



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2013-0389; FRL-9969-23-Region 4]

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

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a South Carolina State Implementation Plan (SIP) revision, submitted by the State of South Carolina through the South Carolina Department of Health and Environmental Control (SC DHEC) on December 28, 2012. South Carolina's December 28, 2012, SIP revision ("Progress Report") addresses requirements of the Clean Air Act (CAA or "Act") and EPA's rules that require states to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the State's existing SIP addressing regional haze ("regional haze plan"). EPA is finalizing approval of South Carolina's Progress Report on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period for regional haze.

**DATES:** This rule will be effective [insert 30 days from the date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2013-0389. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov)

web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information 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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section (formerly Regulatory Development 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 for further information. 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 at (404) 562-9031 and by electronic mail at [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

States are required to submit progress reports that evaluate progress towards the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a

determination of the adequacy of the state's existing regional haze plan. *See* 40 CFR 51.308(h). The first progress report is due five years after submittal of the initial regional haze plan and must be in the form of a SIP revision. On December 17, 2007, SC DHEC submitted the State's first regional haze plan in accordance with 40 CFR 51.308(b).<sup>1</sup>

On December 28, 2012, SC DHEC submitted, in the form of a revision to South Carolina's SIP, a report on the progress made in the first implementation period towards RPGs for Class I areas in the State and for Class I areas outside the State that are affected by emissions from sources within South Carolina. The Progress Report and the accompanying cover letter also include a determination that the State's regional haze plan is sufficient in meeting the requirements outlined in EPA's Regional Haze Rule (RHR).<sup>2</sup>

On January 17, 2014 (79 FR 3147), EPA published a notice of proposed rulemaking (NPRM) proposing to approve South Carolina's Progress Report on the basis that it satisfies the requirements of 40 CFR 51.308(g) and 51.308(h). On August 17, 2017, EPA published a supplemental NPRM (SNPRM) to address the potential effects on EPA's proposed approval of two decisions by the courts. *See* 82 FR 39079. The first was the decision by the United States

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<sup>1</sup> On June 28, 2012, EPA finalized a limited approval of South Carolina's regional haze plan to address the first implementation period for regional haze. *See* 77 FR 38509. In a separate action, published on June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the South Carolina regional haze plan because of the State's reliance on the Clean Air Interstate Rule (CAIR) to meet certain regional haze requirements, which EPA replaced in August 2011 with the Cross-State Air Pollution Rule (CSAPR) (76 FR 48208 (Aug. 8, 2011)). In the June 7, 2012, action, EPA finalized a Federal Implementation Plan (FIP) for South Carolina to replace the State's reliance on CAIR with reliance on CSAPR. CAIR created regional cap-and-trade programs to reduce SO<sub>2</sub> and NO<sub>x</sub> emissions in 27 eastern states (and the District of Columbia), including Alabama, that contributed to downwind nonattainment or interfered with maintenance of the 1997 8-hour ozone NAAQS or the 1997 PM<sub>2.5</sub> NAAQS. EPA approved South Carolina's regulations implementing CAIR as part of the Federally enforceable South Carolina SIP on October 16, 2009. 74 FR 53167. CSAPR requires 27 Eastern states to limit their statewide emissions of SO<sub>2</sub> and/or NO<sub>x</sub> in order to mitigate transported air pollution unlawfully impacting other states' ability to attain or maintain four NAAQS: the 1997 ozone NAAQS, the 1997 annual PM<sub>2.5</sub> NAAQS, the 2006 24-hour PM<sub>2.5</sub> NAAQS, and the 2008 8-hour ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide budgets for emissions of annual SO<sub>2</sub>, annual NO<sub>x</sub>, and/or ozone-season NO<sub>x</sub> by each covered state's large EGUs.

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

Supreme Court (Supreme Court) in *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014), remanding CSAPR to the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) for further proceedings. The second was the decision of the D.C. Circuit following the Supreme Court's remand.<sup>3</sup> *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015).

## **II. Response to Comments**

EPA received two sets of comments during the public comment period on its January 17, 2014, NPRM. Specifically, EPA received comments from GreenLaw, on behalf of the National Parks Conservation Association and Sierra Club, and from one member of the general public (these commenters are hereinafter collectively referred to as the "Commenter"). The comments are provided in the docket for today's final action. A summary of the comments and EPA's responses are provided below. EPA did not receive any comments on the SNPRM. Detailed background information and additional rationale is provided in the NPRM and SNPRM. *See* 79 FR 3147 and 82 FR 39079.

**Comment 1:** The Commenter contends that the State's declaration under 40 CFR 51.308(h)(1) that no revisions to the regional haze plan are needed at this time is improper and that the regional haze plan is inadequate because it "fails to result in emissions reductions sufficient to achieve reasonable progress towards natural conditions" at nine Class I areas and because visibility at the Cape Romain Class I area has "actually gotten worse on the annual 20 percent best days." Accordingly, the Commenter states that EPA must disapprove South Carolina's declaration and require the State to revise its regional haze plan within one year and to work with other states in the Visibility Improvement State and Tribal Association of the Southeast

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<sup>3</sup> See the SNPRM and Response 5, below, for discussion regarding the CSAPR litigation.

(VISTAS) regional planning organization to more adequately limit haze-causing pollution. The Commenter also contends that South Carolina focused its report on sulfur dioxide (SO<sub>2</sub>) reductions at point sources within and outside of the State rather than directly addressing visibility data at Cape Romain and that these reductions are not sufficient to make reasonable progress at this Class I area.

