

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2015-0675; FRL-9947-61-Region 4]

### Air Plan Approval; Kentucky; Source Specific Revision for Louisville Gas and Electric

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky through its Energy and Environment Cabinet, Department of Environmental Protection, Division for Air Quality (KY DAQ) on February 13, 2013, for the purpose of establishing emission requirements for the changeover from coal-fired units U4, U5 and U6 to a new natural gas-fired combined cycle (NGCC) generating unit U15 and auxiliary boiler U16 at the Louisville Gas and Electric Company, Cane Run Generating Station (LG & E Cane Run Facility).

**DATES:** Comments must be received on or before July 15, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0675 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:** Jane Spann of the 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. Spann may be reached by telephone at (404) 562-9029 or via electronic mail at [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Ozone is created when chemical reactions between volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) occur in the presence of sunlight. Ozone is reduced by reducing VOC and NO<sub>x</sub> emissions. The Louisville Metro Air Pollution Control District (LMAPCD) adopted regulation 6.42 *Reasonably Available Control Technology Requirements for Major Volatile Organic Compound and Nitrogen Oxides Emitting Facilities* on February 2, 1994. LMAPCD's regulation 6.42 was submitted to EPA, through the Commonwealth of Kentucky, on May 21, 1999. On October 23, 2001, EPA approved LMAPCD's regulation 6.42, section 4.4 of which requires LMAPCD to submit each source-specific reasonably available control technology (RACT) determination to EPA for approval into the Kentucky SIP. *See* 66 FR 53658. On the same date, EPA approved the NO<sub>x</sub> RACT plan for LG & E's Cane Run Facility into the SIP. *See* 66 FR 53684.

On June 13, 2011, LG & E submitted to the Air Pollution Control Board of Jefferson County (Board) an application for a permit to construct a new NGCC generating unit U15 and auxiliary boiler U16 and retire coal-fired units U4, U5 and U6 at LG & E's Cane Run Facility to comply with other federal requirements, including the Mercury & Air Toxics Standards and the Cross-State Air Pollution Rule.<sup>1</sup> In response, on July 18, 2012, the Board adopted Amendment 2 establishing NO<sub>x</sub> emission rates for the new units. On February 13, 2013, KY DAQ, on behalf of LMAPCD, submitted a SIP revision for EPA to approve the LG & E Cane Run Generating Station NO<sub>x</sub> RACT Plan Amendment 2 into the Kentucky SIP. The LG & E Cane Run Generating Station NO<sub>x</sub> RACT Plan Amendment 2 includes two parts: Part 1, the existing NO<sub>x</sub> RACT Plan for the coal-fired units, which will remain in effect until those units are retired; and Part 2, the plan that will become effective upon the start

<sup>1</sup> Amendment 2 of the February 13, 2013, submittal includes a Dew Point Heater (U17). In 2014, LG&E notified LMAPCD that LG&E is not installing U17 after all.

of operation of the NGCC facility and the shut-down of the coal-fired units.

##### II. Analysis of State Submittal

CAA section 110(l) does not allow approval of a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. On May 19, 2015, LMAPCD submitted supplemental information regarding the February 13, 2013, submittal to address CAA section 110(l). The May 19, 2015, supplemental document compares the NO<sub>x</sub> and VOC emissions from the coal-fired electric generation units (EGUs) (U4, U5 and U6) to those from the new NGCC generating unit U15 and auxiliary boiler U16. The comparison shows that substitution of NGCC units for the coal-fired EGUs will cause a reduction of 11,660 tons per year (tpy) of NO<sub>x</sub> allowable emissions.<sup>2</sup> It also indicates a possible increase of 25.2 tpy of VOC allowable emissions.<sup>3</sup>

