SUPPLEMENTARY INFORMATION: The EPA is reviewing the PM NAAQS as required by section 109 (42 U.S.C. 7409) of the Clean Air Act (CAA). The proposed action for which the EPA is holding a public hearing was signed on April 14, 2020, and is available at *https://www.epa.gov/naaqs/particulate-matter-pm-standards-federal-register-notices-current-review.* The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning EPA's proposed decisions in the current review of the PM NAAQS. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearings.

Written Comments. Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2015–0072, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The 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 submission. The written submission is considered the official submission and should include discussion of all points you wish to make. The EPA will generally not consider submissions or submission content 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 *https://www.epa.gov/dockets/commenting-epa-dockets.*

The EPA is temporarily suspending its Docket Center and Reading Room for public visitors to reduce the risk of transmitting COVID–19. Written comments submitted by mail are temporarily suspended and no hand deliveries will be accepted. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov.* For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

Participation in Virtual Public Hearing. Please note that EPA is deviating from its typical approach because the President has declared a national emergency. Because of current CDC recommendations, as well as state and local orders for social distancing to limit the spread of COVID–19, EPA cannot hold in-person public meetings at this time.

The EPA will begin pre-registering speakers and attendees for the hearing upon publication of this document in the **Federal Register**. EPA will accept registrations on an individual basis. To register to speak at the virtual hearing, individuals may use the online registration form available via EPA's Particulate Matter Pollution web page for this hearing (*https://www.epa.gov/pm-pollution/national-ambient-air-quality-standards-naaqs-pm*) or contact Regina Chappell at (919) 541–3650 or *chappell.regina@epa.gov.* The last day to pre-register to speak at the hearing will be May 14, 2020. On May 18, 2020, the EPA will post a general agenda for the hearing that will list pre-registered speakers in approximate order at: *https://www.epa.gov/pm-pollution/national-ambient-air-quality-standards-naaqs-pm.*

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule. Additionally, requests to speak will be taken the day of the hearing at the end of each session as timing allows. The EPA will make every effort to accommodate all speakers.

Each commenter will have 5 minutes to provide oral testimony. The EPA recommends submitting the text of your oral comments as written comments to the rulemaking docket. The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing.

The EPA is also asking hearing attendees to pre-register for the hearing, even those who don't intend to provide testimony. This will help the EPA ensure that sufficient phone lines will be available.

Please note that any updates made to any aspect of the hearing logistics, including potential additional sessions, will be posted online at the EPA's Particulate Matter Pollution website *(https://www.epa.gov/pm-pollution/national-ambient-air-quality-standards-naaqs-pm).* While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates.

If you require the services of a translator or special accommodations such as audio description, please pre-register for the hearing and describe your needs by May 13, 2020. EPA may not be able to arrange accommodations without advanced notice.

How can I get copies of the proposed action and other related information?

The EPA has also established the official public docket for the proposed action under Docket ID No. EPA–HQ–OAR–2015–0072. A copy of the proposed action is available at *https://www.epa.gov/naaqs/particulate-matter-pm-standards-federal-register-notices-current-review,* and any detailed information related to the proposed action will be available in the public docket prior to the public hearings. Verbatim transcripts of the hearings and written statements will be included in the rulemaking docket.

Dated: April 29, 2020.

Panagiotis Tsirigotis,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2020–09480 Filed 5–4–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0612; FRL–10008–55–Region 4]

Air Plan Approval; SC; NO_X SIP Call and Removal of CAIR

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of South Carolina through letters dated April 12, 2019, and July 11, 2019 to establish a SIP-approved state control program to comply with the Nitrogen Oxides (NO_X) SIP call obligations for electric generating units (EGUs) and

large non-EGUs. EPA is also proposing to remove the SIP-approved portions of the State's Clean Air Interstate Rule (CAIR) Program rules from the South Carolina SIP. In addition, EPA is proposing to approve into the SIP state regulations that establish an alternative monitoring option for certain sources.

DATES: Comments must be received on or before June 4, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2019–0612 at *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 *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gobeail McKinley, 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. The telephone number is (404) 562–9230. Ms. McKinley can also be reached via electronic mail at *mckinley.gobeail@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under Clean Air Act (CAA or Act) section 110(a)(2)(D)(i)(I), which EPA has traditionally termed the good neighbor provision, states are required to address the interstate transport of air pollution. Specifically, the good neighbor provision requires that each state's implementation plan contain adequate provisions to prohibit air pollutant emissions from within the state that will significantly contribute to nonattainment of the national ambient air quality standards (NAAQS), or that will interfere with maintenance of the NAAQS, in any other state.

