fine particulate matter (PM<sub>2.5</sub>) nonattainment areas. That submittal includes a request that the system-wide emission limitations from the North Carolina CSA be incorporated into the State's Federally approved SIP. EPA proposes to determine that the SIP revision is approvable pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before July 22, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2011-0386, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

3. *Fax:* (404) 562-9029.

4. *Mail:* EPA-R04-OAR-2011-0386, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier:* Jane Spann, Acting Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. "EPA-R04-OAR-2011-0386." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI 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 in <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management 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 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Joel Huey or Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Mr. Huey may be reached by phone at (404) 562–9104. Mr. Huey can also be reached via electronic mail at [huey.joel@epa.gov](mailto:huey.joel@epa.gov). Ms. Ward may be reached by phone at (404) 562–9140 or via electronic mail at [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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**I. What action is EPA proposing to take?**

EPA is proposing to approve a revision to the North Carolina SIP to incorporate the system-wide emission limitations (or caps) from the State’s CSA. The specific provisions being incorporated into the SIP are paragraphs (a) through (e) of Section 1 of Session Law 2002–4, Senate Bill 1078 (hereafter “Senate Bill 1078”) enacted June 20, 2002. This proposed approval does not include incorporation into the North Carolina SIP of paragraphs (f) through (j) of Section 1 of Senate Bill 1078 nor any of Section 2 of Senate Bill 1078. Please refer to the docket for this rulemaking for the complete text of these provisions.

**II. What is the background of North Carolina’s CSA?**

In June 2002, the General Assembly of North Carolina, Session 2001, passed Session Law 2002–4, also known as Senate Bill 1078. This legislation, entitled “*An Act to Improve Air Quality in the State by Imposing Limits on the Emission of Certain Pollutants from Certain Facilities that Burn Coal to Generate Electricity and to Provide for Recovery by Electric Utilities of the Costs of Achieving Compliance with Those Limits,*” requires significant actual emission reductions from coal-fired power plants in North Carolina. The State expected that emission reductions from the CSA would have significant health benefits for the citizens of North Carolina and other states.

North Carolina’s CSA includes a schedule of system-wide caps on emissions of nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>) from coal-fired power plants in the State, the first of which became effective in 2007. The State expected the resulting emission reductions would serve as a significant step towards meeting the 1997 PM<sub>2.5</sub> and 8-hour ozone national ambient air quality standards (NAAQS), among other NAAQS, improving visibility in the mountains and other scenic vistas,

and reducing acid rain. Reducing NO<sub>x</sub> and SO<sub>2</sub> emissions, using certain technologies, also has the co-benefit of reducing mercury emissions. EPA notes that all areas in the State that were designated nonattainment for the 1997 PM<sub>2.5</sub> and 8-hour ozone NAAQS are now attaining the standards. Although the Hickory-Morganton-Lenoir and Greensboro-Winston Salem-High Point nonattainment areas for the 1997 PM<sub>2.5</sub> NAAQS have not yet been redesignated to attainment, EPA determined that these areas had attaining data based on the three-year period 2006–2008.<sup>1</sup> Also, although the Charlotte 1997 8-hour ozone nonattainment area is still designated nonattainment, EPA has issued a proposed determination that the Area has attaining data based on the 2008–2010 design value period. See 76 FR 20293 (April 12, 2011). North Carolina has identified the CSA as part of its plan to attain and maintain the NAAQS. Because North Carolina is relying on emissions reductions from the CSA to demonstrate attainment and maintenance for certain areas in the State, North Carolina is now formally seeking that the CSA be included in the SIP so that the CSA’s requirements may be considered “permanent and enforceable.”

**III. What are the general requirements of North Carolina’s CSA?**

North Carolina’s CSA applies to the two investor-owned public utilities in North Carolina that own or operate coal-fired generating units with the capacity to generate 25 or more megawatts of electricity: Progress Energy Carolinas, Inc. (Progress Energy) and Duke Power, a division of Duke Energy Corporation (Duke Energy). Although the emission caps apply collectively to each investor-owned public utility, the CSA has no provision for the trading of pollution credits from one utility to another. Tables 1 and 2 below summarize the schedule for implementation of the NO<sub>x</sub> and SO<sub>2</sub> emission caps required by the CSA.