The Louisville area is currently in compliance with the ozone national ambient air quality standards (NAAQS). To demonstrate that the potential VOC increase of 25.2 tpy would not interfere with the area's ongoing attainment of the ozone NAAQS, LMAPCD conducted an analysis of ozone sensitivity based on data from monitors in the Louisville Metropolitan Statistical Area and a region-wide modeling project known as the "Southeastern Modeling, Analysis, and Planning" (SEMAP).<sup>4</sup> The analysis compared the tons per day of ozone reduced based on NO<sub>x</sub> reductions and based on VOC reductions and determined that NO<sub>x</sub> emission reductions in the Louisville region are 2 to 16 times more effective than VOC emission reductions at reducing ozone concentrations. Based on this analysis, LMAPCD determined that a 25-ton increase in VOC emissions can be offset with a reduction in NO<sub>x</sub> emissions of as much as 400 tons to as little as 50 tons. Therefore, LMAPCD concluded that the potential increase in VOC of 25.2 tpy from the Cane Run facility is offset by the concurrent 11,660 tpy reduction in NO<sub>x</sub>. EPA has preliminarily determined that the new NO<sub>x</sub> RACT plan associated with Cane Run's change from coal-fired to natural gas-fired units meets the

<sup>2</sup> Permitted, maximum, allowable NO<sub>x</sub> emissions for any consecutive 12 month period.

<sup>3</sup> Permitted, maximum, allowable VOC emissions for any consecutive 12 month period.

<sup>4</sup> Odam, Talat, and Zac Adelman. *Emissions and Air Quality Modeling for SEMAP*. Georgia Institute of Technology Environmental Engineering Department, the University of North Carolina Institute for the Environment and the Colorado State University Cooperative Institute for Research in the Atmosphere. October 15, 2014.

requirements of CAA section 110(l). Thus, EPA is proposing to approve the February 13, 2013, SIP submittal into the federally-approved SIP. This area is, as noted above, in compliance with the ozone NAAQS and there is no indication that this proposed action will cause interference with compliance with the fine particulate matter or nitrogen dioxide NAAQS.

### III. Incorporation by Reference

In this rule, 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 KY DAQ source-specific provision entitled “Air Pollution Control Board of Jefferson County Board Order—Amendment 2,” approved by LMAPCD on July 18, 2012. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the EPA Region 4 office (see the ADDRESSES section of this preamble for more information).

### IV. Proposed Action

EPA is proposing to approve the February 13, 2013, Kentucky SIP revision which adds LG & E Cane Run Generating Station NO<sub>x</sub> RACT Plan Amendment 2 to the federally-approved Kentucky SIP. This SIP includes emission requirements for the changeover from coal-fired units to natural gas-fired combined cycle EGUs and associated equipment.

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: June 1, 2016.

**Heather McTeer Toney,**  
Regional Administrator, Region 4.

[FR Doc. 2016–14032 Filed 6–14–16; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### 45 CFR Part 5

RIN 0991–AC04

### Freedom of Information Regulations

**AGENCY:** Office of the Secretary, Department of Health and Human Services (HHS).

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Health and Human Services (HHS) is proposing to revise and republish its regulations implementing the Freedom of Information Act (FOIA). The regulations are being revised in order to incorporate changes made to the FOIA by the Openness Promotes Effectiveness in our National Government Act of 2007 (OPEN Government Act) and the Electronic FOIA Act of 1996 (E-FOIA Act). Additionally, the regulations are being updated to reflect changes to the organization, to make the FOIA process easier for the public to navigate, to update HHS's fee schedule, and to make provisions clearer. Because of the numerous changes to the organization and to the headings, the regulations are being republished in their entirety.

**DATES:** Submit comments on or before August 15, 2016.

**ADDRESSES:** You may submit comments via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). In addition, please include the Docket ID at the top of your comments.

**FOR FURTHER INFORMATION CONTACT:** Michael Marquis, Michael Bell, Deborah Peters, and/or Brandon Lancey by email to: [HHS.ACFO@hhs.gov](mailto:HHS.ACFO@hhs.gov). These individuals also can be reached by telephone at 202–690–7453.

**SUPPLEMENTARY INFORMATION:** This rule proposes revisions to the Department's regulations implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552. The Department's FOIA regulations were last revised on November 23, 1988. Since that time, there have been major changes to the FOIA through the passage of the Openness Promotes Effectiveness in our National Government Act of 2007 (OPEN Government Act) (Pub. L. 110–175, 121 Stat. 2524) and the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA Act) (Pub. L. 104–231, 110 Stat. 3048). This revision proposes to update the regulations to make them consistent with the OPEN Government Act and the E-FOIA Act. In addition, these regulations are being updated to