In October 1998 (63 FR 57356), EPA finalized the ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone'' (''NO_X SIP Call''). The NO_X SIP Call required eastern states, including South Carolina, to submit SIPs that prohibit excessive emissions of ozone season NO_X by implementing statewide emissions budgets.[1] The NO_X SIP Call addressed the good neighbor provision for the 1979 ozone NAAQS and was designed to mitigate the impact of transported NO_X emissions, one of the precursors of ozone. EPA developed the NO_X Budget Trading Program, an allowance trading program that states could adopt to meet their obligations under the NO_X SIP Call. This trading program allowed the following sources to participate in a regional cap and trade program: Generally EGUs with capacity greater than 25 megawatts (MW); and large industrial non-EGUs, such as boilers and combustion turbines, with a rated heat input greater than 250 million British thermal units per hour (MMBtu/hr). The NO_X SIP Call also identified potential reductions from cement kilns and stationary internal combustion engines.

To comply with the NO_X SIP Call requirements, South Carolina Department of Health and Environmental Control (SC DHEC) promulgated provisions at Regulation 61–62.96, Subparts A through I. EPA approved the provisions into the State's SIP in 2002.[2] The provisions required EGUs and large non-EGUs in the State to participate in the NO_X Budget Trading Program.

In 2005, EPA published CAIR, which required eastern states, including South Carolina, to submit SIPs that prohibited emissions consistent with ozone season (and annual) NO_X budgets. *See* 70 FR 25162 (May 12, 2005). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NO_X emissions with respect to not only ozone but also $PM_{2.5}$. CAIR established several trading programs that EPA implemented through federal implementation plans (FIPs) for EGUs greater than 25 MW in each affected state, but not large non-EGUs; states could submit SIPs to replace the FIPs that achieved the required emission reductions from EGUs and/or other types of sources.[3] When the CAIR trading program for ozone season NO_X was implemented beginning in 2009, EPA discontinued administration of the NO_X Budget Trading Program; however, the requirements of the NO_X SIP Call continued to apply.

On October 9, 2007, EPA approved an ''abbreviated SIP'' for South Carolina, consisting of regulations governing allocation of NO_X allowances to EGUs for use in the trading programs established pursuant to CAIR, and related rules allowing additional sources to opt into the CAIR programs. *See* 72 FR 57209. The abbreviated SIP was implemented in conjunction with a FIP for South Carolina that specified requirements for emissions monitoring, permit provisions, and other elements of CAIR programs.

On October 16, 2009, EPA approved a ''full SIP'' for South Carolina, through which various CAIR implementation provisions became governed by State rules rather than federal rules.[4] Consistent with CAIR's requirements, EPA approved a SIP revision in which South Carolina regulations: (1) Sunsetted its NO_X Budget Trading Program requirements, (2) removed NO_X SIP Call implementation requirements (*i.e.,* South Carolina Regulation 61–62.96, Subparts A through I, ''Nitrogen Oxides (NO_X) Budget Program''), and (3) incorporated CAIR (*i.e.,* South Carolina Regulation 61– 62.96, Subparts AA through II, AAA through III, and AAAA through IIII, ''Nitrogen Oxides (NO_X) and Sulfur Dioxide (SO_2) Budget Trading Program''). *See* 74 FR 53167 (October 16, 2009). Participation of EGUs in the CAIR ozone season NO_X trading program addressed the State's obligation under the NO_X SIP Call for those units, and South Carolina also chose to require non-EGUs subject to the NO_X SIP Call to participate in the same CAIR trading program. In this manner, South Carolina's CAIR rules incorporated into the SIP addressed the State's obligations under the NO_X SIP Call with respect to both EGUs and non-EGUs.

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008, but ultimately remanded the rule to EPA without vacatur to preserve the

[1] *See* 63 FR 57356 (October 27, 1998). As originally promulgated, the NO_X SIP Call also addressed good neighbor obligations under the 1997 8-hour ozone NAAQS, but EPA subsequently stayed and later rescinded the rule's provisions with respect to that standard. *See* 65 FR 56245 (September 18, 2000); 84 FR 8422 (March 8, 2019).

[2] *See* 67 FR 43546 (June 28, 2002).

[3] CAIR had separate trading programs for annual sulfur dioxide emissions, seasonal NO_X emissions and annual NO_X emissions.

[4] *See* 74 FR 53167.

environmental benefits provided by CAIR. *See North Carolina* v. *EPA,* 531 F.3d 896, *modified on rehearing,* 550 F.3d 1176 (D.C. Cir. 2008). The ruling allowed CAIR to remain in effect temporarily until a replacement rule consistent with the court's opinion was developed. While EPA worked on developing a replacement rule, the CAIR program continued to be implemented with the NO_X annual and ozone season trading programs beginning in 2009 and the SO_2 annual trading program beginning in 2010.

