

negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.” West Virginia did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

• In addition, this action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

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

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

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2025–01101 Filed 1–17–25; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2024–0241; FRL–12545–01–R4]

### Air Plan Partial Approval and Partial Disapproval; South Carolina; Minor Source Permit Program Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove changes to South Carolina’s State Implementation Plan (SIP) to revise regulations prescribing minor source permit program requirements, including minor new source review (NSR)

requirements as submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), on the following dates: October 1, 2007; July 18, 2011; June 17, 2013; August 8, 2014; January 20, 2016; July 27, 2016; and April 24, 2020. This action is being proposed pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before February 20, 2025.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2024–0241 at [regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](https://www.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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

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#### I. What action is EPA proposing?

On October 1, 2007; July 18, 2011; June 17, 2013; August 8, 2014; January 20, 2016; July 27, 2016;<sup>1</sup> September 5, 2017; April 24, 2020; and February 4, 2022, SC DHEC<sup>2</sup> submitted SIP revisions to EPA for approval that include changes to South Carolina’s minor source permitting regulations to clarify and streamline the State’s federally approved minor preconstruction and minor operating permitting program. This federally approved program requires stationary sources of air pollutants planning to construct or modify to first obtain a construction permit and to obtain and maintain operating permits in accordance with the South Carolina Code of Regulations Annotated (S.C. Code Ann. Regs. hereinafter “Regulation”) 61–62.1, Section II,

<sup>1</sup> EPA notes that while the July 27, 2016, submittal was signed and dated by SC DHEC on July 25, 2016, it was received via EPA’s SPeCS for SIPs system on July 27, 2016.

<sup>2</sup> On July 1, 2024, SC DHEC was restructured into a health agency, the Department of Public Health, and an environmental agency, the Department of Environmental Services (DES). In a letter dated June 20, 2024, South Carolina represented to EPA that all the functions, powers, and duties of the environmental divisions, offices, and programs of DHEC, including the authority to administer and enforce State implementation plans, are retained and continued in full force and effect under DES. This letter is in the docket for this proposed rulemaking. Throughout this proposal, the terms, “Department”, “South Carolina Department of Health and Environmental Services”, “SCDHEC”, “South Carolina Department of Environmental Services”, and “SCDES” are all interchangeable.

*Permit Requirements.* CAA section 110(a)(2)(C) provides that SIPs must include a program to regulate the construction and modification of any stationary source as necessary to assure that the national ambient air quality standards (NAAQS) are achieved, and it cites to more detailed CAA permitting requirements that pertain to the construction of major sources of air pollution. These CAA requirements for regulating the construction and modification of stationary sources, known collectively as the New Source Review (NSR) program, consists of the following three programs: (1) Prevention of significant deterioration (PSD) for major stationary sources and major modifications in attainment and unclassifiable areas; (2) nonattainment new source review (NNSR) for major stationary sources and major modifications locating in or impacting nonattainment areas, and (3) minor NSR, which applies generally to attainment, unclassifiable, and nonattainment areas for new sources and modifications that fall below the major NSR thresholds. Federal regulations setting forth these NSR programs are prescribed at 40 CFR part 51, subpart I, *Review of New Sources and Modifications*, and Appendix S to part 51, *Emission Offset Interpretive Ruling*. Specifically, 40 CFR 51.165 generally details components of the NNSR program in conjunction with Appendix S to part 51. Next, 40 CFR 51.166 prescribes minimum requirements for SIP-approved PSD programs. The regulations at 40 CFR 51.160–164 are generally applicable to all NSR programs, but because of the more specific implementing regulations for the NNSR and PSD programs at 40 CFR 51.165 and 51.166, and 40 CFR 51.160–164 serve primarily as the basis for EPA’s evaluation of minor NSR programs. Accordingly, in this proposed action, EPA is evaluating submitted changes to South Carolina’s existing SIP-approved minor NSR program against the generally applicable Federal NSR rules and is proposing to approve in part, and disapprove in part, these revisions. EPA is also evaluating changes to provisions for obtaining minor source operating permits, which are already approved into the South Carolina SIP. These regulations include provisions for federally enforceable State operating permits (FESOPs), which include limits on potential to emit (PTE) to enable a source or modification to qualify as minor and avoid major NSR applicability (PSD and NNSR programs) as well as title V major source status.

Through a notice of proposed rulemaking (NPRM) published on August 17, 2017 (82 FR 39083), EPA proposed to approve changes to the October 1, 2007; July 18, 2011; June 17, 2013; August 8, 2014; January 20, 2016; and July 25, 2016 SIP submissions. A comprehensive discussion of EPA’s analysis and rationale for those proposed changes to the South Carolina SIP is described in the August 17, 2017 NPRM. Comments on the August 17, 2017 NPRM were due on or before September 18, 2017. Adverse comments were received on the proposed changes to Regulation 61–62.1, subparagraph II(B)(2)(h); Regulation 61–62.1, paragraph II(B)(3); Regulation 61–62.1, paragraph II(B)(5); Regulation 61–62.1, paragraph II(B)(6); Regulation 61–62.1, subsection II(D); Regulation 61–62.1, paragraph II(E)(4); Regulation 61–62.1, Section II(I); Regulation 61–62.1, subsection II(K); Regulation 61–62.1, paragraph II(N)(1); and Regulation 61–62.1, paragraph II(N)(6). The comments are available in the docket for this proposed action. EPA did not finalize action on the August 2017 NPRM. Comments on that action have persuaded EPA to reconsider some elements of the SIP submissions described above. EPA is now proposing to disapprove several provisions that received adverse comment. In addition, EPA is proposing to disapprove several provisions that did not receive adverse comment, and is re-proposing approval of several provisions that received adverse comment in the 2017 NPRM. EPA is not reconsidering or seeking additional comment on certain provisions found in the 2017 NPRM that did not receive comments.<sup>3</sup> In this proposed action, EPA is also proposing to act on the SIP revisions requested by South Carolina since the 2017 NPRM in its submittals from September 5, 2017; April 24, 2020; and February 4, 2022.

## II. Analysis of the State’s Submittals

### A. Overview and Analysis of Changes to Regulation 61–62.1, Section II, Permit Requirements

Section 110(a)(2)(C) of the CAA requires that SIPs include a program to

<sup>3</sup> EPA proposed to approve and did not receive comments on changes in the 2017 NPRM to the following: 61–62.1, subsection II.A; 61–62.1, paragraphs II(B)(1) and II(B)(4); 61–62.1, subsection II(C); 61–62.1, paragraphs II(E)(1), II(E)(2), II(E)(3), and II(E)(5); 61–62.1 subsection II(F); 61–62.1, subsection II(J); 61–62.1, subsection II(M); 61–62.1, paragraph II(N)(5); and 61–62.1, subsection II(O). For more information on these proposed changes, see 82 FR 39083 (August 17, 2017). However, in this document, EPA is now proposing to disapprove Regulation 61–62.1, subsection II(E) in its entirety and subsection II(F) in its entirety, as discussed in Sections II.A.4 and II.A.5 of this NPRM.

regulate the construction and modification of stationary sources as necessary to ensure that the NAAQS are maintained. Federal regulations at 40 CFR 51.160(e) require that such a State program identify the types and sizes of sources subject to review and the basis for determining which sources are subject. Additionally, CAA section 110(l) provides that EPA shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the CAA.

South Carolina has a SIP-approved minor source permitting program that includes minor NSR permitting at Regulation 61–62.1, Section II, *Permit Requirements*. These regulations require stationary sources that are planning to construct, alter, or add to a source of air pollutants to first obtain a preconstruction permit from the permitting agency and to request an operating permit upon placing the new or altered source into operation. These stationary sources include different types of minor sources. The program covers “true minor” sources, which have the potential to emit (PTE) certain pollutants below major NSR thresholds for new sources and modifications. The SIP-approved minor source permitting program also includes provisions for issuing permits that establish federally enforceable emissions limits to restrict the PTE of certain pollutants below major stationary source and major modification applicability thresholds: “synthetic minor” permits establish these enforceable emission limits for sources obtaining construction permits, and “conditional major” permits establish these emission limits in the corresponding operating permits. South Carolina initially revised its minor source permitting program rules in the October 1, 2007 submittal to clarify and streamline requirements for obtaining minor source construction and operating permits. Subsequent submittals make other changes, which are discussed for each subsection of the regulation, below.