**Response 1:** EPA disagrees with the Commenter. As discussed in the NPRM, South Carolina's declaration under 40 CFR 51.308(h)(1) and assessment of regional haze plan sufficiency is based on its following findings: visibility has improved since 2000 at Cape Romain, the only Class I area within South Carolina; SO<sub>2</sub> emissions from the State's sources have decreased beyond original projections for 2012; additional electric generating unit (EGU) control measures beyond those relied upon in the State's regional haze plan have occurred or will occur in the first implementation period; SO<sub>2</sub> emissions from EGUs in South Carolina are already below the levels projected for 2018 in the regional haze plan; and the SO<sub>2</sub> emissions from EGUs in South Carolina and the other VISTAS states are expected to continue to trend downward over the remainder of the first implementation period. Based on these findings and visibility data for Cape Romain that has become available since the State developed its Progress Report, EPA agrees with South Carolina's conclusion under 40 CFR 51.308(h) that its regional haze plan is sufficient in meeting the requirements of the RHR and that no further changes to its regional haze plan are needed at this time.

The Commenter supports its contention that EPA must disapprove the State's declaration by relying solely on regional haze monitoring data for Cape Romain from 2005-2009 and its belief that the State focused on SO<sub>2</sub> reductions that "are not sufficient to make reasonable progress at Cape Romain." The Commenter ignores EPA's discussion of more recent visibility

data in the NPRM as well as the other analyses and findings supporting the declaration and fails to explain why the SO<sub>2</sub> reductions are not sufficient to make reasonable progress when these reductions are greater than those projected to be achieved by 2018 in the regional haze plan. In the NPRM, EPA identified the 0.7 deciview (dv) degradation in visibility for the 20-percent best days at Cape Romain when comparing the baseline to the 2005-2009 average and noted that additional Interagency Monitoring of Protected Visual Environments (IMPROVE) visibility data had become available since the State developed its Progress Report. EPA reviewed the most current visibility data at the time of the NPRM for Cape Romain (2007–2011) from the IMPROVE monitoring network<sup>4</sup> and noted that the five-year average of visibility conditions is 24.6 dv for the 20-percent worst days and 14.1 dv for the 20-percent best over the 2007–2011 time period, resulting in a visibility improvement from baseline of 1.9 dv and 0.2 dv, respectively.

Additional IMPROVE visibility data is now available for the 2011-2015 five-year period. Visibility conditions for the 2011–2015 time period, expressed as a five-year average, are 21.4 dv for the 20-percent worst days and 12.8 dv for the 20-percent best days, resulting in a visibility improvement from baseline of 5.1 dv and 1.5 dv, respectively. The 2015 annual visibility values are 19.3 dv for the 20-percent worst days and 12.2 dv for the 20-percent best days. These values are below the 2018 RPGs of 22.7 dv for the 20-percent worst days and 12.7 dv for the 20-percent best days in South Carolina’s regional haze plan.

The SO<sub>2</sub> emissions data reported in the Progress Report also supports South Carolina’s declaration. As discussed in the NPRM, South Carolina documented significant reductions in SO<sub>2</sub> in its Progress Report, and EPA believes that the State’s emphasis on SO<sub>2</sub> is appropriate

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<sup>4</sup> This data is available at: <http://vista.cira.colostate.edu/tss/Results/HazePlanning.aspx>.

because SO<sub>2</sub> reductions from South Carolina EGUs are the key element of the State's regional haze strategy. The State's regional haze plan focused on SO<sub>2</sub>, and as noted in the Federal Register notices associated with the limited approval of South Carolina's regional haze plan, EPA agreed with this focus because emissions sensitivity analyses documented in the State's regional haze plan predicted that reductions in SO<sub>2</sub> emissions from EGUs and industrial point sources would result in the greatest improvements in visibility in the VISTAS region, compared with other visibility-impairing pollutants, during the first implementation period. *See* 77 FR 11894, 11903-04 (February 28, 2012). In its Progress Report, South Carolina notes that the actual SO<sub>2</sub> emissions from EGUs within the State in 2011 (66,131 tons) are already below the level of emissions projected in the regional haze plan for those EGUs in 2018 (76,291 tons), with further decreases expected. South Carolina and EPA expect that the reduction of SO<sub>2</sub> emissions during the first implementation period will be even greater than originally anticipated in its regional haze plan, particularly for the EGU sector. The State notes that the emissions reductions already achieved from 2007 to 2011 and the additional reductions not accounted for in the original regional haze plan further support the State's conclusion that the regional haze plan's elements and strategies are sufficient to meet the RPGs for Class I areas affected by South Carolina emissions. The Commenter did not provide any basis for its assertion that these SO<sub>2</sub> reductions are inadequate for reasonable progress, other than citing to the 2005-2009 visibility data discussed above.

EPA finds that South Carolina's conclusion regarding the sufficiency of the regional haze plan is appropriate because of the measured visibility improvement and the significant downward trend in SO<sub>2</sub> emissions from EGUs in the State.

**Comment 2:** The Commenter states that the Areas of Influence (AoIs) identified in the Progress Report correspond to 100 kilometer (km) radii whereas the AoIs identified in the regional haze plan are 200 km radii. The Commenter requests clarification that it was not the State’s intent to modify the AoIs through the Progress Report.

**Response 2:** The AoIs that South Carolina relied upon in its regional haze plan are non-circular geographic areas surrounding Cape Romain and other Class I areas potentially impacted by South Carolina sources and do not correspond to the 100 km radii circles shown in the Progress Report (labeled as Figure 0-1 on page 9) or the 100 km or 200 km radii circles shown in Figure 1.4 - 1 on page 16 in the regional haze plan. South Carolina relied on AoIs developed by VISTAS based on an analysis of the particle frequency, residence times, and trajectory modeling over an area. The trajectory modeling is based on meteorology and IMPROVE data.<sup>5</sup> In the Progress Report, the State did not modify its AoIs, the AoI methodology, or the set of sources evaluated for reasonable progress in the regional haze plan for the first implementation period.