Following on the D.C. Circuit's remand of CAIR, EPA promulgated the Cross-State Air Pollution Rule (CSAPR) to replace CAIR and address the good neighbor provisions for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS. *See* 76 FR 48208 (August 8, 2011). Through FIPs, CSAPR required EGUs in eastern states, including South Carolina, to meet annual and ozone season NO_X emission budgets and annual SO_2 emission budgets implemented through new trading programs. Implementation of CSAPR began in January 1, 2015.[5] CSAPR also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. Participation by a state's EGUs in the CSAPR trading program for ozone season NO_X generally addressed the state's obligation under the NO_X SIP Call for EGUs. CSAPR did not initially contain provisions allowing states to incorporate large non-EGUs into that trading program to meet the requirements of the NO_X SIP Call for non-EGUs. EPA also stopped administering CAIR trading programs with respect to emissions occurring after December 31, 2014.[6]

After litigation that reached the Supreme Court, the D.C. Circuit generally upheld CSAPR but remanded several state budgets to EPA for reconsideration, including the Phase 2 ozone season NO_X budget for South Carolina. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 129–30 (D.C. Cir. 2015). EPA addressed the remanded ozone season NO_X budgets in the CSAPR Update, which also partially addressed eastern states' good neighbor obligations for the 2008 ozone NAAQS. *See* 81 FR 74504 (October 26, 2016). The air quality modeling for the CSAPR Update projected that South Carolina would not contribute significantly to nonattainment or interfere with maintenance in downwind areas for either the 1997 ozone NAAQS or the 2008 ozone NAAQS as of 2017, and the EGUs in the state therefore are no longer subject to a NO_X ozone season trading program under either CSAPR or the CSAPR Update.[7] The CSAPR Update also reestablished an option for most states to meet their ongoing obligations for non-EGUs under the NO_X SIP Call by including the units in the CSAPR Update trading program, but since South Carolina's EGUs do not participate in that trading program, the option is not available to South Carolina. Because South Carolina's EGUs and non-EGUs no longer participate in any CSAPR or CSAPR Update trading program for ozone season NO_X emissions, the NO_X SIP Call regulations at 40 CFR 51.121(r)(2) as well as anti-backsliding provisions at 40 CFR 51.905(f) and 40 CFR 51.1105(e) require these sources to maintain compliance with NO_X SIP Call requirements in some other way.

Under 40 CFR 51.121(i)(4) of the NO_X SIP Call regulations as originally promulgated, where a state's SIP contains control measures for EGUs and large non-EGUs, the SIP must also require these sources to monitor emissions according to the provisions of 40 CFR part 75, which generally entails the use of continuous emission monitoring systems (CEMS). South Carolina triggered this requirement by including control measures in their SIP for these types of sources, and the requirement has remained in effect despite the discontinuation of the NO_X Budget Trading Program after the 2008 ozone season. On March 8, 2019, EPA revised some of the regulations that were originally promulgated in 1998 to implement the NO_X SIP Call.[8] The revision gave states covered by the NO_X SIP Call greater flexibility concerning the form of the NO_X emissions monitoring requirements that the states must include in their SIPs for certain emissions sources. The revision amends 40 CFR 51.121(i)(4) to make Part 75 monitoring, recordkeeping, and reporting optional, such that SIPs may establish alternative monitoring requirements for NO_X SIP Call budget units that meet the general requirements of 40 CFR 51.121(f)(1) and (i)(1). Under the updated provision, a state's implementation plan would still need to include some form of emissions monitoring requirements for these types of sources, consistent with the NO_X SIP Call's general enforceability and monitoring requirements at § 51.121(f)(1) and (i)(1), respectively, but states would no longer be required to satisfy these general NO_X SIP Call requirements specifically through the adoption of 40 CFR part 75 monitoring requirements.

II. Why is EPA proposing these actions?

SC DHEC's April 12, 2019, and July 11, 2019[9] letters request that EPA update South Carolina's SIP to reflect the reinstated NO_X SIP Call requirements at Regulation 61–62, ''Air Pollution Control Regulations and Standards,'' provide additional monitoring flexibilities for certain units subject to the State's NO_X SIP Call regulations, and remove CAIR requirements. Additionally, the July 11, 2019 submission includes a demonstration under CAA section 110(l) intended to show that the April 12, 2019 SIP revision does not interfere with any applicable CAA requirements. As discussed further below, EPA has reviewed these submittals, preliminarily finds them consistent with the CAA and regulations governing the NO_X SIP Call, and is proposing to approve them, incorporate the NO_X SIP call regulations into the State's SIP, and remove the CAIR regulations from the SIP.

[5] *See* 79 FR 71663 (December 3, 2014) and 81 FR 13275 (March 14, 2016).