**TABLE 1—NO<sub>x</sub> EMISSION CAPS FOR INVESTOR-OWNED PUBLIC UTILITIES THAT OWN OR OPERATE COAL-FIRED GENERATING UNITS**

Investor-owned public utilities that collectively emitted in calendar year 2000	Collective calendar year emission caps beginning January 1, 2007	Collective calendar year emission caps beginning January 1, 2009
More than 75,000 tons of NO <sub>x</sub> .....	35,000 tons of NO <sub>x</sub> .....	31,000 tons of NO <sub>x</sub> .
Equal to or less than 75,000 tons of NO <sub>x</sub> .....	25,000 tons of NO <sub>x</sub> .....	Unchanged from 2007 cap.

<sup>1</sup> EPA’s determination that the Hickory-Morganton-Lenoir and Greensboro-Winston Salem-High Point PM<sub>2.5</sub> nonattainment areas have attained the 1997 PM<sub>2.5</sub> NAAQS is not equivalent to the

redesignation of the areas to attainment. The designation status of the areas remains nonattainment for the 1997 PM<sub>2.5</sub> NAAQS until such time as EPA determines that the areas meet all

of the CAA requirements for redesignation to attainment. See 75 FR 54 (January 4, 2010) and 75 FR 230 (January 5, 2010), respectively.

TABLE 2—SO<sub>2</sub> EMISSION CAPS FOR INVESTOR-OWNED PUBLIC UTILITIES THAT OWN OR OPERATE COAL-FIRED GENERATING UNITS

Investor-owned public utilities that collectively emitted in calendar year 2000	Collective calendar year emission caps beginning January 1, 2009	Collective calendar year emission caps beginning January 1, 2013
More than 225,000 tons of SO <sub>2</sub> .....	150,000 tons of SO <sub>2</sub> .....	80,000 tons of SO <sub>2</sub> .
Equal to or less than 225,000 tons of SO <sub>2</sub> .....	100,000 tons of SO <sub>2</sub> .....	50,000 tons of SO <sub>2</sub> .

According to documentation submitted by North Carolina, applicable utilities in North Carolina subject to the CSA must: (1) Reduce actual emissions of NO<sub>x</sub> from 245,000 tons in 1998 to 56,000 tons by 2009 (a 77 percent

reduction); and (2) reduce actual SO<sub>2</sub> emissions from 489,000 tons in 1998 to 250,000 tons by 2009 (a 49 percent reduction) and to 130,000 tons by 2013 (a 73 percent reduction). This represents about a one-third reduction of the total

NO<sub>x</sub> emissions and a one-half reduction of the total SO<sub>2</sub> emissions from all sources in North Carolina. Table 3 below lists the coal-fired power plants in North Carolina subject to the CSA.

TABLE 3—COAL-FIRED POWER PLANTS SUBJECT TO NORTH CAROLINA'S CSA

Plant	Parent company	Location
Allen .....	Duke Energy .....	Belmont.
Belews Creek .....	Duke Energy .....	Walnut Cove.
Buck .....	Duke Energy .....	Salisbury.
Cliffside .....	Duke Energy .....	Cliffside.
Dan River .....	Duke Energy .....	Eden.
Marshall .....	Duke Energy .....	Terrell.
Riverbend .....	Duke Energy .....	Mount Holly.
Ashville .....	Progress Energy .....	Arden.
Cape Fear .....	Progress Energy .....	Moncure.
Lee .....	Progress Energy .....	Goldsboro.
Mayo .....	Progress Energy .....	Roxboro.
Roxboro .....	Progress Energy .....	Semora.
L.V. Sutton .....	Progress Energy .....	Wilmington.
Weatherspoon .....	Progress Energy .....	Lumberton.