EPA has reviewed the proposed changes to the minor source construction and operating permitting regulations and is proposing to approve in part and disapprove in part for the reasons discussed below.

#### 1. Subsection II(B)—Exemptions From the Requirement To Obtain a Construction Permit

Regulation 61–62.1, Section II(B)—*Exemptions from the Requirement to*

*Obtain a Construction Permit* specifies which types of minor sources are exempt from obtaining minor source construction permits. The October 1, 2007 submittal makes several changes to subsection II(B), including renumbering subsection II(F)<sup>4</sup> to subsection II(B) and modifying the title to clarify that the paragraph applies only to construction permits. Additional changes are made to subsection II(B) in the submittals from July 18, 2011; June 17, 2013; August 8, 2014; and April 24, 2020, and are described below.

One universal change to subsection II(B) from the April 24, 2020 submittal is administrative in nature by placing the alphanumeric provision dividers in parentheses. The submittal also makes other non-substantive and ministerial changes. EPA is proposing to approve these editorial and minor changes as they are consistent with CAA section 110.

a. Paragraph II(B)(2)

The October 1, 2007 submittal revises paragraph II(B)(2) by clarifying that the permits described are “construction” permits. It also specifies that stationary sources exempt from the construction permit requirements are listed in subparagraphs II(B)(2)(a) through (h). Additionally, the 2007 submittal adds a statement that a source’s exemption status may change (and thus require a permit) upon the promulgation of new regulatory requirements. EPA has reviewed these ministerial changes and preliminarily found them to be consistent with CAA section 110. Therefore, EPA is proposing to approve these changes to South Carolina’s SIP at Regulation 61–62.1, subsection II(B).

i. Subparagraph II(B)(2)(b)

In the October 1, 2007 submittal, a new subparagraph in Section II—(B)(2)(b)—adds an exemption to the requirement to obtain a construction permit for boilers and space heaters of less than 10 million British thermal units per hour (MMBtu/hr) rated input capacity that burn only virgin gas fuels. South Carolina has determined that these small boilers and space heaters do not require permits because they are not likely to have significant air quality impacts and permits for these units would be unlikely to set forth unique requirements. Units of this size would be generally consistent with other pollutant-rate based exemptions of 1 lb/hr for particulate matter (PM) that are approved in the current SIP at paragraph II(F)(2) and that the State also

put forward for additional pollutants at subparagraph II(B)(2)(h) in the October 1, 2007, submittal, which is discussed below. EPA similarly does not prescribe specific requirements for boilers smaller than this threshold. See 40 CFR 60.40c(a).

EPA has reviewed this new exemption and supports the State’s determination to exempt auxiliary boilers and space heaters of less than 10 MMBtu/hr rated input capacity that burn only virgin gas fuels because they are not expected to interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable CAA requirement. Therefore, EPA is proposing to approve subparagraph II(B)(2)(b) into the SIP pursuant to the CAA.

By inserting the new subparagraph (b) under subparagraph (B)(2), the subparagraphs below are relettered, such that the old subparagraph (b) becomes the new subparagraph (c), and so forth. EPA is also proposing to approve this minor change.

ii. Subparagraph II(B)(2)(f)

The October 1, 2007 submittal revises subparagraph II(B)(2)(f) to expand the exemption from construction permitting requirements for certain emergency power generators. The current SIP-approved regulation provides an exemption from construction permits for emergency power generators of “less than” 150 kilowatt (KW) rated capacity, as well as larger emergency power generators that operate 250 hours per year or less and have a method to record the actual hour of use, such as an hour meter. The revision provides an exemption for emergency power generators of “less than or equal to” 150 KW rated capacity, as well as generators that are designated for emergency use only and operate 500 hours or less per year for testing and maintenance and have a method to record the actual hours of use, such as an hour meter.

South Carolina’s December 30, 2016 letter explains that the State considered CAA section 110(l), and asserts that the State expects no increase in actual emissions as a result of raising this exemption threshold for emergency power generators.<sup>5</sup> South Carolina further explains that the 500 hours per year threshold is commonly used to determine the PTE for title V and other major NSR applicability determinations, consistent with an EPA guidance

memorandum.<sup>6</sup> These sources are still restricted to emergency conditions, meaning that other types of non-emergency activities—such as peak shaving<sup>7</sup>—would not qualify for the exemption under subparagraph II(B)(2)(f). Additionally, the State points to applicable Federal requirements for emergency generators at 40 CFR part 63 at subpart ZZZZ and 40 CFR part 60 at subparts IIII and JJJJ that restrict non-emergency use of these sources to 100 hours per year.

Subsequently, South Carolina submitted a letter dated March 23, 2020, more specifically addressing equivalent changes to Regulation 61–62.1, Standard No. 5.2, *Control of Oxides of Nitrogen (NO<sub>x</sub>)*, to provide further clarifying information.<sup>8</sup> In this letter, the State notes that no Federal standards were in place for these emergency engines at the time they were developing the original Standard No. 5.2 in the 2004 timeframe. In fact, the exemption in place in 61–62.1, Section II had been in place over a decade before.<sup>9</sup> The March 23, 2020 letter explains that South Carolina had polled owners and operators in the past about typical usage for testing and maintenance for these emergency generators, and the State developed the 250-hour per year threshold as a result. The State explains that the 250-hour per year threshold was never intended to limit actual emergency use of the generators but was meant to serve as a general exemption for a reasonable amount of non-emergency use. This is also a critical change to include in the SIP so that the Regulation is clear as to how the State applies it and emergency generators are not limited in their emergency use. Since that time, EPA promulgated 40 CFR part 63, subpart ZZZZ, which South Carolina confirms in its letter applies to all such emergency engines in the State. The exemption in subparagraph II(B)(2)(f) also clearly only applies to generators designated for emergency use. Consequently, all non-emergency use for these emergency generators is

<sup>6</sup> Seitz, John S. “Calculating Potential to Emit (PTE) for Emergency Generators.” Memorandum to Program Directors in EPA Regional Offices, Office of Air Quality Planning and Standards, Research Triangle Park, NC (Sept. 6, 1995).

<sup>7</sup> Peak shaving is the practice of reducing a facility’s consumption of utility-provided power by instead using limited onsite power during periods of high energy demand.

<sup>8</sup> This letter is included in the docket for this proposed action. South Carolina submitted SIP revisions with changes to the NO<sub>x</sub> control rules at Regulation 61–62.5, Standard No. 5.2, *Control of Oxides of Nitrogen (NO<sub>x</sub>)*, dated October 1, 2007; July 25, 2016; September 5, 2017; and February 4, 2022. EPA will address these revisions in a future rulemaking.

<sup>9</sup> See 60 FR 63434 (December 11, 1995).

<sup>4</sup> Additional changes to the revised subsection II(F) are discussed later in this document.

<sup>5</sup> This letter is included in the docket for this proposed action.

restricted to 100 hours per year as per the Federal regulation, including for testing and maintenance. The change to provide that exemptions from permitting requirements extend to 500 hours of testing and maintenance would have no practical effect on the universe of exempt sources, as detailed above, since all such units are subject to the 40 CFR part 63, subpart ZZZZ. Therefore, this change to subparagraph II(B)(2)(f) will not result in any actual increase in emissions, and therefore, will not interfere with any applicable requirement regarding attainment or reasonable further progress. The State also has the discretion to define the scope of its minor NSR program pursuant to 40 CFR 51.160(e) and has previously determined that these units (with the specified size and hourly operation restrictions) do not need to undergo unique case-by-case permit reviews. Therefore, EPA is proposing to approve these changes to Regulation 61-62.1, subparagraph II(B)(2)(f) into the SIP pursuant to the CAA.

iii. Subparagraph II(B)(2)(h)

The October 1, 2007 submittal also makes changes to subparagraph II(B)(2)(h), formerly subparagraph II(F)(2)(g), by expanding the available exemption from a construction permit to sources with a total uncontrolled emissions rate of less than 1 pound per hour (lb/hr) each of sulfur dioxide, nitrogen oxides (NO<sub>x</sub>), and carbon monoxide. These exemptions expand on the current, SIP-approved exemptions that apply to sources with an uncontrolled PM emission rate of less than 1 lb/hr and/or uncontrolled volatile organic compounds (VOCs) emission rate of less than 1,000 lbs/month. The July 18, 2011 submittal adds language to require that emissions calculations or other information necessary to demonstrate that a source qualifies for the exemption must be kept on site and provided to the State upon request.