[6] *See* 79 FR 71663 (December 3, 2014) and 81 FR 13275 (March 14, 2016).

[7] In the CSAPR Update, EPA relieved EGUs in South Carolina from the obligation to participate in the original CSAPR NO_X ozone season trading program for purposes of addressing the good neighbor requirements for the 1997 ozone NAAQS and did not require the EGUs to participate in the new CSAPR Update trading program for purposes of addressing the 2008 ozone NAAQS. *See* 40 CFR 52.38(b)(2)(ii)–(iii). EGUs in South Carolina remain subject to CSAPR state trading programs for annual NO_X and SO_2 emissions for purposes of addressing the $PM_{2.5}$ NAAQS under the state trading program rules codified in South Carolina regulation 61–62.97 that were adopted into the State's SIP. *See* 82 FR 47936. EPA acknowledges the D.C. Circuit's decision in *Wisconsin* v. *EPA,* 938 F.3d 303 (Sept. 13, 2019), remanding the CSAPR Update with respect to the adequacy of the rulemaking to address the good neighbor obligations with respect to the 2008 ozone NAAQS; however, the court's decision does not address the determinations made in the CSAPR Update regarding state's obligations with respect to the 1997 ozone NAAQS as those determinations were not challenged in the course of the litigation.

[8] *See* ''Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_X SIP Call,'' 84 FR 8422.

[9] This submission also includes amended regulations which are not part of the federally-approved SIP and are not addressed in this document such as: Amended Regulation 61–62.61, ''South Carolina Designated Facility Plan and New Source Performance Standards;'' amended Regulation 61–62.63, ''National Emission Standards for Hazardous Air Pollutants (''NESHAP'') for Source Categories;'' amended Regulation 61–62.68, ''Chemical Accident Prevention Provisions;'' and amended Regulation 61–62.70, ''Title V Operating Permit Program.''

III. Analysis of South Carolina's Submittals

South Carolina's submittals request EPA approve revisions to the State's SIP that: (1) Address the State's ongoing NO_X SIP Call obligations for existing and new large non-EGUs and EGUs by reinstating applicable portions of the State's original NO_X SIP Call regulations at South Carolina Regulation 61–62.96, Subparts A through I; (2) rescind CAIR regulations at South Carolina Regulations 61–62.96, Subparts AA through II, AAA through III, and AAAA through IIII; and (3) adopt an alternative monitoring option for certain large non-EGUs at South Carolina Regulation 61–62.96, Subpart H, Section 96.70. Specifically, SC DHEC updated the reinstated regulations to make the portion of the budget assigned to large non-EGUs and EGUs under the NO_X Budget Trading Program enforceable without an allowance trading mechanism (*i.e.,* rescinded portions of its NO_X Budget Trading Program regulations pertaining to individual unit allowance allocations and trading). Also included in the regulations are provisions that require continued monitoring and reporting of ozone season NO_X mass emissions under 40 CFR part 75, with the following exception. Specifically, the regulations provide any NO_X SIP Call budget units that (1) are not required by 40 CFR 51.121, South Carolina Regulation 61–62.97, or other regulation to comply with part 75 and (2) are subject to new source performance standards (NSPS) under 40 CFR part 60, subpart D or subpart Db, the option to instead monitor and report their ozone season NO_X mass emissions in accordance with the applicable NSPS subpart.[10]

1. Revisions Related to the NO_X SIP Call

SC DHEC has revised Regulation 61–62 to address the NO_X SIP Call's requirements with respect to existing and new large EGUs and large non-EGUs, and has requested EPA approve these revisions into the SIP. EPA proposes to find that South Carolina's revised rules at Regulation 61–62.96, Subparts A through I, ''Nitrogen Oxides (NO_X) Budget Program'' are consistent with South Carolina's obligation to demonstrate continued compliance with NO_X SIP Call requirements for large EGUs and large non-EGUs and EPA's discontinuation of the trading program under the NO_X SIP Call. Under the ongoing requirements of the NO_X SIP Call, the South Carolina SIP must: (1) Include enforceable control measures for ozone season NO_X mass emissions from existing and new large EGUs and large non-EGUs, and (2) require those sources to monitor and report ozone season NO_X emissions. *See* 40 CFR 51.121(f)(2) and (i).