As noted above, this proposed approval does not include incorporation into the North Carolina SIP paragraphs (f) through (j) of Section 1 of Senate Bill 1078. These provisions of the State's law, which North Carolina did not request to be incorporated into the State's Federally-approved SIP, stipulate requirements regarding several aspects of implementation of the CSA. In brief, those requirements provide that: (1) Affected utilities may determine how compliance with the collective emissions limitations may be achieved and that CSA does not alter obligations to comply with any other Federal or state law or the authority of the Commission to impose specific limitations on the emissions of NO<sub>x</sub> and SO<sub>2</sub>; (2) a subject emission unit shall remain subject to the collective emissions limitations whether or not it continues to be owned or operated by an investor-owned public utility; (3) any permit or modified permit issued for a subject unit shall include conditions that provide for testing, monitoring, record keeping, and reporting adequate to assure compliance with the CSA requirements; (4) the Governor may enter into an agreement with an investor-owned public utility for the purpose of transferring to the State any

trading program emission allowances that result from compliance with the CSA; and (5) a subject investor-owned public utility shall submit to the State an annual verified statement providing details of activities related to compliance with CSA. As also noted above, this proposed approval does not include incorporation into the North Carolina SIP any of Section 2 of Senate Bill 1078, which stipulates the permitting requirements for all air contaminant sources in the State of North Carolina. Nonetheless, the emission reductions are the key component of the CSA, and North Carolina relies on the reductions to demonstrate attainment and maintenance with the NAAQS. Thus, inclusion of the emission reductions into the SIP serves the purpose of making the reductions permanent and enforceable as well as providing a Federal source of applicable requirements for title V permitting and other purposes.

**IV. Why is EPA proposing this action?**

The purpose of today's proposed approval is to make the CSA emissions reductions Federally enforceable (and permanent) because those reductions are part of North Carolina's plan to

attain and maintain the NAAQS. NC DENR requested that specific provisions of the CSA be formally adopted into the North Carolina SIP in support of its attainment demonstrations for the 1997 PM<sub>2.5</sub> NAAQS for both the Hickory-Morganton-Lenoir and Greensboro-Winston Salem-High Point nonattainment areas. Such inclusion is consistent with the requirements of the CAA. Under section 110(l) of the CAA, EPA may not approve a revision to a SIP if it would interfere with any applicable requirement concerning NAAQS attainment and reasonable further progress, or any other applicable requirement of the CAA. In reducing system-wide NO<sub>x</sub> and SO<sub>2</sub> emissions allowed by coal-fired power plants in the State, the CSA is clearly a strengthening of the North Carolina's SIP and will not interfere with CAA requirements. In addition, Federal approval of the CSA will ensure the State may take credit for the associated NO<sub>x</sub> and SO<sub>2</sub> emission reductions when pertinent to SIP submittals for other CAA requirements.

**V. Proposed Action**

EPA is proposing to approve the portion of North Carolina's August 21, 2009, SIP revision which incorporates

the system-wide emission caps from the State legislation entitled, “*An Act to Improve Air Quality in the State by Imposing Limits on the Emission of Certain Pollutants from Certain Facilities that Burn Coal to Generate Electricity and to Provide for Recovery by Electric Utilities of the Costs of Achieving Compliance with Those Limits.*” The specific provisions being proposed for incorporation into the SIP are paragraphs (a) through (e) of Section 1 of Session Law 2002–4, Senate Bill 1078 enacted June 20, 2002. Once this provision is adopted into the SIP, the collective emission caps applicable to each investor-owned public utility will be permanent and Federally enforceable.

## 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. 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. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: June 9, 2011.

### A. Stanley Meiburg,

*Acting Regional Administrator, Region 4.*

[FR Doc. 2011–15636 Filed 6–21–11; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2011–0411; FRL–9321–6]

### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Adoption of the Revised Nitrogen Dioxide Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia for the purpose of adding the new 1-hour nitrogen dioxide (NO<sub>2</sub>) standard at a level of 100 parts per billion (ppb) and updating the list of Federal documents incorporated by reference. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth’s SIP submittal 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 action, 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. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by July 22, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R03–OAR–2011–0411 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:*

[fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).

C. *Mail:* EPA–R03–OAR–2011–0411, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R03–OAR–2011–0411. EPA’s policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an anonymous access system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to