Next, the August 8, 2014 submittal revises the emissions exemption threshold in subparagraph II(B)(2)(h) in two ways. First, it revises total uncontrolled PTE from 1 lb/hr to 5 ton per year (tpy). Second, it adds language stating that sources with a PTE higher than the 5 tpy applicability threshold may be exempted from the requirement to obtain a construction permit under this subparagraph if the sources demonstrate that they are not subject to any State or Federal limits or requirements. The State provided EPA with a December 30, 2016 letter, addressing the second revision, asserting that it is primarily intended to

apply to sources with PTE only slightly above the 5 tpy threshold. The State further asserts that the rule contains a safeguard that sources subject to any applicable regulation, such as Federal requirements, cannot be exempt from obtaining construction permits via this case-by-case process. The letter then steps through an example of the process that small sources of VOC emissions would undergo, including an assessment of any potentially applicable requirements related to NAAQS, toxics, or hazardous air pollutants; consideration of the PTE relative to major NSR thresholds; and any other special considerations. South Carolina contends that it determines the applicability of construction permits for these sources under close scrutiny, on a case-by-case basis. However, the language in this provision from the August 8, 2014 submittal does not prescribe any upper bound on emissions for the case-by-case exemptions from minor NSR permitting, nor does it provide adequate justification for those higher thresholds being exempt from a case-by-case permitting process, and the safeguard therefore cannot cover the universe of possibly exempt sources.

SIPs must contain a minor NSR program with enforceable procedures enabling the State to determine whether the construction or modification of a source will, among other things, interfere with attainment or maintenance of the NAAQS. See CAA section 110(a)(2)(C); 40 CFR 51.160(a). These procedures must identify the types and sizes of the sources subject to review, and the SIP must discuss the basis for determining which facilities will be subject to review. See 40 CFR 51.160(e). Furthermore, CAA section 110(l) prohibits EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment, or any other applicable requirement. The language introduced in the August 8, 2014 submittal at subparagraph II(B)(2)(h) appears to be inconsistent with CAA section 110(a)(2)(C), 40 CFR 51.160, and CAA section 110(l) because it would allow the State to exempt sources without determining whether the sources would interfere with the NAAQS, and it does not adequately identify the types and sizes of sources subject to preconstruction review and the basis for determining which sources are subject to review. Because of these concerns, and because EPA cannot evaluate potential NAAQS impacts that may occur from undefined future exemptions from these SIP

requirements, EPA is proposing to disapprove changes to subparagraph II(B)(2)(h) from the August 8, 2014 submittal. EPA is also proposing to disapprove the changes to subparagraph II(B)(2)(h) that were requested in the October 1, 2007 submittal because those changes were superseded by the changes in the August 8, 2014 submittal and are no longer state-effective.

The July 18, 2011 submittal makes a distinct change to the rule, which is found in the current, state-effective regulation. The revision adds the sentence “Emissions calculations and any other information necessary to document qualification for this exemption must be maintained onsite and provided to the Department upon request.” This revision adds an administrative requirement to show compliance. However, because the change is so closely linked to the changes in the October 1, 2007, and August 8, 2014 submittals, EPA is proposing to disapprove this change as well.<sup>10</sup>

b. Paragraph II(B)(3)

In its October 1, 2007 submittal, South Carolina requested to add paragraph (B)(3) to Section II in its SIP. The new paragraph requires the State to maintain a list of sources exempted under subparagraphs II(B)(2)(a) through II(B)(2)(g) on a list of sources to be exempted without further review, along with any other sources determined to have total uncontrolled emissions less than the thresholds in subparagraph II(B)(2)(h). The list of sources that are exempt without further review from the requirement to obtain a construction permit will be maintained by the Department and periodically published in the *South Carolina State Register* for use by the public and regulated community.

The July 18, 2011 submission revises language in paragraph II(B)(3) to clarify that source types which are added to the list of exempted sources will be determined not to interfere with the attainment or maintenance of any State or Federal standard, replacing the requirement for the list to include sources that have total uncontrolled emissions less than the thresholds in subparagraph II(B)(2)(h). Lastly, the August 8, 2014 submittal includes the addition of language to paragraph II(B)(3) asserting that the State may develop emission thresholds for exemptions that are determined not to

<sup>10</sup> If EPA finalizes disapproval of the changes to subsection II(B) at subparagraph II(B)(2)(h), subparagraph II(F)(2)(g), effective June 24, 2005, would remain in the SIP.

interfere with attainment or maintenance of State or Federal standards to include in the list maintained pursuant to this subparagraph, and that South Carolina could be petitioned to consider adding additional sources to this list.

While EPA notes that South Carolina has inherent flexibility to determine which types and sizes of sources need to undergo preconstruction review and permitting in the State pursuant to 40 CFR 51.160(e), the language introduced in the August 8, 2014 submittal at paragraph II(B)(3) provides the State with the ability to modify the universe of sources subject to the minor NSR program without further regulatory changes and without any basis for determining which facilities will be subject to review. These changes are inconsistent with CAA section 110(a)(2)(C) and 40 CFR 51.160(e) because they do not identify the types and sizes of sources subject to preconstruction review and the basis for determining which sources are subject to review. Furthermore, paragraph II(B)(3) as revised through the August 8, 2014 submittal, is inconsistent with CAA section 110(l), which provides that EPA shall not approve a SIP revision that would interfere with any requirements concerning attainment and reasonable further progress, or any other applicable CAA requirement because EPA cannot evaluate potential future exemptions from these SIP requirements. Therefore, due to these reasons, as well as the enforceability issues described in the above Section II(A)(1)(a)(iii), EPA is proposing to disapprove paragraph II(B)(3).

#### c. Paragraph II(B)(5)

Paragraph II(B)(5) is a new provision that was added in the August 8, 2014 submittal. The version of paragraph (B)(5) that is in the current SIP is moved to paragraph (B)(6) and is explained below. Paragraph (B)(5), as introduced in the August 8, 2014 submittal, states that sources of VOCs greater than 1,000 lb/month (*i.e.*, the emission threshold listed in subparagraph (B)(2)(h)) may be exempted from the requirement to obtain a construction permit on a case-by-case basis, and that exempt sources may later be required to be included in subsequent construction or operating permits.

Similar to the revised subparagraph (B)(2)(h), the State could grant or deny exemptions from the requirement to obtain a construction permit on a case-by-case basis above SIP-specified thresholds with no upper bound other than the major stationary source or major modification threshold. While

EPA notes that the State has inherent flexibility to determine which types and sizes of sources need to undergo preconstruction review and permitting in the State, the language introduced in the August 8, 2014 submittal at paragraph II(B)(5) provides the State with the ability to modify the universe of sources subject to the minor NSR program without further regulatory changes. These changes are inconsistent with CAA section 110(a)(2)(C) and 40 CFR 51.160(e) because they do not identify the types and sizes of sources subject to preconstruction review and the basis for determining which sources are subject to review. Furthermore, paragraph II(B)(5) as introduced in the August 8, 2014 submittal, is inconsistent with CAA section 110(l), which provides that EPA shall not approve a SIP revision that would interfere with any requirements concerning attainment and reasonable further progress, or any other applicable CAA requirement because EPA cannot evaluate potential future exemptions from these SIP requirements. Therefore, EPA is proposing to disapprove paragraph II(B)(5).