a. NO_X SIP Call

As discussed above, the State regulations addressing the NO_X SIP Call were formerly established at South Carolina Regulation 61–62.96, Subparts A through I, ''Nitrogen Oxides (NO_X) Budget Program'' and South Carolina Regulation 61–62.99, ''Nitrogen Oxides (NO_X) Budget Program Requirements for Stationary Sources Not in the Trading Program'' (*i.e.,* cement kilns). The requirements under South Carolina Regulation 61–62.96 affect EGUs and non-EGUs. South Carolina Regulation 61–62.96, ''NO_X Budget Trading Program'' initially had nine subparts: Subpart A—NO_X Budget Trading Program General Provisions; Subpart B—Authorized Account Representative for NO_X Budget Sources; Subpart C—Permits; Subpart D—Compliance Certification; Subpart E—NO_X Allowance Allocations; Subpart F—NO_X Allowance Tracking System; Subpart G—NO_X Allowance Transfers; Subpart H—Monitoring and Reporting; and Subpart I—Individual Unit Opt-ins. Because EPA discontinued administration of the NO_X Budget trading program in 2009 in coordination with the start of CAIR implementation, the NO_X Budget trading program can no longer be implemented. Consistent with CAIR's provisions, South Carolina revised certain portions of South Carolina Regulation 61–62.96 to reflect CAIR annual NO_X, annual SO_2 and ozone season NO_X emissions budget trading program requirements. This revision removed South Carolina's NO_X Budget Program, Regulation 61–62.96, Subparts A through I, and the NO_X SIP Call requirements for EGUs were addressed by South Carolina's CAIR NO_X Ozone Season Program, Regulations 61–62.96, Subparts AAAA through IIII. Further, as noted above, the State exercised its option to include non-EGUs from the State's NO_X Budget Trading Program in the CAIR NO_X Ozone Season Trading Program.

If approved into the SIP, the April 12, 2019, SIP submittal will reinstate portions of South Carolina Regulation 61–62.96 to address NO_X SIP Call requirements with the new South Carolina Regulation, ''Nitrogen Oxides (NO_X) Budget Program.'' Specifically, the submittal reinstates previously repealed Subparts A through I, including the applicable NO_X SIP Call model rule provisions from 40 CFR part 96, with amendments reflecting the discontinuation of EPA's NO_X SIP Call trading program and other changes as necessary. The new and reinstated NO_X SIP Call regulation includes provisions to ensure that the State's EGUs and large non-EGUs will continue to satisfy NO_X SIP Call requirements. South Carolina Regulation 61–62.96.40 sets the State's EGU ozone season budget at 16,199 tons per year (tpy) and large non-EGU ozone season budget at 3,479 tpy. It specifies that collective emissions from all EGUs and all large non-EGUs may not exceed their respective budgets during each control period. Regulations 61–62.96.6 and 61–62.96.70 ensure continued monitoring and reporting of NO_X emissions from covered units in accordance with 40 CFR 51.121(i). Also, SC DHEC commits in its submission to conduct an annual review of its emission inventory data for both EGUs and large non-EGUs, including emissions from any applicable new units, to verify the NO_X SIP Call EGU and large non-EGU ozone-season NO_X emission budgets have not been exceeded.[11]

Section 61–62.96.70 of the South Carolina's reinstated NO_X SIP Call regulation requires all owners and operators of covered NO_X budget units to implement a monitoring and reporting system necessary to attribute ozone season NO_X mass emissions to each unit in accordance with 40 CFR part 75.[12] In addition, the State regulation allows flexibility for a NO_X budget unit that (1) is not required by 40 CFR 51.121, South Carolina Regulation 61–62.97, or other regulation to comply with Part 75, and (2) is subject to Subpart D or Subpart Db of 40 CFR part 60, to instead monitor and report ozone season NO_X mass emissions in accordance with Subpart D or Subpart Db, as applicable. Additional information regarding increased flexibility in monitoring is discussed in section III.1.b.

Lastly, SC DHEC includes several administrative changes in its revised regulation. In South Carolina's original NO_X SIP Call regulation, SC DHEC

[10] South Carolina adopted this alternative monitoring and reporting option to be consistent with the NO_X SIP Call revision. *See* 84 FR 8422.

[11] By September 30 of each year, SC DHEC will conduct an annual review of actual NO_X emissions from all covered EGUs and large non-EGUs during the previous control period, including any new units, to ensure that the total emissions remain below the ozone season NO_X budgets.

[12] SC DHEC states that all of South Carolina's EGUs must continue Part 75 monitoring and reporting pursuant to applicable CSAPR requirements. *See* 81 FR 74583 (October 26, 2016). In addition, SC DHEC states that any affected boiler that is not subject to Subpart D or Db (due to grandfathering or otherwise) must continue to comply with Part 75 monitoring requirements.

excluded Standard Industrial Classification (SIC) codes 4911 and 4931 in Section 96.4(a)(1)(i) from the NO_X Budget Program. The July 11, 2019 SIP revision contains a list of all affected EGUs and large non-EGUs covered under the NO_X SIP Call and clarifies its intention for the regulation to apply, as originally applied, to EGU and large non-EGU units listed in its CAA section 110(l) analysis. SC DHEC further clarified that it interprets the language in Section 96.4(b)(4) such that a unit would lose an exemption under 69.4(b) (*i.e.,* an exemption to the applicability of 61–62.96 Nitrogen Oxides (NO_X) Budget Program based on fuel use and operating hour limitations) if it fails to comply with restrictions on fuel use or operating hours. Further, SC DHEC states that the exemption in Section 96.4(b)(2)(ii) is not retroactive to the beginning of the ozone season if a source takes an emission limit during a particular ozone season.