**Comment 3:** The Commenter contends that the description of the status of control measures under 40 CFR 51.308(g)(1) fails to show that the State is making reasonable progress and does not include any discussion as to how its sources are impacting “some Class I areas outside of the State.” The Commenter also asserts that the submittal lacks information necessary for EPA to find that the implementation measures are in effect and notes, as an example, that the descriptions of mobile source fuel changes describe “each type of sources’ reductions” but do not include estimates of the total number of mobile sources. Hence, the Commenter asserts that EPA

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<sup>5</sup> For illustrations of the AoIs and further detail on South Carolina’s AoI methodology, see pages 70-77 of Section 7.5 of the South Carolina regional haze plan narrative and pages H-25 – H-33 of Section 4 in Appendix H of the State’s regional haze plan.

cannot find that there has actually been a reduction in SO<sub>2</sub> from these mobile sources on a fleet-wide basis.

**Response 3:** EPA disagrees with the Commenter. As discussed in Response 12, the Progress Report shows that the control measures in South Carolina's regional haze plan are sufficient to enable the State and other states with Class I areas affected by emissions from South Carolina sources to meet their RPGs for 2018. Furthermore, the State provides a significant amount of information regarding the status of measures relied upon in its regional haze SIP, including the status of Federal programs and consent decrees. For example, the State identifies installation dates and expected installation dates for SO<sub>2</sub> controls on South Carolina coal-fired power plants and provides the status of two state EGU control strategies in North Carolina and Georgia that were included in its regional haze plan.

Not only does the State identify the status of the control measures included in its regional haze plan, it also documents significant reductions in SO<sub>2</sub> emissions from South Carolina EGUs and reiterates the conclusion from its regional haze plan that reducing SO<sub>2</sub> emissions from EGUs and industrial point sources are the most effective means to improve visibility during the first implementation period. As further discussed in the responses below, EPA finds that the regional haze plan is sufficient to enable affected Class I areas to meet their RPGs based on the significant reductions in SO<sub>2</sub> emissions and the visibility improvement observed at Cape Romain between 2002 and 2015.

Regarding the comment concerning mobile sources, EPA notes that the State quantified SO<sub>2</sub> emissions from five source classifications, including on-road and non-road mobile sources, in the emissions inventories presented in the Progress Report and identified the status of the Federal mobile source measures included in the regional haze plan. Although a progress report

must describe the implementation status of all measures included in the relevant regional haze plan, there is no requirement that the report must identify the number of mobile sources affected by each mobile source measure included in that plan.

**Comment 4:** The Commenter states that the section of the Progress Report addressing 40 CFR 51.308(g)(1) does not discuss progress in implementing Best Available Retrofit Technology (BART), noting that the State has not recommended additional controls for its 21 BART-eligible sources and that the State found CAIR sufficient for BART at two EGUs.

**Response 4:** In its regional haze plan, South Carolina demonstrated that 19 of the 21 BART-eligible sources in the State modeled below the State's BART contribution threshold, and thus, are not subject to BART. For this reason, the State did not recommend any additional controls for 19 of the 21 BART-eligible sources. Although the Commenter correctly notes that the two BART-subject sources (SCE&G Wateree and Williams stations) relied on CAIR to satisfy BART for nitrogen oxides (NO<sub>x</sub>) and SO<sub>2</sub>, the Commenter incorrectly claims that the State did not discuss progress in implementing BART. South Carolina discusses the status of CAIR and CSAPR as of the date of Progress Report submission, identifies the SO<sub>2</sub> emission controls for these EGUs and the status of implementation for these controls, and compares CAIR and CSAPR budgets with 2011 actual emissions from EGUs in the State. For the two BART-subject sources, South Carolina notes that these sources began operating flue gas desulfurization controls in 2010. As discussed in the SNPRM and in Response 5, below, EPA finds that it is appropriate to rely on CAIR emission reductions for purposes of assessing the adequacy of South Carolina's Progress Report because CAIR remained effective and provided the requisite emission reductions during the timeframe evaluated by the State.

**Comment 5:** The Commenter asserts that EPA cannot approve South Carolina’s Progress Report because it relies on CAIR for “a number of fundamental aspects that include both modeling assumptions and control.” The Commenter states that CAIR has been “struck down” by the D.C. Circuit and is only in place until EPA designs a replacement rule. The Commenter notes that South Carolina did not modify any of the modeling assumptions in its regional haze plan that relied on CAIR, did not propose any additional reductions other than CAIR, continues to rely on CAIR to satisfy BART requirements, and did not assess the effect of the vacatur with respect to CAIR. The Commenter also cites previous EPA actions related to regional haze plans, including South Carolina’s regional haze plan, in support of the contention that EPA cannot rely on CAIR for sources subject to BART and that the five-year progress report is the appropriate time to address any changes to the RPG demonstration and the long-term strategy. The Commenter also states that EPA does not address CAIR in the NPRM, except to point out that it has provided a limited disapproval of South Carolina’s regional haze plan as it relies on CAIR to replace BART, and that EPA cannot rely on a regional cap-and-trade program with yearly averaging to “address a specific source with effects that change on an hourly basis on a specific Class I area.” As a result, the Commenter asserts that EPA’s approval of South Carolina’s Progress Report is inconsistent with prior EPA position and is arbitrary and capricious as a matter of law.

**Response 5:** EPA disagrees with the Commenter that EPA cannot approve South Carolina’s Progress Report because it relies on emission reductions from CAIR. On June 28, 2012, EPA finalized a limited approval of South Carolina’s December 17, 2007, regional haze plan to

address the first implementation period for regional haze (77 FR 38509).<sup>6</sup> In a separate action, published on June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the South Carolina regional haze plan because of the State's reliance on CAIR to meet certain regional haze requirements. In the SNPRM, EPA described the litigation history and status of CAIR, including the fact that CAIR was replaced with CSAPR after South Carolina had developed and submitted its regional haze plan. On January 1, 2015, EPA sunset CAIR and began implementing CSAPR after the D.C. Circuit lifted the stay on CSAPR following the Supreme Court's decision upholding CSAPR.