#### d. Paragraph II(B)(6)

Paragraph II(B)(6) was added in the October 1, 2007 submittal as paragraph (B)(5). When the new paragraph (B)(5) was introduced in the August 8, 2014 submittal, the paragraph was moved to (B)(6). This paragraph requires that any new sources similar to those already on the exempted source list established by paragraph II(B)(3), or sources with modifications to existing equipment,<sup>11</sup> must include the following information in their request for exemption: (1) A complete description of the existing equipment and proposed modification; (2) the pollutant(s) being emitted and any deviation from the parameters provided in earlier permit applications, permit exemptions, and issued permits; (3) any ambient air quality demonstrations needed for Regulation 61–62.5, Standards No. 2, *Ambient Air Quality Standards*, No. 7, *Prevention of Significant Deterioration*, and No. 8, *Toxic Air Pollutants*; and (4) a regulatory review to demonstrate the project is not a CAA title I modification, nor is subject to Regulation 61–62.5, Standards No. 7, *Prevention of Significant Deterioration*, and 7.1, *Nonattainment New Source Review (NSR)*. EPA is proposing to disapprove paragraph II(B)(6) because it functions

<sup>11</sup> Modifications to existing equipment include the reconstruction, relocation, and replacement of existing equipment, which may qualify for exemption pursuant to subparagraph II(B)(2)(h) and paragraph II(B)(4).

only in conjunction with subparagraph II(B)(2)(h) and paragraph II(B)(3), which the Agency is also proposing to disapprove for the aforementioned reasons.

#### e. Paragraph II(B)(7)

Paragraph II(B)(7) was added in the October 1, 2007 submittal as paragraph (B)(6). When the new paragraph (B)(5) was introduced in the August 8, 2014 submittal, the paragraph was moved to (B)(7). It states that the construction permitting exemptions in subsection II(B) do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements. This clarifying statement simply notes that exemption from the requirement to obtain a construction permit under Regulation 61–62.1, Section II does not result in an exemption from any other applicable requirements, such as Federal standards or other requirements under the SIP.

Subsection II(B) was revised in the July 18, 2011 submittal with a two-sentence addition that states that South Carolina reserves the right to require a construction permit and the need for permit(s) will be made by South Carolina on a case-by-case basis, and that the determination will take into consideration, but will not be limited to, the nature and amount of the pollutants, location, proximity to residences and commercial establishments, and other factors. This statement clarifies that, while subsection II(B) generally provides for a list of sources and projects that are exempt from minor NSR and the need to obtain a permit, the State may indeed require a permit. In the July 18, 2011 submittal, the State notes that this provision is intended to allow for requiring a permit in cases “where other avenues of compliance are ineffective.” A minor formatting change was also made in the 2014 submittal. Because this provision is clarifying in nature, further describing how the State intends to make use of the exemptions paragraph, and because the provision is consistent with the CAA, EPA is proposing to approve the addition of paragraph II(B)(7) to South Carolina’s SIP and the changes to that paragraph discussed above.

#### 2. Subsection II(C)—Construction Permit Applications

Subsection II(C), *Construction Permit Applications*, specifies the requirements for sources applying for and obtaining construction permits. The changes made to subsection II(C) in the submittals from October 1, 2007; June 17, 2013; January 20, 2016; and July 25, 2016, were explained and proposed for

approval in the NPRM published on August 17, 2017. See 82 FR 39083. No comments were received on these changes, and EPA is not seeking additional comments here.

The April 24, 2020 submittal adds subparagraph II(C)(2)(d), which provides an exemption from professional engineering review for package-type concrete batch plants that are designed to be hauled to a site, set up, and broken down quickly, with little to no additional equipment needed to manufacture product. The submittal also makes administrative edits to Regulation 61–62.1, subsection II(C) by placing the alphanumeric paragraph titles in parentheses and making minor restructuring edits.

EPA has reviewed the changes made to Regulation 61–62.1, subsection II(C) in the April 24, 2020, submittal and found them to be consistent with CAA sections 110(a)(2)(C) and 110(l). Therefore, EPA is proposing to approve the addition of subparagraph II(C)(2)(d) to South Carolina's SIP.

### 3. Subsection II(D)—General Construction Permits

In the October 1, 2007 submittal, subsection II(D), *Exceptions*, is moved to subsection II(K) and is discussed subsequently in this document. A new section, *General Construction Permits*, is added in its place. The new subsection II(D) allows the State to develop and issue general construction permits applicable to similar types of sources for new construction projects or minor modifications to existing stationary sources. Subsection II(D) provides for the following: (1) General permits shall incorporate all applicable requirements for construction of similar sources and identify the criteria by which sources can qualify for the permit; (2) sources may submit applications to the State that request coverage under the general permit, and the State shall grant coverage to sources certifying qualification for and agreeing to the conditions and terms of the general construction permit for similar sources; sources later determined not to qualify for the general permit are subject to enforcement; (3) approval to operate under a permit is a final permit action for the purposes of judicial review; (4) the application for coverage may deviate from the provisions of subsection II(C) if enough information is included to determine the source's qualification for, and compliance with, the general permit; and (5) sources qualifying for coverage under general construction permits are able to apply for individual construction permits in lieu of coverage under the general permit.

The August 8, 2014 submittal makes minor restructuring edits to this section. It also adds a new paragraph (2), which states that general construction permits shall incorporate all requirements applicable to the construction of similar sources and shall identify criteria by which sources may qualify for coverage under a general construction permit. Additionally, the August 8, 2014 submittal restructures paragraphs (3) and (4) to move the last sentence of paragraph (3) to its own paragraph (4).

The April 24, 2020 submittal, in addition to minor reformatting revisions, creates two subparagraphs—(3)(a) and (3)(b)—under the title “Coverage under a General Construction Permit.” Subparagraph (a) was the entirety of paragraph (3) in the October 1, 2007 submittal. Subparagraph (b) is new language, stating that a source that has submitted an individual construction permit application to the State and has not requested coverage under the conditions and terms of a general construction permit for similar sources—but which is determined to qualify for coverage under a general construction permit—may be granted coverage under the general construction permit at the sole discretion of the State.

While general permits can be an effective method of streamlining permitting requirements and procedures, any general permits developed pursuant to a SIP-approved minor NSR program must meet the Federal minimum requirements. Section II(D), as added in the October 1, 2007 submittal and modified through the April 24, 2020 submittal, does not require any form of public notice and comment prior to the State issuing a general construction permit. While EPA regulations for minor NSR SIPs at 40 CFR 51.160–164 do not use the term general permit or expressly describe general construction permits, EPA interprets the relevant statutory and regulatory provisions to allow State agencies to develop mechanisms such as South Carolina's general construction permits to authorize construction for new minor sources and minor modifications of existing sources, provided that these mechanisms assure that the NAAQS are achieved and meet other applicable regulatory requirements. The rules require “legally enforceable procedures” that meet the requirements set forth therein and do not specify that a program to regulate construction must require an individual construction permit for every source. However, the requirements in Federal regulations include a provision that sources (projects) that are subject to the minor NSR program are subject to the

public notice procedures in 40 CFR 51.161. 40 CFR 51.161 provides that the legally enforceable procedures in 40 CFR 51.160 must require that the SIP provide for public notice of the information submitted to the State, the State's analysis of the effects of the construction or modification of the project, and the State's proposed decision. In other words, the universe of sources subject to minor NSR procedures pursuant to 40 CFR 51.160, including individual permits and other permitting mechanisms such as general construction permits, would also be subject to public notice procedures in 40 CFR 51.161 prior to issuing the permit. Importantly, in the case of a general permit, once a general permit has met the public notice procedures in 40 CFR 51.161 and is issued in final form, approvals for coverage of individual sources under the general permit are not required to meet the public notice procedures in 40 CFR 51.161 because the issuance of the general permit has already met the requirement. Since South Carolina's general minor construction permits do not follow the public notice procedures in 40 CFR 51.161 when they are initially issued, EPA is proposing to disapprove subsection II(D).

