



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0337; FRL-9932-57-Region 4]

**Approval and Promulgation of Implementation Plans; Florida;
Regional Haze Plan Amendment – Lakeland Electric C.D. McIntosh**

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State of Florida's March 10, 2015, State Implementation Plan (SIP) revision, submitted by the Florida Department of Environmental Protection (FDEP). This submittal fulfills Florida's commitment to EPA to provide a regional haze SIP revision with a Best Available Retrofit Technology (BART) nitrogen oxides (NO_x) emissions limit for Unit 1 at the Lakeland Electric - C.D. McIntosh Power Plant (McIntosh) reflecting best operating practices for good combustion. States are required to address the BART provisions of the Clean Air Act (CAA or Act) and EPA's regional haze regulations as part of a program to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas (national parks and wilderness areas) caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the "regional haze program") and to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. In this action, EPA proposes to approve the BART NO_x emissions limit for Unit 1 at McIntosh into the Florida SIP.

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No EPA-R04-OAR-2015-0337, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-ARMS@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: “EPA-R04-OAR-2015-0337,” 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.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, 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. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2015-0337. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at 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 through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website 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 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 www.regulations.gov index. Although listed in the index, some information may not be 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 www.regulations.gov or in hard copy at 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. 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 a.m. to 4:30 p.m., excluding Federal holidays.

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 by phone at (404) 562-9031 or via electronic mail at notarianni.michele@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Overview

On December 10, 2012, EPA proposed to approve the BART and reasonable progress determinations for a number of EGUs in Florida as part of Florida's regional haze SIP. *See* 77 FR 73369. In that action, EPA proposed approval of Florida's BART determination for emissions Units 1 and 2 at McIntosh found subject to BART. On August 29, 2013, EPA issued a final, full approval of Florida's regional haze SIP. *See* 78 FR 53250. In that final action, EPA approved the BART determination for the McIntosh facility, including the determination that the existing level of control for NO_x at Unit 1, best operating practices for good combustion, is the NO_x BART control for Unit 1. *See* 78 FR 53263. As described in the August 29, 2013, final action, FDEP submitted a letter to EPA dated July 30, 2013, in which the State committed to provide EPA with a regional haze SIP revision no later than March 19, 2015, the deadline for the

State's five-year regional haze periodic progress report SIP, that would include a NO_x BART emissions limit for Unit 1 reflecting best operating practices for good combustion.¹ FDEP also committed to modify the title V permit for McIntosh to include this new limit.²

To fulfill its commitment in accordance with the July 30, 2013 letter, the State of Florida submitted a SIP revision dated March 10, 2015, seeking to revise its regional haze SIP to include a NO_x BART emissions limit for Unit 1 and the April 30, 2014, construction permit establishing this NO_x BART emissions limit for Unit 1. The permit contains supporting conditions (e.g., monitoring requirements) and a condition specifying a schedule for McIntosh to apply for a revision to its title V permit to reflect the new permit conditions. In this action, EPA proposes to approve Florida's March 10, 2015, SIP submittal for the reasons discussed in Section II, below.

II. What is EPA's Analysis of Florida's Plan?

Florida's March 10, 2015, SIP revision seeks to revise the State's regional haze SIP to include a NO_x BART emissions limit for McIntosh Unit 1 and a construction permit (DEP Permit No. 1050004-034-AC) dated April 30, 2014, for Unit 1 containing this limit. The SIP revision and construction permit establish a NO_x BART emissions limit of 0.46 pounds per million British Thermal Unit (lb/MMBtu) of heat input on a 30-operating day rolling average for Unit 1 in accordance with Florida's July 30, 2013, commitment letter and the NO_x BART control determination. Florida set this limit by considering NO_x emissions data for Unit 1 from

¹ In that final action, EPA concluded that it "is reasonable for the State to implement a NO_x BART emissions limit for Unit 1 upon EPA's approval of the" five-year regional haze periodic progress report "because of the limited visibility impact of NO_x emissions from Unit 1 and because the BART limit will reflect the existing level of control." 78 FR 53263.

² FDEP's July 30, 2013, commitment letter is located in the docket for today's proposed action.

2001-2003, the baseline period used by the State as the basis for its BART determination for McIntosh.³ The permit states that the limit is effective no later than EPA’s approval of Florida’s March 10, 2015, regional haze SIP revision. Compliance with the BART NOx emissions limit will be demonstrated with a NOx CEMS that must comply with the certification and quality assurance, and other applicable requirements of Rule 62-297.520, F.A.C.; 40 CFR 60.13, including certification of each device in accordance with 40 CFR part 60, Appendix B, Performance Specifications and 40 CFR 60.7(a)(5); or 40 CFR part 75. Quality assurance procedures must conform to all applicable sections of 40 CFR part 60, Appendix F or 40 CFR part 75.

The construction permit also sets the deadlines for McIntosh to submit an application to revise its title V permit to include the NOx BART limit and supporting conditions for Unit 1. Section 2.8 of the permit states that the “permittee shall apply for the Title V permit revision within 180 days of U.S. EPA’s approval of the amendment to Florida’s Regional Haze State Implementation Plan (SIP).”

EPA proposes to find that the March 10, 2015, SIP revision containing the NOx BART emissions limit and new permit conditions for Unit 1 fulfills Florida’s commitment to establish a NOx BART emissions limit for Unit 1 that reflects best operating practices for good combustion and to amend the facility’s title V permit to include the permit limit and supporting conditions. EPA has evaluated the CEMS data reported to EPA’s Clean Air Markets Division (CAMD) for Unit 1 from 2001-2003 and believes that the NOx BART emissions limit is consistent with the

³ See July 22, 2015, email from Preston McLane, FDEP, to Lynorae Benjamin, EPA Region 4, located in the docket for today’s proposed action.

NOx BART control determination.⁴ Therefore, EPA proposes to incorporate the NOx BART limit for Unit 1 and Air Permit No. 1050004-034-AC into Florida's regional haze SIP.

III. Proposed Action

EPA is proposing to approve Florida's March 10, 2015, regional haze SIP revision and revise the regional haze SIP to include the NOx BART emissions limit for Unit 1 described above and the April 30, 2014, construction permit containing this limit. EPA is proposing to approve Florida's SIP submission because the submission meets the applicable regional haze requirements as set forth in the CAA and in EPA's regional haze regulations and the applicable requirements of section 110 of the CAA. As discussed above, EPA fully approved Florida's regional haze SIP on August 29, 2013. Today's action does not reopen EPA's final BART control determination for McIntosh Unit 1 or any other aspect of EPA's August 29, 2013 final action.

IV. 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:

⁴ The docket for today's proposed action contains the 2001-2003 CEMS data for Unit 1 from CAMD.

- 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 (Public Law 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 5, 2015.

Heather McTeer Toney

Regional Administrator,

Region 4.