As explained in detail in the SNPRM and here in summary fashion, EPA does not believe that the status of CAIR or CSAPR affects the approvability of the Progress Report for several reasons. First, CAIR was in effect during the 2007-2011 time period addressed by the Progress Report. Therefore, South Carolina appropriately evaluated and relied on CAIR reductions of NO<sub>x</sub> and SO<sub>2</sub> to demonstrate the State's progress towards meeting its RPGs.<sup>7</sup> EPA's intention in requiring progress reports pursuant to 40 CFR 51.308(g) was for the states to demonstrate progress achieved during the *current implementation period* addressed by the regional haze plan. Thus, South Carolina appropriately relied upon CAIR reductions for demonstrating progress towards RPGs from 2007-2011. As explained in the SNPRM, given that CAIR was in place

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<sup>6</sup> Although EPA gave limited approval to South Carolina's regional haze plan due to the State's reliance on CAIR (77 FR 38509), a limited approval results in approval of the entire submittal, even of those parts that are deficient and prevent EPA from granting a full approval pursuant to sections 301(a) and 110(k)(6) of the CAA and EPA's long-standing guidance. *See* Processing of State Implementation Plan (SIP) Revisions, EPA Memorandum from John Calcagni, Director, Air Quality Management Division, OAQPS, to Air Division Directors, EPA Regional Offices I-X, September 7, 1992, (1992 Calcagni Memorandum) located at <http://www.epa.gov/ttn/caaa/t1/memoranda/siproc.pdf>. Thus, the limited approval status of South Carolina's regional haze plan does not impact EPA's approval of the Progress Report.

<sup>7</sup> In the NPRM, EPA discussed the significance of SO<sub>2</sub> reductions as South Carolina and VISTAS identified SO<sub>2</sub> as the largest contributor pollutant to visibility impairment in South Carolina specifically and in the VISTAS region generally.

until 2015, it is appropriate to rely on CAIR emission reductions during this period for purposes of assessing the adequacy of the State's Progress Report pursuant to 40 CFR 51.308(g) and (h).

Second, the State's regional haze program now includes reliance on CSAPR for SO<sub>2</sub> and NO<sub>x</sub> reductions, at least throughout the remainder of this first implementation period. EPA issued FIPs to implement CSAPR in South Carolina and the other CSAPR-subject states (CSAPR FIP).<sup>8</sup> In its June 7, 2012 regional haze FIP, EPA replaced South Carolina's reliance on CAIR with reliance on CSAPR to meet certain regional haze requirements, including the SO<sub>2</sub> and NO<sub>x</sub> BART requirements for its EGUs. In a separate action, EPA signed a final rule approving a SIP revision submitted by South Carolina that adopts provisions for participation in the CSAPR annual NO<sub>x</sub> and annual SO<sub>2</sub> trading programs, including annual NO<sub>x</sub> and annual SO<sub>2</sub> budgets that are equal to the budgets for South Carolina in EPA's CSAPR FIP.

Because the RHR's requirements for progress reports refer to "implementation plans," which are defined in the visibility program to include approved SIPs or FIPs, EPA considered measures in its June 7, 2012 regional haze FIP as well as in the State's regional haze plan in assessing the Progress Report for 40 CFR 51.308(g) and (h). EPA explained in the SNPRM that the requirements of the regional haze program are fully addressed in South Carolina through its regional haze plan and the FIP issued by EPA. As also discussed in the SNPRM, EPA expects the SO<sub>2</sub> and NO<sub>x</sub> emissions reductions at EGUs in the State to continue through the remainder of the first implementation period due to the implementation of CSAPR.

Finally, the RHR provides for continual evaluation and assessment of a state's reasonable progress towards achieving the national goal of natural visibility conditions. South Carolina has the opportunity to reassess its RPGs and the adequacy of its regional haze plan, including

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<sup>8</sup> See 76 FR 48208 (August 8, 2011).

reliance upon CSAPR for emission reductions from EGUs, when it prepares and submits its second regional haze plan to cover the next implementation period. However, as evaluated for the Progress Report, emissions of SO<sub>2</sub> from EGUs are below the projections for 2018 in the regional haze plan, visibility data shows that the Class I areas impacted by sources in the State are on track to achieve their RPGs, and EPA expects SO<sub>2</sub> emission reductions in the State to continue through CSAPR, EGU retirements, and other measures. These continued emission reductions will assist South Carolina in making reasonable progress towards natural visibility conditions. As further measures will be needed to make continued progress towards the national visibility goal, the State has the opportunity to include such measures in subsequent SIPs for future implementation periods. *See Commonwealth of Virginia, et al., v. EPA*, 108 F.3d 1397, 1410 (D.C. Cir. 1997) (citing *Natural Resources Defense Council, Inc. v. Browner*, 57 F.3d 1122, 1123 (D.C.Cir.1995)) (discussing that states have primary responsibility for determining an emission reductions program for its areas subject to EPA approval). For these reasons, EPA disagrees with Commenter that our approval of the Progress Report is inconsistent with EPA's prior position, unsupported by the facts, or arbitrary and capricious as a matter of law.