### 4. Subsection II(E)—Synthetic Minor Construction Permits

Subsection II(E), *Synthetic Minor Construction Permits*, describes provisions for synthetic minor construction permits for any stationary source requesting federally enforceable permit limits to limit a source's PTE so the source does not qualify as a major source (thus becoming a minor source “synthetically”). The October 1, 2007 submittal moves the current subsection II(E), *Transfer of Ownership/Operation*, to subsection II(M). The *Synthetic Minor Construction Permits Plant* provisions, currently at subsection II(H), are moved in its place and the title is changed to “*Synthetic Minor Construction Permits*.” In contrast to the General Construction Permits provisions under subsection II(D), the State rules require an opportunity for public notice and comment on Synthetic Minor Construction Permits under subsection II(E). However, these public participation requirements now refer to and depend on subsection II(N), *Public Participation Procedures*, which was modified from paragraph II(G)(5) in the October 1, 2007 submittal.<sup>12</sup> For the

<sup>12</sup> The SIP-approved version of subsection II(H), *Synthetic Minor Plant Permits*, requires public participation via a cross-reference to paragraph II(G)(5).

reasons explained in Section II.A.10. of this preamble, EPA is proposing to disapprove subsection II(N). Because EPA is proposing to disapprove the changes to move paragraph II(G)(5) to subsection II(N), the updated subsection II(E) would not have a functional cross-reference to those public notice procedures which would therefore have the effect of removing the current requirements for public notice from the synthetic minor construction permits subsection. EPA is therefore proposing to disapprove the entirety of subsection II(E). Specifically, EPA is proposing to disapprove the renumbering of subsection II(H) to subsection II(E) and other changes transmitted in the October 1, 2007, August 8, 2014, July 27, 2016, and April 24, 2020 submittals. The revisions made to subsection II(E) in the submittals from October 1, 2007, August 8, 2014, and July 27, 2016, were explained and proposed for approval in the NPRM published on August 17, 2017. *See* 82 FR 39083. No comments were received on revisions made to paragraphs (E)(1), (E)(2), (E)(3), and (E)(5), and these changes are not further explained here as their proposed disapproval is based solely on the lack of a public notice component. If EPA takes final action on subsection II(E) as proposed, the existing synthetic minor construction permitting portion of the minor NSR program at subsection II(H) in the SIP, State effective June 24, 2005, would continue to function. Other revisions to subsection II(E) which did receive comment or were submitted subsequent to the 2017 NPRM are explained below.

a. Subparagraphs II(E)(4)(a)–(E)(4)(d)

Paragraph II(E)(4) was revised in the October 1, 2007 submittal first by being renumbered from II(H)(3) and being retitled from “General Permits” to “General Synthetic Minor Construction Permits” to reflect that the specific mechanism under subsection II(E) for establishing general construction permits is to establish general synthetic minor construction permits, which also helps distinguish this from the types of general permits the State intends to create for true minor sources pursuant to new Section II(D). The April 24, 2020 submittal makes administrative and clarifying edits throughout paragraph II(E)(4).

The provision is further revised to update the cross-reference from paragraph II(G)(5) to subsection II(N), which prescribes the required public notice procedures that South Carolina will follow prior to establishing a general synthetic minor construction permit and is further explained in

Section II.A.10. of this document. The 2007 revision also adds that sources may submit an application to the State requesting coverage under the conditions and terms of a general synthetic minor construction permit for similar sources, and the State shall grant coverage to sources certifying qualification for and agreeing to the conditions and terms of the general synthetic minor construction permit for similar sources. Subsequently, the August 8, 2014 submittal makes formatting changes to subparagraph (E)(4)(a) by breaking into four subparagraphs—(E)(4)(a) through (d)—without changing the wording of the rules. After the changes, subparagraphs (E)(4)(a)–(d) would allow the State to issue a general synthetic minor construction permit applicable to similar sources after providing notice and opportunity for public participation under subsection II(N).

EPA has reviewed these changes made to Regulation 61–62.1, subparagraph II(E)(4)(a) and they appear to be consistent with CAA sections 110(a)(2)(C) and 110(l). However, due to the proposed disapproval of subsection II(N) as described below, the revised subsection II(E) lacks the public participation component required under 40 CFR 51.161. Therefore, EPA is proposing to disapprove the changes to South Carolina’s SIP at Regulation 61–62.1, subparagraph II(E)(4)(a).

b. Subparagraph II(E)(4)(c)

The April 24, 2020 submittal makes further edits to subparagraph II(E)(4)(c) by breaking up the subparagraph into two parts. The first part, II(E)(4)(c)(i), was the entirety of the subparagraph as reformatted in the 2014 submittal. The second part, II(E)(4)(c)(ii), introduces a new provision that gives South Carolina sole discretion to grant coverage under a general synthetic minor construction permit for a source that has not requested such coverage, but has submitted an individual synthetic minor construction permit application and the State has determined qualifies for a general synthetic minor construction permit for similar sources.

The April 24, 2020 submittal notes that this reflects current permitting practices for the State and is intended to streamline the application process. It explains that there may be situations where a source has submitted a synthetic minor construction permit application and is unaware of the available general synthetic minor construction permit. In this scenario, if the proposed project qualifies for an issued general synthetic minor construction permit, the State would not

require the source to submit a separate request for coverage under the corresponding general synthetic minor permit. The State would, on its own initiative, process the application as an application for coverage under the general synthetic minor construction permit. EPA believes that this flexibility reflects inherent discretion that the State has within its program to process applications in an efficient manner and is reasonable given that the source has provided enough information for the State to determine that the project would qualify under the general construction permit.

EPA has reviewed these changes made to Regulation 61–62.1, subparagraph II(E)(4)(c), and they appear to be consistent with CAA sections 110(a)(2)(C) and 110(l). However, due to the proposed disapproval of subsection II(N) as described below, the revised subsection II(E) lacks the public participation component required under 40 CFR 51.161. Therefore, EPA is proposing to disapprove these changes to South Carolina’s SIP at Regulation 61–62.1, subparagraph II(E)(4)(c).

c. Subparagraph II(E)(4)(e)

The October 1, 2007 submittal rewrites and simplifies subparagraph (E)(4)(b), which is relettered in the August 8, 2014 submittal to become (E)(4)(e). The 2007 submittal provides the State authority to grant a source’s request for authorization to operate under a general permit without further public notice and says that such a grant shall be a final permit action for purposes of judicial review. The changes made in the October 1, 2007 submittal also removes a redundant sentence that essentially re-stated this and made an additional cross-reference to the public notice procedures. Subsequently, the April 24, 2020 submittal makes minor changes to subparagraph (E)(4)(e) to clarify that the coverage is available for “general synthetic minor construction” permits rather than “general” permits.

EPA has reviewed these changes made to Regulation 61–62.1, subparagraph II(E)(4)(e) and they appear to be consistent with CAA sections 110(a)(2)(C) and 110(l). However, due to the proposed disapproval of Subsection II(N) as described below, the revised subsection II(E) lacks the public participation component required under 40 CFR 51.161. Therefore, EPA is proposing to disapprove the aforementioned changes to South Carolina’s SIP at Regulation 61–62.1, subparagraph II(E)(4)(e).



## d. Subparagraph II(E)(4)(g)

The April 24, 2020 submittal adds new subparagraph (E)(4)(g), which states that a source that qualifies for coverage under a general synthetic minor construction permit may submit a construction permit application to the State and request an individual synthetic minor construction permit in lieu of coverage under a general synthetic minor construction permit.

South Carolina had similar language included in subsection II(D) of the State effective version of Regulation 61–62.1 for general permits since the October 1, 2007 submittal. The State notes that an aim of its submittal is to improve consistency in language for general and registration permits. This provision acknowledges that sources can request that the State issue an individual synthetic minor permits in lieu of coverage under a corresponding general synthetic minor construction permit. This language states that use of a general synthetic minor construction permit is not required, and the State will consider the preference of the source.

EPA has reviewed these changes made to Regulation 61–62.1, subparagraph II(E)(4)(g) and they appear to be consistent with CAA sections 110(a)(2)(C) and 110(l). However, due to the proposed disapproval of subsection II(N) as described below, the revised subsection II(E) lacks the public participation component required under 40 CFR 51.161. Therefore, EPA is proposing to disapprove the aforementioned changes to South Carolina's SIP at Regulation 61–62.1, subparagraph II(E)(4)(g).