EPA proposes to find that, as revised, South Carolina Regulation 61–62.96 meets the State's ongoing obligations under the NO_X SIP Call. Specifically, EPA proposes to find that the revised rules meet the requirement under 40 CFR 51.121(f)(2) for enforceable limits on the subject units' collective emissions of ozone season NO_X mass emissions. In the next section, EPA discusses South Carolina's revisions to meet the requirements under 40 CFR 51.121(f)(1) and (i)(1) for monitoring sufficient to ensure compliance with those limits.

b. Revisions Related to NO_X SIP Call Monitoring

As discussed above, Section 61–62.96.70 of South Carolina's reinstated NO_X SIP Call regulation requires all owners and operators of covered NO_X budget units to implement a monitoring and reporting system necessary to attribute ozone season NO_X mass emissions to each unit in accordance with 40 CFR part 75 with the following exception. The regulation provides any South Carolina NO_X SIP Call budget units that (1) are not required by 40 CFR 51.121, South Carolina Regulation 61–62.97, or other regulation to comply with Part 75 and (2) are subject to new source performance standards (NSPS) under 40 CFR part 60, subpart D or subpart Db, the option to instead monitor and report their ozone season NO_X mass emissions in accordance with the applicable NSPS subpart.[13] The monitoring requirements for each source will be specified in each source's NO_X SIP Call permit condition. More specifically, SC DHEC will require facilities with large non-EGUs requesting the alternative monitoring to calculate the NO_X mass emissions (in tons) for each ozone season using NO_X emission rate data obtained in accordance with the applicable NSPS subpart and to report the total to SC DHEC no later than March 31 following that ozone season. The reporting time period aligns with annual emissions inventory reporting as required by South Carolina Regulation 61–62.1, Section III(B)(1). The NO_X emission rate would be calculated from Part 60 Continuous Emission Monitoring System (CEMS) measurements using Method 19 in Appendix A to 40 CFR part 60.

In the July 11, 2019 SIP submittal, South Carolina provided an analysis to demonstrate that the monitoring flexibilities comply with CAA section 110(l). CAA section 110(l) provides that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment or reasonable further progress (RFP), or any other applicable requirement of the CAA. Additionally, section 110(l) makes clear that each SIP revision is subject to the requirements of section 110(l). EPA generally considers whether the SIP revision would worsen, preserve, or improve the status quo in air quality.

EPA does not anticipate emissions increases from the revisions to the South Carolina SIP a result of the alternative monitoring flexibilities. Several of the original large non-EGU sources have shut down and the remaining existing facilities, through compliance with federal permit restrictions, have combined potentials-to-emit that are well below the NO_X SIP Call budget levels. The large non-EGU ozone season emissions have been low relative to the State's NO_X SIP Call budget.[14] For example, as indicated in EPA's NO_X SIP Call amendment proposal, total 2017 emissions from NO_X SIP Call budget units not otherwise subject to Part 75 represent only 5.3 percent of South Carolina's NO_X SIP Call annual emission budget.[15] With the total potentials-to-emit for units covered by the NO_X SIP Call well below the NO_X SIP Call budgeted levels, SC DHEC notes that the preexisting NO_X SIP Call budgets and Part 75 monitoring and reporting requirements have not themselves been a key factor in limiting emissions, and EPA believes that the budgets or the Part 75 monitoring and reporting requirements are not limiting emissions from affected units. SC DHEC also cites to the small amount of emissions attributable to sources that will be able to use the additional flexibilities, as well as the general effectiveness of Part 60 monitoring. SC DHEC states the alternative Part 60 monitoring flexibility allowed under the reinstated NO_X SIP Call provisions will not interfere with continued attainment of the NAAQS or any other applicable requirement of the CAA.