EPA also disagrees with the Commenter's statements concerning the validity of using of an emissions trading program, such as CAIR or CSAPR, to meet certain regional haze requirements such as BART. CAIR was specifically upheld as an alternative to BART in accordance with the requirements of section 169A of the CAA by the D.C. Circuit in *Utility Air Regulatory Group v. EPA*, 471 F.3d 1333 (D.C. Cir. 2006). The use of CSAPR as an alternative to BART is currently under review by the D.C. Circuit.<sup>9</sup> More importantly, however, EPA

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<sup>9</sup> In a separate action, EPA found that CSAPR is "Better than BART." *See* 77 FR 33641 (June 7, 2012). Legal challenges to the CSAPR-Better-than-BART rule from state, industry, and other petitioners are pending. *Utility Air Regulatory Group v. EPA*, No. 12-1342 (D.C. Cir. filed August 6, 2012).

disagrees with the Commenter that compliance with the BART requirements are relevant to the assessment of a state's progress report. A state is not required to demonstrate in its progress report that the BART requirements have been met. As described above, EPA took action in 2012 on South Carolina's regional haze plan, including issuance of a FIP addressing the BART requirements for the State's EGUs. The opportunity for new challenges to that FIP has expired.

**Comment 6:** The Commenter declares that the State's reliance on CAIR is "especially problematic when South Carolina avoids discussion of the status of BART at Georgia Power's Plant McIntosh." This facility is located in Savannah, Georgia, within the AoI of Cape Romain, and operates without Flue Gas Desulfurization. The Commenter states that the only constraint on Plant McIntosh is a total heat input limit that will apply in 2018. The Commenter also asserts that South Carolina is required to consult with Georgia for enforceable emissions reductions from Georgia EGUs.

**Response 6:** Plant McIntosh was included in the VISTAS modeling used to develop the reasonable progress glide path and 2018 visibility estimates for South Carolina's regional haze plan. Emissions estimates used in that modeling for this facility assumed that it would continue operating without SO<sub>2</sub> controls. As discussed in the rulemaking notice proposing a limited approval of South Carolina's regional haze plan, the State sent a letter to Georgia identifying the emissions units, including Georgia Power Plant McIntosh unit 1, that South Carolina believed contributed one percent or more to visibility impairment at Cape Romain, and South Carolina opted not to rely on any additional reductions from these units to achieve reasonable progress during the first implementation period. *See* 77 FR 11912. In reviewing South Carolina's

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regional haze plan, EPA determined that the State's consultation with Georgia adequately addressed the consultation requirements in the RHR. *See Id.* Additional consultation with Georgia in developing a progress report is not necessary because the facility is operating as assumed in the regional haze plan and further control of Plant McIntosh is not necessary to achieve reasonable progress at Cape Romain at this time.

**Comment 7:** In the section of its comments devoted to 40 CFR 51.308(g)(1), the Commenter states that EPA should not “approve a reasonable progress determination that does not provide an analysis between emissions reductions and actual visibility.” The Commenter also asserts that South Carolina and VISTAS focused reasonable progress evaluations on potential SO<sub>2</sub> emissions controls from point sources and that the Progress Report does not discuss progress on controls for NO<sub>x</sub> or particulate matter (PM) or contain an analysis as to how emissions reductions are on track to reducing visibility impairment at Cape Romain or other Class I areas as modeled. According to the Commenter, South Carolina cannot demonstrate that emissions reductions are on track to reduce visibility impairment because visibility “for the worst days has not been in line with projections and visibility on the best days is actually worse.” The Commenter acknowledges that VISTAS modeling showed that controlling anthropogenic SO<sub>2</sub> would create the greatest visibility improvement but believes that additional NO<sub>x</sub> and PM controls should be included in the SIP and that EPA should require other VISTAS states to consider additional controls for these pollutants. The Commenter also states that EPA should require South Carolina to further reduce SO<sub>2</sub> emissions and to consult with other VISTAS states to require similar reductions.

**Response 7:** As noted by the Commenter and as discussed in Response 1 and in South Carolina's regional haze plan and Progress Report, SO<sub>2</sub> was determined to be the largest

contributor to visibility impairment in the VISTAS states. Because sulfate levels on the 20 percent worst days account for 60-70 percent of the visibility impairment at these Class I areas, reducing SO<sub>2</sub> emissions is the most effective means to improve visibility during the first implementation period.<sup>10</sup> Furthermore, 91 percent of the 2002 SO<sub>2</sub> emissions in South Carolina were attributable to EGUs and industrial point sources.<sup>11</sup> Based on this analysis, South Carolina concluded, and EPA agreed in reviewing its regional haze plan, that controlling SO<sub>2</sub> emissions was the appropriate step in addressing the reasonable progress assessment for 2018 and that the focus should be on industrial point source SO<sub>2</sub> emissions, not PM and NO<sub>x</sub> emissions, during the first implementation period.

EPA believes that the SO<sub>2</sub> reductions identified in the Progress Report have contributed to the visibility improvement observed between baseline and the 2007-2011 period, as reported in the NPRM, and between baseline and the 2011-2015 period, as discussed in Response 1 of this notice. The Commenter relies on visibility conditions that precede most of the emissions reductions reported by the State and does not provide any further explanation as to why the SO<sub>2</sub> emissions reductions reported by South Carolina are insufficient to achieve reasonable progress. Given the visibility improvement observed between baseline and the time periods identified above along with the significant reductions in SO<sub>2</sub> reported in the Progress Report, EPA agrees with South Carolina that the State is on track to achieve its RPGs, that no changes to the regional haze plan are necessary at this time, and that it is not necessary for South Carolina to further consult with other states at this time to seek additional controls.

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<sup>10</sup> See South Carolina's regional haze plan Narrative, chapter 2.4, *Pollutant Contributions To Visibility Impairment (2000-2004 Baseline Data)*.

<sup>11</sup> See *id.* at chapters 2.4 and 4.2, *Assessment of Relative Contributions from Specific Pollutants and Sources Categories*.