## 5. Subsection II(F)—Operating Permits

Subsection II(F), *Operating Permits*, describes provisions for minor operating permits for any true minor stationary source, meaning those sources smaller than the major source thresholds at Regulation 61–62.70, *Title V Operating Permit Program*, and which do not need federally enforceable emission limits to restrict PTE to avoid title V major source status pursuant to subsection II(G). The October 1, 2007 submittal adds a new subsection II(F), *Operating Permits*, in place of former subsection II(F), *Exemptions*, which is renumbered to subsection II(B). In contrast to subsection II(G), *Conditional Major Operating Permits*, subsection II(F) does not require an opportunity for public notice and comment on the covered minor source operating permits.<sup>13</sup> EPA

does not require States to submit minor source operating permit programs to the Agency for incorporation into their SIPs; however, EPA set forth criteria for the approvability of such programs into SIPs in a June 28, 1989 final rule. See 54 FR 27274. Among EPA's criteria for an approvable program is that the operating permits are subject to public participation prior to issuance, which is not the case under subsection II(F). See *id.* at 27282. EPA is therefore proposing to disapprove the entirety of subsection II(F). Specifically, EPA is proposing to disapprove the addition of subsection II(F) transmitted in the October 1, 2007 submittal and other changes made in the August 8, 2014; July 27, 2016; and April 24, 2020.<sup>14</sup> The revisions made to subsection II(F) in the submittals from October 1, 2007; August 8, 2014; and July 27, 2016 submittals were explained and proposed for approval in the NPRM published on August 17, 2017. See 82 FR 39083. No comments were received on the addition of, and changes made to, subsection II(F), and these paragraphs and changes to subsection II(F) are not further explained here as their disapproval is based not on the content of the changes but on the lack of a public notice component. The April 24, 2020 submittal makes several subsequent changes to subsection II(F), as discussed below.

## a. Paragraphs II(F)(2) and (F)(3)

The April 24, 2020 submittal adds subparagraph II(F)(2) to distinguish a specific situation for sources awaiting the issuance of an operating permit from the State. Paragraph II(F)(3), as renumbered from II(F)(2) in this submittal, provides that the professional engineer in charge of the project shall certify that the construction completed under the corresponding construction permit has been completed in accordance with the construction permit and application. This provision allows for the source to operate under the issued construction permit until the State has issued the operating permit if the certification is provided by the engineer. If, however, the construction is not completed in accordance with the permit application and construction permit, this provision requires the owner or operator to submit a

basis, with a copy of each proposed (or draft) and final permit; and provides for an opportunity for public comment on the permit applications prior to issuance of the final permit. See 60 FR 63434, 63435 (December 11, 1995).

<sup>14</sup> Final disapproval of subsection II(F) and changes to subsection II(B) at subparagraph II(B)(2)(h) would leave in place a portion of subsection II(F), *Exemptions*, at subparagraph II(F)(2)(g), State effective June 24, 2005.

description of the modifications from the permit prior to commencing operation. The provision further requires that any construction variances that would trigger additional requirements that have not been addressed prior to commencing operation will be treated as construction without a permit for compliance purposes.

The April 24, 2020 submittal also adds the phrase “when a Department issued construction permit includes engineering and/or construction specifications” to clarify that this provision is intended to function for projects with unique engineering and construction requirements. The new paragraph II(F)(2) covers situations for which construction permits do not include engineering and/or construction specifications for the project.

Specifically, this subparagraph allows for these sources to operate under the issued construction permit until the State issues the operating permit. In applicable situations, there are no engineering or construction specifications that the professional engineer would need to certify. Regardless of the type of minor source construction project, these minor source operating permits must be applied for within 15 days of initial startup. This addition, therefore, is a clarification that not all minor source construction permits will need certification from a professional engineer. However, as discussed above, EPA is proposing to disapprove the entirety of subsection II(F) due to a lack of public notice procedures. Therefore, EPA is proposing to disapprove these changes to South Carolina's SIP at Regulation 61–62.1, paragraphs II(F)(2) and (F)(3).

## b. Paragraph II(F)(5)

The April 24, 2020 submittal also adds an entire section on the ability to develop general minor source operating permits at paragraph II(F)(5). However, similar to Section II(D) for general minor source construction permits, paragraph II(F)(5) would allow for the development and issuance of general true minor source operating permits without first going through public notice and comment. As noted above, States are not required to include minor source operating permit programs in their SIPs, and EPA has identified criteria, including public participation, for approving minor source operating permits into SIPs for those States that elect to submit a program to EPA for incorporation.

EPA has evaluated the changes to subsection II(F) transmitted in the April 24, 2020, submittal and found them to

<sup>13</sup> EPA approved subsection II(G) into the SIP because, among other things, it provides EPA and the public with timely notice of the proposal and issuance of such permits; provides EPA, on a timely



be inconsistent with EPA's criteria for approving minor source operating permit programs into SIPs. Therefore, EPA is proposing to disapprove the ability to create general minor source operating permits at paragraph II(F)(5).

#### 6. Subsection II(G)—Conditional Major Operating Permits

Subsection II(G), *Conditional Major Operating Permits*, describes provisions for synthetic minor operating permits for any stationary source requesting federally enforceable permit limits to limit a source's PTE so the source does not qualify as a major source (thus becoming a minor source "synthetically"). As noted above, EPA set forth criteria for approval of minor source operating permits in its June 28, 1989 final rule. See 54 FR 27274. EPA evaluated these criteria, including adequate public notice procedures, and approved subsection II(G) for conditional major (synthetic minor) operating permits in its December 11, 1995 final rule. See 60 FR 63434. However, these public participation requirements now refer to and depend on subsection II(N), *Public Participation Procedures*, which was modified from paragraph II(G)(5) in the October 1, 2007 submittal.<sup>15</sup> For the reasons explained in Section II.A.10. of this document, EPA is proposing to disapprove subsection II(N). Because EPA is proposing to disapprove the changes that include moving paragraph II(G)(5) to subsection II(N), the updated subsection II(G) would not have a functional cross-reference to applicable public notice procedures and would therefore have the effect of removing the current requirements for public notice from the conditional major operating permits subsection. EPA is therefore proposing to disapprove the changes to subsection II(G). Specifically, EPA is proposing to disapprove the changes transmitted in the October 1, 2007; July 18, 2011; August 8, 2014; July 27, 2016; and April 24, 2020 submittals. The revisions made to subsection II(G) in the submittals from October 1, 2007; July 18, 2011; August 8, 2014; and July 27, 2016 submittals were explained and proposed for approval in the NPRM published on August 17, 2017. See 82 FR 39083. No comments were received on revisions made to subsection II(G), and these changes are not further explained here as their proposed disapproval is based solely on the lack of a public notice component. If EPA takes final action as proposed, the

existing SIP-approved conditional major operating permitting program at subsection II(G) in the SIP, State effective June 24, 2005, would continue to function. Other revisions to subsection II(G) which were submitted subsequent to the August 17, 2017 NPRM are explained below.

#### a. Subparagraph II(G)(2)(d)

The April 24, 2020 submittal removes subparagraph II(G)(2)(d), which was added to II(G)(2)(c) in the October 1, 2007 submittal and restructured to II(G)(2)(d) in the August 8, 2014 submittal.<sup>16</sup> Subparagraph II(G)(2)(d) would allow the owner or operator to continue operating a source pursuant to the most recent conditional major operating permit after submitting a request for renewing its operating permit until the State acts on the permit application. The renewal request must meet requirements in subsection II(H). Subparagraph II(G)(2)(d) is removed, but a substantially similar provision allowing the owner or operator to continue operating a source if a timely renewal application for any operating permit meeting the requirements of subsection II(H) is introduced at subparagraph II(H)(1) in the April 24, 2020 submittal. This is discussed further under changes to subsection II(H) below. For the purposes of subparagraph II(G)(2)(d), removing this provision from subsection II(G) and including the same requirement at subsection II(H) concerning operating permit renewal requests is reasonable because the provision merely requires any request for renewal of conditional major operating permits to comply with requirements in subsection II(H) in order for the source to continue operating while awaiting State action on its timely application. However, due to the disapproval of subsection II(N) as described below, subsection II(G) lacks the public participation component which was a basis for EPA's approval of subsection II(G) into the SIP. EPA is therefore proposing to disapprove this change to subparagraph II(G)(2)(d).

#### b. Subparagraph II(G)(7)(c)

The April 24, 2020, submittal breaks subparagraph (G)(7)(c) into two parts. Subparagraph (G)(7)(c)(i) is a reformatting of the language introduced in the August 8, 2014 submittal. The new provision in the April 24, 2020 submittal is at subparagraph (G)(7)(c)(ii). It states that a source that has submitted an individual permit application to the State and has not requested coverage

under the conditions and terms of a general conditional major operating permit for similar sources, but which is determined to qualify for coverage under a general conditional major operating permit, may be granted coverage under the general conditional major operating permit at the sole discretion of the State.