EPA's analysis of South Carolina's regulations concerning monitoring to comply with the NO_X SIP Call follows the requirements outlined in EPA's March 8, 2019 rule amending the NO_X SIP Call's monitoring requirements at 40 CFR 51.121(i)(4). In that rule, EPA observed that, under 40 CFR 51.121(i), the principal criterion for approval of monitoring and reporting requirements for purposes of the NO_X SIP Call following the amendments would be that the requirements must be sufficient to determine whether sources are in compliance with the control measures adopted to achieve the required emissions reductions.[16] EPA noted that for purposes of demonstrating the sufficiency of the monitoring and reporting requirements, a state generally would be able to cite the same types of data (*e.g.,* data indicating substantial compliance margins) that EPA cited to support finalizing the amendments to the NO_X SIP Call regulations.[17] In addition, EPA pointed out the need to consider whether the regulation contains provisions to avoid gaps in required monitoring and whether any monitoring approach that uses emissions factors is designed to avoid any bias toward understatement of emissions.[18]

In this document, EPA proposes to find that, as revised, South Carolina Regulation 61–62.96 meets the State's ongoing obligations under the NO_X SIP Call with respect to monitoring to ensure compliance with required limitations and proposes to approve the alternate monitoring approach described above into South Carolina's SIP. If finalized, South Carolina's adopted monitoring flexibility would be available only to those large non-EGU sources that are not otherwise required to continue Part 75 monitoring and reporting. EPA's review preliminarily

[13] Those state sources otherwise required to comply with Part 75 monitoring requirements (including all covered EGUs) will continue to do so.

[14] SC DHEC estimated that the maximum ozone-season emissions total from all 14 large non-EGU units, if operated for the entire ozone season, would be 2,419 tons, well below the 3,479 tpy budget.

[15] 82 FR 41620, 41621 (September 1, 2017).

[16] *See* 84 FR at 8428–29.

[17] *Id.* n.30.

[18] *Id.*

concludes that South Carolina's revised regulations are sufficient to determine whether sources are in compliance with the control measures adopted to achieve the required emissions reductions; South Carolina has cited to data indicating substantial compliance margins; South Carolina's regulations avoid gaps in required monitoring; and South Carolina's regulations do not use emissions factors for alternative monitoring. In addition, EPA agrees with SC DHEC's conclusion that, because the large non-EGUs' combined maximum allowable emissions are well below the NO_X SIP Call budget, neither the NO_X SIP Call nor the previous monitoring requirements have been driving current emission levels down. EPA therefore agrees that no increase in emissions will result from the added option to monitor and report under Part 60 in lieu of Part 75. Thus, EPA proposes to conclude that South Carolina's monitoring regulations are sufficient to provide adequate monitoring under the NO_X SIP call and comply with 40 CFR 51.121(f)(1) and (i). EPA also preliminarily concludes that South Carolina's monitoring regulations will not interfere with continued attainment of the NAAQS, RFP or any other applicable requirement of the Clean Air Act.

2. Removal of CAIR

South Carolina's April 12, 2019 submission also seeks to remove the SIP-approved portions of the State trading program rules adopted to implement CAIR from South Carolina Regulation 61–62.96 Subparts AA through II, AAA through III, and AAAA through IIII. With regard to the annual programs, the State requests removal because the CAIR annual programs have been replaced by the CSAPR annual programs. With respect to the ozone season program, South Carolina's April 12, 2019 submission seeks to remove the SIP-approved portions of the State's trading program rules because, if approved, South Carolina's state control program would address outstanding NO_X SIP Call requirements. Further, South Carolina's July 11, 2019 SIP submission contains a technical demonstration showing that no increase in NO_X ozone season emissions is expected to result from the removal of CAIR because the combined potential to emit from covered sources remains below CAIR budget levels, and historical data shows that covered sources' emissions have remained well below budgeted levels.

In this document, EPA proposes to approve the removal of these CAIR-related provisions from South Carolina's SIP. As explained above, the D.C. Circuit remanded CAIR to EPA in 2008, however, the court left CAIR in place while EPA worked to develop a new interstate transport rule. CSAPR was promulgated to respond to the court's concerns and to replace CAIR. CAIR was implemented through the 2014 compliance periods and was replaced by CSAPR on January 1, 2015. EPA promulgated regulations to sunset the CAIR trading programs and is no longer administering those trading programs, and the programs therefore can no longer be implemented for South Carolina sources. Further, EPA has reviewed South Carolina's demonstration and preliminarily agrees that no emissions increase is expected to result from removal of CAIR. In particular, ozone season NO_X mass emissions data reported to EPA for South Carolina's large EGUs and large non-EGUs indicate that collective emissions have consistently been less than 10,000 tons in every year since 2012, well below the state's budgets for these units under both the NO_X SIP Call and CAIR, indicating that the state's CAIR rules for ozone season NO_X would not be driving current emission levels even if they were capable of implementation. EPA therefore preliminarily concludes that removal of CAIR from South Carolina's SIP will not result in any increase in emissions and therefore will not interfere with continued attainment of the NAAQS or any other applicable requirement of the Clean Air Act, and proposes to approve the removal of South Carolina's SIP provisions related to CAIR.