**Comment 8:** The Commenter contends that South Carolina must show progress at all Class I areas that its sources impact, including areas that may not have an AoI in South Carolina, and identifies the Brigantine Wilderness Area as one such area. The Commenter makes this comment in connection with 40 CFR 51.308(g)(1).

**Response 8:** It is not clear what analyses the Commenter considers deficient. In South Carolina’s regional haze plan, the State concluded that emissions from South Carolina potentially impact visibility at five Class I areas outside of the State (Wolf Island and Okefenokee Wilderness Areas in Georgia; and Joyce Kilmer, Shining Rock, and Swanquarter Wilderness Areas in North Carolina) and do not reasonably contribute to visibility impairment at the Brigantine Wilderness Area in New Jersey.<sup>12</sup> See 77 FR 11911. The State also documented its consultation with these states in its regional haze plan. For the reasons described in Response 12, EPA finds that South Carolina provided sufficient information regarding the sources impacting visibility in the Class I areas affected by emissions from the State and a satisfactory qualitative assessment that its regional haze plan is sufficient to enable these areas to meet their RPGs.

**Comment 9:** The Commenter contends that the section of the Progress Report that addresses 40 CFR 51.308(g)(2) does not properly summarize emissions reductions. The Commenter asserts that because the data that South Carolina provides are “simply annual summaries of SO<sub>2</sub> reductions, EPA cannot reasonably rely on this information to inform a decision as to how SO<sub>2</sub> reductions are impacting the worst days of visibility at Class I areas.” The Commenter also

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<sup>12</sup> VISTAS provided assessments that took into account the latest data and information available, including the reductions from CAA and state programs that will be in effect in 2018. Based on these analyses, SC DHEC notified New Jersey that these assessments do not indicate that South Carolina facility emissions have an impact on visibility at any Class I area outside of the VISTAS region, and that SC DHEC thus concluded that emissions from South Carolina do not reasonably contribute to visibility impairment at Brigantine. See 77 FR 11912.

contends that because visibility is measured in one-hour averaging times rather than monthly or yearly averages, annual reductions across a fleet-wide basis provide no assurances that SO<sub>2</sub> emissions impacting Class I areas' 20 percent worst days have been reduced. The Commenter states that had South Carolina provided information "as to the reductions from each point source within an AoI, as well as a summary of their emissions for each hour on the 20 percent worst days for each Class I area, perhaps EPA could then approve this determination." The Commenter also alleges that the Progress Report did not include a summary of NO<sub>x</sub> or PM emissions reductions and that EPA should require the State to include a discussion of NO<sub>x</sub> and PM reductions as this "would ensure that emissions of these pollutants have not increased, offsetting any reductions in SO<sub>2</sub>."

**Response 9:** EPA disagrees with the Commenter. Regarding the use of yearly averaging for calculating reasonable progress for regional haze purposes, it is important to consider the metrics by which regional haze is evaluated. Visibility is averaged across 20 percent of the days in the year with the worst visibility and 20 percent of the days in a year with the best visibility. These days represent 40 percent of the days in the year (i.e., 146 days) that are spread throughout the year. In addition, these annual averages are further averaged into five-year rolling averages. Hence, the use of annual emissions inventories are an appropriate means of evaluating the potential impacts of control strategies on regional haze visibility impairment at Class I areas. While hourly EGU SO<sub>2</sub> emissions are available for any day since 2002 from the EPA Clean Air Markets Division acid rain database,<sup>13</sup> the Commenter does not explain how South Carolina or EPA should use this hourly data to evaluate reasonable progress. Regarding the comment

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<sup>13</sup> See <http://ampd.epa.gov/ampd/>.

concerning fleetwide averages, South Carolina did provide SO<sub>2</sub> emissions reductions for individual EGUs within the State consistent with the State's regional haze plan.<sup>14</sup>

With respect to the comments regarding NO<sub>x</sub> and PM emissions reduction summaries, South Carolina did provide NO<sub>2</sub> emissions data for EGUs in South Carolina and in the VISTAS states showing an overall downward trend in these emissions in the section of its Progress Report addressing 40 CFR 51.308(g)(2). Although the State did not provide PM reductions or additional NO<sub>x</sub> reductions resulting from the measures included in the regional haze plan within this section of its submittal, EPA believes that it is appropriate for South Carolina to focus its emissions reductions summary on SO<sub>2</sub> because the State demonstrated that reductions in SO<sub>2</sub> emissions from industrial point sources result in the greatest improvements in visibility within the State and the VISTAS region. It is also important to note that in the section of its report addressing 40 CFR 51.308(g)(4), South Carolina presented emissions data from a statewide emissions inventory developed for the year 2007 for volatile organic compounds, NO<sub>x</sub>, fine PM, coarse PM, ammonia, and SO<sub>2</sub> and compared this data to data from its regional haze plan, a baseline emissions inventory for 2002, an actual emissions inventory for 2007, and an estimated emissions inventory for 2018 (as updated and provided by VISTAS to the State in 2008). The emissions inventories included data for stationary point and area sources, non-road and on-road mobile sources, and biogenic sources which indicates that emissions of the key visibility-impairing pollutants for South Carolina are decreasing.

**Comment 10:** The Commenter reproduces the visibility data presented by South Carolina in the section of its Progress Report addressing 40 CFR 51.308(g)(3) for the five-year averages representing baseline conditions and conditions over the 2005-2009 timeframe and disagrees

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<sup>14</sup> See Tables 10 and 11 of the Progress Report, pages 34-35.

with EPA's "conclu[sion] that these numbers are sufficient to show current reasonable progress towards natural visibility at Cape Romain" because visibility for the 20 percent best days has "worsened by 0.7 dv." The Commenter also refers to this visibility data to support its contention that the five-year averages are not on target for the 2005-2009 time period according to the glidepaths. The Commenter states that these glidepaths "established a goal for Cape Romain to achieve a 0.6 dv improvement . . . by 2005-2009 for the 20 percent best days." For these reasons, the Commenter contends that the Progress Report does not show reasonable progress for the 20 percent best or 20 percent worst days and that EPA must therefore disapprove the submission. The Commenter also implies that EPA should require South Carolina to reevaluate its emissions reduction strategies because of the degradation in best day conditions observed from 2005-2009.

