

**§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from certain coal-fired generating units.**

- (a) As used in this section:
- (1) "Coal-fired generating unit" means a coal-fired generating unit, as defined by 40 Code of Federal Regulations § 96.2 (1 July 2001 Edition), that is located in this State and has the capacity to generate 25 or more megawatts of electricity.
  - (2) "Investor-owned public utility" means an investor-owned public utility, as defined in G.S. 62-3.
- (b) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted more than 75,000 tons of oxides of nitrogen (NOx) in calendar year 2000:
- (1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 35,000 tons of oxides of nitrogen (NOx) in any calendar year beginning 1 January 2007.
  - (2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 31,000 tons of oxides of nitrogen (NOx) in any calendar year beginning 1 January 2009.
- (c) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 75,000 tons or less of oxides of nitrogen (NOx) in calendar year 2000 shall not collectively emit from the coal-fired generating units that it owns or operates more than 25,000 tons of oxides of nitrogen (NOx) in any calendar year beginning 1 January 2007.
- (d) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted more than 225,000 tons of sulfur dioxide (SO2) in calendar year 2000:
- (1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 150,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.
  - (2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 80,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.
- (e) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000:
- (1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 100,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.
  - (2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 50,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.
- (f) Each investor-owned public utility to which this section applies may determine how it will achieve the collective emissions limitations imposed by this section. Compliance with the emissions limitations set out in this section does not alter the obligation of any person to comply with any other federal or State law, regulation, or rule related to air quality or visibility. This subsection shall not be construed to limit the authority of the Commission to impose specific limitations on the emission of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from an individual coal-fired generating unit owned or operated by an investor-owned public utility.
- (g) A coal-fired generating unit that is subject to the collective emissions limitations set out in this section on 1 July 2002 shall remain subject to the collective emissions limitations whether or not it thereafter continues to be owned or operated by an investor-owned public utility.

(h) The Commission shall require that any permit or modified permit issued for a coal-fired generating unit that is subject to this section include conditions that provide for testing, monitoring, record keeping, and reporting adequate to assure compliance with the requirements of this section.

(i) The Governor may enter into an agreement with an investor-owned public utility under which the investor-owned public utility voluntarily agrees to transfer to the State any emissions allowances acquired or that may be acquired by the investor-owned public utility pursuant to 42 U.S.C. §§ 7651-7651o, as implemented by 40 Code of Federal Regulations §§ 73.1 through 73.90 (1 July 2001 Edition); 42 U.S.C. 7410(a)(2)(D)(i)(I), as implemented by 40 Code of Federal Regulations § 51.121 (1 July 2001 Edition), related federal regulations, and the associated State Implementation Plan; 42 U.S.C. § 7426, as implemented by 40 Code of Federal Regulations § 52.34 (1 July 2001 Edition) and related federal regulations; or any similar program established under federal law that result from compliance with the emissions limitations set out in this section. An agreement entered into pursuant to this subsection shall be binding and shall be enforceable by specific performance. If the Governor enters into an agreement that provides for the transfer of emissions allowances to the State, the Governor shall file verified copies of the agreement with the Attorney General, the Secretary of State, the State Treasurer, the Secretary of Environmental Quality, and the Utilities Commission. The State Treasurer shall hold all emissions allowances that are transferred to the State as provided in this subsection in trust for the people of this State and shall sell, trade, transfer, or otherwise dispose of the emissions allowances only as the General Assembly shall provide by law.

(j) An investor-owned public utility that is subject to the emissions limitations set out in this section shall submit to the Utilities Commission and to the Department on or before 1 April of each year a verified statement pursuant to subsection (i) of G.S. 62-133.6. (2002-4, s. 1; 2015-241, s. 14.30(v).)