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 South Carolina Regulation 61–62.96 entitled, ''Nitrogen Oxides (NO_X) Budget Program,'' effective January 25, 2019, which reinstates applicable portions of EPA's 40 CFR part 96 NO_X SIP Call regulations and establishes alternative emission monitoring requirements for certain units. Also, in this document, EPA is proposing to remove South Carolina Regulation 61–62.96 Subparts AA through II, AAA through III, and AAAA through IIII entitled, ''Nitrogen Oxides (NO_X) and Sulfur Dioxide (SO_2) Budget Trading Program,'' from the South Carolina State Implementation Plan, which is 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 through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Proposed Actions

EPA is proposing to approve South Carolina's SIP April 12, 2019 and July 11, 2019 SIP revisions and to incorporate Regulation 61–62.96 entitled, ''Nitrogen Oxides (NO_X) Budget Program,'' and Regulation 61–62.96, Subpart H, Section 96.70 into the SIP. In addition, EPA is proposing to remove the State's CAIR regulations at Regulation 61–62.96 Subparts AA through II, AAA through III, and AAAA through IIII entitled, ''Nitrogen Oxides (NO_X) and Sulfur Dioxide (SO_2) Budget Trading Program,'' from the SIP. EPA is proposing to conclude that these revisions will not interfere with attainment and maintenance of the NAAQS, RFP, or any other applicable requirement of the CAA.

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 CAA 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, these actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not significant regulatory actions 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);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose information collection burdens under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having significant economic impacts on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do 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);

• Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Are 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

• Do 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).

Because these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law, this proposed action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Trial law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120 (Settlement Act), ''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.'' The CIN also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

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, Sulfur oxides.

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

Mary Walker,

Regional Administrator, Region 4.

[FR Doc. 2020–08906 Filed 5–4–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0105; FRL–10008–27–Region 4]

Air Plan Approval; Florida: Public Notice Procedures for Minor Operating Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of a State Implementation Plan (SIP) revision submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP), on February 27, 2013, that change the State's public notice and comment rule for air permitting by modifying the public comment period for minor source operating permitting and making administrative edits.

DATES: Comments must be received on or before June 4, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0105 at *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 *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 telephone at (404) 562–9089 or via electronic mail at *akers.brad@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA proposing?

EPA is proposing to approve certain changes to the Florida SIP that were provided to EPA by FDEP via a letter dated February 27, 2013.[1] EPA has previously approved portions of the February 27, 2013 submittal,[2] and FDEP has withdrawn other portions from EPA consideration.[3] In this action, EPA is proposing to approve the remaining portions of this SIP revision. These remaining portions make changes to Rule 62–210.350, Florida Administrative Code (F.A.C.), *Public Notice and Comment* (hereinafter ''Rule'') by modifying the length of the public notice period for federally enforceable state operating permits (FESOPs) and making several minor administrative edits to the Rule. The changes subject to this proposed action and EPA's rationale for proposing approval are described in more detail in Section II of this notice of proposed rulemaking (NPRM).

II. EPA's Analysis of the State's Submittal

FESOPs are federally enforceable permits issued by a state under a minor source operating permit program that EPA has approved into the SIP as meeting criteria published by the Agency on June 28, 1989. *See* 54 FR 27274 (June 28, 1989) (hereinafter FESOP Guidance). Among other things, these criteria include timely public notice of the proposal and issuance of FESOPs. The FESOP program is a voluntary mechanism for states to create federally enforceable restrictions on potential to emit (PTE) to avoid major source permitting requirements, such as the title V operating permit program, and there are no specific Clean Air Act (CAA) or federal regulations regarding the issuance of minor source operating permits.[4] EPA originally approved Florida's FESOP program, including a

[1] EPA received the submittal on March 6, 2013.

[2] EPA approved portions of the February 27, 2013, SIP revision making changes to Rule 62–210.200, *Definitions,* 62–210.310, *Air General Permits,* and portions of 62–210.350, *Public Notice and Comment,* specifically portions of 62–210.350(1) and (4), on October 6, 2017 (82 FR 46682).

[3] FDEP withdrew portions of the February 27, 2013, SIP revision as follows: FDEP withdrew certain changes to Rule 62–210.200, *Definitions,* Rule 62–210.350, *Public Notice and Comment,* and Rule 62–296.401, *Incinerators,* on June 28, 2017; and FDEP withdrew the changes to 62–210.300, *Permits Required,* on December 5, 2019. These letters are located in the docket for this notice of proposed rulemaking (NPRM).

[4] Florida has an approved title V program pursuant to 40 CFR part 70. *See* 40 CFR 70, Appendix A.