**Response 10:** EPA disagrees with the Commenter. As discussed in Response 1, the Commenter ignores EPA's discussion of the more recent visibility data in the NPRM. EPA identified the 0.7 dv in degradation in visibility for the 20-percent best days at Cape Romain when comparing the baseline to the 2005-2009 average and evaluated additional visibility data (2007-2011) available at the time of the NPRM. Visibility improved by 1.9 dv and 0.2 dv for the 20 percent worst days and 20 percent best days, respectively, between baseline and the 2007-2011 period. A five-year average using 2015 data (2011-2015) shows an improvement of 3.1 dv and 0.5 dv for the 20 percent worst days and 20 percent best days best days, respectively, when compared to baseline. It is not appropriate for the Commenter to focus solely on visibility data from 2005-2009 for Cape Romain because it precedes most of the emissions reductions reported in the Progress Report and because EPA provided more recent data in the NPRM. It is not unexpected that the

2005-2009 data would show limited progress because many of the measures that provide for the greatest progress were implemented after 2009.

Regarding the Commenter's assertion that South Carolina has not met its glidepath "goals," the RHR requires each state to develop a long-term strategy to achieve RPGs established for Class I areas affected by emissions from the state. The goals are established for each area in 10-year intervals reflecting the 10-year implementation periods established under the RHR. The current regional haze plans cover the first implementation period ending in 2018 and are therefore designed to achieve the RPGs set for 2018. The progress reports submitted during this first implementation period must evaluate progress toward the 2018 RPGs, and South Carolina has appropriately evaluated progress toward these RPGs. Neither the RHR nor South Carolina's regional haze plan set interim goals or targets between the beginning and end of the implementation period.

EPA believes that the visibility data indicates that the State is making reasonable progress and agrees with South Carolina's determination that the elements and strategies outlined in its regional haze plan are sufficient to enable South Carolina and other neighboring states to meet their RPGs. As summarized in the Progress Report, the emissions projections for EGUs further support the determination that these elements and strategies are sufficient to meet the established RPGs. South Carolina notes that actual 2011 EGU emissions are already below the SO<sub>2</sub> emissions projections for 2018 in the regional haze plan with further decreases expected.<sup>15</sup>

**Comment 11:** In its comments regarding 40 CFR 51.308(g)(5), the Commenter states that there have been significant changes in the anthropogenic emissions that affect Cape Romain and that the conclusion that the State is on track to meet RPGs for 2018 and that no changes to the

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<sup>15</sup> See Table 6 of South Carolina's Progress Report, pp. 21-22.

regional haze plan are needed is “not supported by the facts.” The Commenter alleges that South Carolina is not making reasonable progress toward natural visibility and claims that the expected retirements of emissions units identified in the Progress Report submission must be included in the regional haze plan to make them enforceable because South Carolina and EPA are “relying on ‘expected’ retirements in order to be on track to meet 2018 goals.”

**Response 11:** EPA disagrees with the Commenter. None of the changes in anthropogenic emissions identified in South Carolina’s Progress Report were adverse to visibility improvement, and the Commenter did not identify any significant increases in anthropogenic emissions over the five-year period at issue or any significant expected reductions in anthropogenic emissions that did not occur. As discussed in Response 10, there was an overall decrease in visibility impairing pollutants in South Carolina during the five-year period at issue.

Regarding expected retirements, South Carolina identified sources that were included in the VISTAS modeling but that have subsequently chosen to retire prior to the end of the first implementation period. The emissions reductions from these retirements are therefore in excess of those planned for in the regional haze plan and should provide an additional margin of visibility improvement. The emissions rates in the regional haze plan for which the estimates for reasonable progress were derived were based on enforceable measures in the plan, and EPA believes that these enforceable measures contributed to the significant SO<sub>2</sub> emissions reductions documented in the Progress Report and to the visibility improvement indicated by monitoring data. For these reasons, EPA finds that the State properly concluded that there were no changes in anthropogenic emissions that limited or impeded progress and finds that no changes to the regional haze plan or Progress Report are necessary to address this comment.

**Comment 12:** In its comments regarding 40 CFR 51.308(g)(6), the Commenter states that EPA cannot approve South Carolina's Progress Report because it "doesn't contain information necessary to determine whether its SIP is sufficient to meet reasonable progress goals in all Class I areas." The Commenter asserts that the Progress Report fails to provides a comprehensive list of all of the Class I areas that emissions from the State impact; does not provide information as to how sources, other than BART-eligible sources in South Carolina, may be impacting visibility in Class I areas within Georgia or North Carolina; and does not provide information as to how South Carolina sources are impacting Class I areas in other states affected by emissions from South Carolina; or discusses visibility trends in Class I areas located in states other than South Carolina.