The April 24, 2020 submittal notes that this reflects current permitting practices for South Carolina and is intended to streamline the application process. It explains that there may be situations where a source has submitted an individual conditional major operating permit application and is unaware of the available general conditional major operating permit. In this scenario, if the proposed project qualifies for an issued general conditional major operating permit, the State would not require the source to submit a separate request for coverage under the corresponding general conditional major operating permit. The State would, on its own initiative, process the application as an application for coverage under the general conditional major operating permit. EPA has reviewed these changes made to Regulation 61–62.1, subparagraph II(G)(7)(c) and they appear to not be inconsistent with EPA's criteria for federally enforceable operating permits. EPA believes that the flexibility in the State's rule reflects inherent discretion that the State has within its program to process applications in an efficient manner and is reasonable if the source has provided enough information for the State to determine that the project would qualify under the general conditional major operating permit. However, due to the proposed disapproval of subsection II(N) as described below, subsection II(G) lacks the public participation component which was a basis for EPA's approval of subsection II(G) into the SIP. Therefore, EPA is proposing to disapprove these changes to South Carolina's SIP at Regulation 61–62.1, subparagraph II(G)(7)(c).

#### c. Subparagraph II(G)(7)(g)

The April 24, 2020 submittal adds subparagraph (G)(7)(g), which states that a source that qualifies for coverage under a general conditional major operating permit may submit a permit application to the State and request an individual conditional major operating permit in lieu of coverage under a general conditional major operating permit. The State had similar language included in Section II(D) for general permits since the October 1, 2007 submittal. The State notes that an aim

<sup>15</sup> The revision to subsection II(G) would move the public participation provision at II(G)(5) to II(N) and include a cross-reference to II(N) within II(G).

<sup>16</sup> Subparagraph II(G)(2)(d) has not been approved into the SIP.

of its submittal is to improve consistency in language for general and registration permits. This provision acknowledges that sources can request that the State issue an individual conditional major operating permit in lieu of coverage under a corresponding general conditional major operating permit. This language states that use of a general conditional major operating permit is not required, and that the State will consider the preference of the source. EPA has reviewed these changes made to Regulation 61–62.1, subparagraph II(G)(7)(g) and they appear found them to not be inconsistent with EPA’s criteria for federally enforceable operating permits. However, due to the proposed disapproval of subsection II(N) as described below, subsection II(G) would lack the public participation component which was a basis for EPA’s approval of subsection II(G) into the SIP. Therefore, EPA is proposing to disapprove the aforementioned changes to South Carolina’s SIP at Regulation 61–62.1, subparagraph II(G)(7)(g).

#### 7. Subsection II(H)—Operating Permit Renewal Requests

South Carolina’s October 1, 2007; July 18, 2011; June 17, 2013; August 8, 2014, and July 27, 2016 submittals revised subsection II(H), *Operating Permit Renewal Requests*, which specifies requirements for requesting renewals of operating permits for sources which are not subject to the State’s title V program at Regulation 61–62.70. Those changes to former paragraph II(B)(2), recodified to subsection II(H) in the October 1, 2007, submittal, were reviewed and proposed for approval in the August 17, 2017 NPRM and are not further discussed here. See 82 FR 39083. The April 24, 2020 submittal makes several subsequent changes to subsection II(G), as discussed below.

First, subparagraph II(H)(1) is added. This subparagraph would allow the owner or operator to continue operating a source pursuant to the most recent conditional major operating permit after submitting a request for renewing its operating permit until South Carolina takes final action on the request for renewal. The renewal request must meet requirements in subparagraphs II(H)(2)–(5), as renumbered from (H)(1)–(4).

Next, subparagraph II(H)(5), formerly II(H)(4), is revised to include requirements that the name, mailing address, email address, and telephone number of both the owner or operator of the facility and the permit contact person for the facility be included in the renewal application. Finally, minor edits are made throughout subsection II(H), including placing the

alphanumeric provision dividers in parentheses. The changes to subsection II(H) in the April 24, 2020 submittal are reasonable changes make to these renewal provisions for operating permits. The ability for the source to continue to operate under the previously issued operating permit if a timely renewal submittal has been made and the State has not yet acted to issue the renewal permit functions like the permit application shield provisions under the Federal title V operating permitting program for major sources at 40 CFR part 70 and approved for South Carolina at Regulation 61–62.70. The remaining changes to subsection II(H) in this submittal are either ministerial or minor in nature, such as requiring additional information to be included in the renewal request compared to what is presently required in the SIP and what EPA also previously proposed to approve in this recodified subsection in the August 17, 2017 NPRM. EPA has reviewed these changes made to Regulation 61–62.1, subsection II(H) and found them to not be inconsistent with EPA’s criteria for federally enforceable operating permits, and to be consistent with similar provisions for Federal provisions for major source operating permits. Therefore, EPA is proposing to approve the aforementioned changes to South Carolina’s SIP at Regulation 61–62.1, subsection II(H). EPA notes that the effect of approving subsection II(H), *Operating Permit Renewal Requests*, as renumbered from paragraph II(B)(2), while disapproving the changes to existing subsection II(H), *Synthetic Minor Plant Permits*, would create a second subsection II(H) in the SIP. If both proposed actions are finalized, the provisions for subsection II(H), *Synthetic Minor Plant Permits*, would retain the June 24, 2005 State effective date, and the provisions for subsection II(H), *Operating Permit Renewal Requests*, would have a April 24, 2020 State effective date.

#### 8. Subsection II(I)—Registration Permits

Subsection II(I), *Registration Permits*, prescribes regulations by which South Carolina can issue registration permits that cover construction and operation of similar types of stationary sources. The October 1, 2007 submittal introduces the new subsection (I) to Section II. South Carolina explains that the difference between registration permits and general construction permits or general operating permits is that registration permits are permits issued for stationary sources that fall within a specified industrial grouping or sector and have the PTE less than the threshold for major NSR or title V

applicability (*i.e.*, they are true minor sources).<sup>17</sup> The equipment similarities within the grouping or sector remove the need for in depth site-specific review. In contrast, general construction permits pursuant to subsection II(D) could be for any source that meets criteria across sections (*e.g.*, similar units, overall emissions threshold).

The July 18, 2011 submittal makes subsequent changes to subsection II(I) as follows: (1) Makes administrative edits; (2) adds language to assert that, regardless of qualification for registration permits, South Carolina reserves the right to require individual construction and operating permits, as determined on a case-by-case basis; and (3) changes language to clarify that registration permits shall contain any applicable permit conditions under subsection II(J), rather than all permit conditions listed in subsection II(J), as the State finds appropriate.

The August 8, 2014 submittal includes other changes to paragraph II(I), including administrative edits throughout and adding language to assert that the State can reopen registration permits for cause or to include new standards or regulations that become applicable during the lifetime of the permit. The August 8, 2014 submittal also removes language at subparagraph (I)(1)(a) requiring the State to provide notice and opportunity for public participation prior to developing new registration permits. However, the State withdrew this change from EPA’s consideration in a letter dated August 7, 2017. In the letter, the State explained that its intent in withdrawing the change was to require the Department to comply with the public participation procedures at subsection II(N) when developing registration permits.<sup>18</sup>

South Carolina has added subsection II(I) to the permitting program to allow for the creation of a subcategory of general permits called registration construction and/or operating permits, which would be for certain industry categories of qualifying true minor sources. This permitting mechanism is intended to streamline permitting requirements and procedures. Any general permits developed pursuant to a SIP-approved minor NSR program must meet the Federal minimum requirements. Unlike the general minor

<sup>17</sup> The State references Regulation 61–62.70, Title V Operating Permit Program; Regulation 61–62.5, Standard No. 7, Prevention of Significant Deterioration; and Regulation 61–62.5, Standard No. 7.1, Nonattainment New Source Review, which prescribe requirements for major sources for the construction and operating permit programs.

<sup>18</sup> The August 7, 2017, withdrawal letter is available in the docket for this NPRM.