**Response 12:** EPA disagrees with the Commenter's position that EPA cannot approve South Carolina's Progress Report on the grounds that it does not contain information necessary to determine whether its regional haze plan is sufficient to meet RPGs in affected Class I areas. On the contrary, the Progress Report contains the information necessary to assess whether the measures and strategies in its regional haze plan are sufficient to enable the State and other states with Class I areas affected by emissions from South Carolina sources to meet their RPGs for 2018. In the qualitative assessment under the section of the Progress Report devoted to 40 CFR 51.308(g)(6), the State refers to its evaluation of visibility conditions and changes at Cape Romain and to the emissions reductions documented earlier in the Progress Report. EPA does not agree that it is necessary for South Carolina to evaluate visibility data for the Class I areas outside of the State that are affected by emissions from South Carolina, as suggested by the Commenter, because SO<sub>2</sub> is the primary driver of visibility impairment in these areas and the emissions reductions in SO<sub>2</sub> documented in the Progress Report are already greater than those

anticipated by 2018 in the regional haze plan. EPA believes that South Carolina has met its regional haze obligations to address visibility impacts at Cape Romain and other potentially impacted Class I areas because the State reviewed the visibility data for Cape Romain and the emissions data for South Carolina sources potentially impacting Cape Romain and other Class I areas outside of the State, and has met the consultation requirements.

EPA also disagrees with the Commenter's belief that South Carolina did not list all Class I areas outside of the State that are affected by emissions from South Carolina sources. As discussed in the proposed rulemaking notice associated with the limited approval of the State's regional haze plan, VISTAS conducted screening assessments for the VISTAS states to assist these states in determining the potential impact of their sources' emissions on Class I areas outside of each state because other states outside of the VISTAS region had not yet completed this type of assessment for their Class I area(s). *See* 77 FR at 11911. Each state with a Class I area determines what methodology it will use to identify sources outside the state contributing to visibility impairment at its Class I area(s). Based on these screening assessments using the generic VISTAS AoI methodology developed for the VISTAS states, South Carolina determined that emissions from South Carolina potentially impact five Class I areas outside of the State: Wolf Island and Okefenokee Wilderness Areas in Georgia, and Joyce Kilmer, Shining Rock, and Swanquarter Wilderness Areas in North Carolina. *See id.* The Progress Report identifies these five Class I areas, in addition to Cape Romain, which were addressed in the State's regional haze plan and identifies the emissions units affecting these areas.

South Carolina consulted with Georgia and North Carolina regarding requests for the State to consider adding several of its sources' emissions units to the State's final reasonable progress control evaluation list. *See Id.* at 11912. In 2007, the Mid-Atlantic/Northeast Visibility

Union (also commonly referred to as MANE-VU) states of New Jersey and New Hampshire notified South Carolina of their belief that emissions from South Carolina affected Brigantine Wilderness Area in New Jersey and Lye Brook Wilderness Area in New Hampshire.<sup>16</sup> South Carolina consulted with New Jersey and New Hampshire when developing its regional haze plan and notified them of South Carolina's conclusion that emissions from the State do not reasonably contribute to visibility impairment in those states based on VISTAS modeling. *See Id.*

South Carolina provided sufficient information regarding the sources impacting visibility in the Class I areas affected by emissions from the State. Tables 1 and 2 in the Progress Report list point sources in South Carolina that Georgia and North Carolina identified as potentially impacting visibility at Georgia and North Carolina's Class I areas, respectively. It is not clear what other sources the Commenter believes should have been addressed by South Carolina for Class I areas outside of the State. The assessment of individual sources and their impact on affected Class I both within and outside South Carolina is contained in South Carolina's regional haze plan and discussed in the rulemaking notices associated with that plan.

EPA agrees with South Carolina's assessment that the regional haze plan is sufficient to enable affected Class I areas to meet their RPGs and believes that the Progress Report contains sufficient information to support this assessment. The State referenced improving visibility trends in Cape Romain and emissions reductions from its sources indicating that Class I areas affected by emissions from South Carolina sources are on track to meet their RPGs.

**Comment 13:** The Commenter states that standard deviations for the groups of 20-percent best and worst days for Cape Romain are needed to perform a "t-test" because "the information given does not support statistical significance." However, the Commenter notes that in any case, the

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<sup>16</sup> See Appendix J of South Carolina's regional haze plan for further details.

improvements point away from the conclusion that visibility is worsening and that the progress in increasing visibility is encouraging.

**Response 13:** EPA does not believe that a “t-test” is necessary because the assessment of reasonable progress is based on more than statistical inference from the visibility monitoring data. The monitoring data is supplemented by estimates of expected changes in emissions and modeling analyses of the impact of these changes that are included in the State’s regional haze plan as well as actual and projected emissions reductions of visibility impairing pollutants documented in the Progress Report. Considered together, these analyses indicate that Cape Romain will achieve its RPGs for the first implementation period by 2018. Although the 2005-2009 visibility data did not show substantial improvement, more recent monitoring data and the projected emissions data in the Progress Report are consistent with the modeling results and the expectation of reasonable progress.

### **III. Final Action**

EPA is finalizing approval of South Carolina’s December 28, 2012, SIP revision on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period for regional haze as set forth in 40 CFR 51.308(g) and 51.308(h).

### **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 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 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 does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The Catawba Indian Nation Reservation is located within the State of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” However, EPA has determined that because this rule does not have substantial direct effects on an Indian Tribe because, as noted above, this action is not approving any specific rule, but rather approving a SIP revision that evaluates the sufficiency of South Carolina’s already approved regional haze plan in meeting certain CAA requirements. EPA notes today’s action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for

reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

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

Dated: September 29, 2017.

Onis “Trey” Glenn, III,  
Regional Administrator,  
Region 4.

40 CFR part 52 is amended as follows:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

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

**Subpart PP--South Carolina**

2. Section 52.2120(e) is amended by adding an entry for “December 2012 Regional Haze Progress Report” at the end of the table to read as follows:

**§52.2120 Identification of plan.**

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(e) \* \* \*

EPA-approved South Carolina non-regulatory provisions

<b>Provision</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Explanation</b>
**	**	**	*
December 2012 Regional Haze Progress Report	12/28/2012	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	

[FR Doc. 2017-21948 Filed: 10/11/2017 8:45 am; Publication Date: 10/12/2017]