NSR permits provided for at Section II(D) of Regulation 61–62.1, subsection II(I) would require public notice and comment in developing the general construction and/or operating permits. However, these public participation requirements refer to and depend on subsection II(N), *Public Participation Procedures*, which was moved and modified from paragraph II(G)(5) in the October 1, 2007 submittal. For the reasons explained in Section II.A.10. of this document, EPA is proposing to disapprove subsection II(N). Because EPA is proposing to disapprove the changes to move paragraph II(G)(5) to subsection II(N), the new subsection II(I) would not have a functional cross-reference to those public notice procedures in the SIP as the State intends. EPA is therefore proposing to disapprove the entirety of subsection II(I). Specifically, EPA is proposing to disapprove the addition of subsection II(I) and subsequent changes transmitted in the October 1, 2007, July 18, 2011, August 8, 2014, and April 24, 2020 submittals. The revisions made to subsection II(I) in the submittals from October 1, 2007; July 18, 2011; and August 8, 2014 submittals were explained and proposed for approval in the NPRM published on August 17, 2017. *See* 82 FR 39083. However, EPA received adverse comments on subsection II(I). Other revisions to subsection II(I) which were submitted subsequent to the August 17, 2017 NPRM are explained below.

a. Subparagraph II(I)(2)(a)(ii)

The April 24, 2020 submittal breaks subparagraph II(I)(2)(a) into two parts. The first part—II(I)(2)(a)(i)—revises and clarifies language from II(I)(2)(a). The second part—II(I)(2)(a)(ii)—gives the State sole discretion to grant coverage under a registration permit to a qualifying source that applied for a construction and operating permit under Sections II(A) and II(F) even if the source did not request coverage under the registration permit.

The April 24, 2020 submittal notes that this reflects current permitting practices for the State and is intended to streamline the application process. It explains that there may be situations where a source has submitted a minor construction permit application and is unaware of the available registration minor construction permit. In this scenario, if the proposed project qualifies for an issued registration minor construction permit, the State would not require the source to submit the separate request for coverage under the corresponding registration minor permit. The State would, on its own

initiative, process the application as an application for coverage under the general conditional major operating permit. EPA has reviewed these changes made to Regulation 61–62.1, subparagraph II(I)(2)(a)(ii) and they appear to be consistent with CAA sections 110(a)(2)(C) and 110(l) and 40 CFR 51.160–164. EPA believes that this flexibility reflects inherent discretion that the State has within its program to process applications in an efficient manner and is reasonable given that the source has provided enough information for the State to determine that the project would qualify under the registration (general) permit. However, due to the proposed disapproval of subsection II(N) as described below, this provision lacks the public participation component required under 40 CFR 51.161. Therefore, EPA is proposing to disapprove these changes to South Carolina's SIP at Regulation 61–62.1, subparagraph II(I)(2)(a)(ii).

b. Subparagraph II(I)(2)(e)

South Carolina's April 24, 2020 submittal adds subparagraph II(I)(2)(e), which states that a source that qualifies for coverage under a registration permit may submit a permit application to the State and request an individual permit in lieu of coverage under a general registration permit.

South Carolina had similar language in Section II(D) for general permits since the October 1, 2007 submittal. South Carolina notes that an aim of its April 24, 2020, submittal is to improve consistency in language for general and registration permits. This provision acknowledges that sources can request that the State issue an individual minor construction permit in lieu of coverage under a corresponding registration (general) minor construction permit. This language notes that use of a registration minor construction permit is not required and that the State will consider the preference of the source. EPA has reviewed these changes to Regulation 61–62.1, subparagraph II(I)(2)(e) and they appear to be consistent with CAA section 110. However, due to the proposed disapproval of subsection II(N) as described below, this provision lacks the public participation component required under 40 CFR 51.161. Therefore, EPA is proposing to disapprove the aforementioned changes to Regulation 61–62.1, subparagraph II(I)(2)(e).

9. Subsection II(K)—Exceptions

Regulation 61–62.1, subsection II(K) sets forth factors that the State will consider in determining whether to

impose alternative emissions limits, compliance schedules, or other restrictions. The October 1, 2007 submittal makes non-substantive changes to this subsection, including moving subsection II(K), *Exceptions*, from subsection II(D) and makes minor administrative and typographical changes. This provision says that this subsection does not apply to mass emission limitations imposed by Federal New Source Performance Standards, Federal National Emissions Standards for Hazardous Air Pollutants, Federal or State PSD regulations, or any nonattainment requirements. Therefore, the provisions in subsection II(K) cannot be utilized for changing any emission limits set via those requirements. Subsection II(K) also requires an air quality demonstration to revise emission limits or visibility standards. Any alternative compliance schedules requested would need to provide for compliance with the applicable regulations as expeditiously as practicable. Finally, the exceptions from otherwise previously established restrictions on operation would be subject to public notice and opportunity for a public hearing. The April 24, 2020 submittal makes formatting changes by placing the alphanumeric provision dividers in parentheses.

EPA has reviewed these non-substantive changes made to subsection II(K), *Exceptions*, and found them to be consistent with CAA sections 110(a)(2)(C) and 110(l) and 40 CFR 51.160–164. This process for establishing alternative permit conditions, compliance schedules, or other restrictions on operation of a source, which is already part of the SIP, provides for a substantive evaluation of the impacts of making the changes to otherwise applicable requirements. These provisions effectively require substantively similar provisions to the issuance of a construction permit to approve the exceptions to previously established permit terms. Therefore, EPA is proposing to approve the aforementioned changes to Regulation 61–62.1, subsection II(K), into the SIP.

10. Subsection II(N)—Public Participation Procedures

The October 1, 2007 submittal makes changes to the public notice provisions in Section II, as follows. SIP-approved subparagraph II(G)(5) is moved from under the subsection titled *Conditional Major Operating Permits*<sup>19</sup> to a new

<sup>19</sup> One of the revisions to subsection in the October 1, 2007, submittal was retitling subsection G from “*Conditional Major Source Permits*” to “*Conditional Major Operating Permits*.”

standalone subsection at II(N) titled *Public Participation Procedures*. The submittal adds the following language providing the State with discretion to require notice of permitting activity, even when not otherwise required by the State's regulations: "When determined to be appropriate by the Department (or specified by regulation) notice of permitting activity shall be provided to the public and other entities for their review and comment." SIP-approved Section II only requires public notice for conditional major (operating) permits and synthetic minor (construction) permits. By adding this new language and moving the public participation procedures to a new standalone paragraph, the rule expands the types of permits potentially subject to public notice. The October 1, 2007 submittal also adds language stating that the State may use means other than publishing in newspapers, the *State Register*, and mailing lists to notify the public of minor source permitting.

The July 18, 2011 submittal removes the phrase "or operating" from the restriction in subparagraph II(N)(5) that prevents sources from commencing any construction prior to completing the required public participation procedures because the State authorizes construction via a construction permit rather than a minor source operating permit. Sources are required by Regulation 61–62.1 subparagraph II(F)(4)(b) to submit a postmarked written application for minor source operating permits within 15 days after the actual date of initial startup of each new or modified source.

Next, the August 8, 2014 submittal modifies paragraph (N)(1) to add the Department's website as another option for notifying the public of permitting activity in addition to newspapers and the *South Carolina State Register*.<sup>20</sup> The submittal then changes paragraph (N)(2) to restructure the required elements of the public notice into new subsections, (a) through (g). The submittal also revises language and adds subparagraphs (a) and (b) to paragraph (N)(3) to identify how the State will address and record comments, and broadens the State's procedures to require the State to consider all comments received at any public hearing rather than only those received in writing at a public hearing.<sup>21</sup> The

<sup>20</sup> In addition to the publication outlets, the SIP-approved regulation requires the State to notify persons who requested in writing to be on a mailing list, as well as others on a mailing list developed by the State.

<sup>21</sup> The SIP-approved regulation also requires the State to consider and provide a written response to

August 8, 2014 revision to paragraph (N)(3) also removes language requiring the State to provide a written response to all written comments received by mail and at the public hearing, providing that all comments received within the time specified in the public notice will be considered, and that the State will maintain a record of commenters and the comments made.

Finally, the April 24, 2020 submittal revises paragraph (N)(1) to change the option to post on the Department's website to an option to post on a public website identified by the Department. The submittal also makes minor and ministerial changes to paragraph (N)(1), including to note that "additional means of public notice" may include public meetings. This submittal also changes the word "other" to "additional" means of public notice, to clarify that the other methods are required, while avenues like public meetings can also be used on a case-by-case basis.

The changes in the October 1, 2007 submittal to allow for other methods of public notice, and in the April 24, 2020 submittal to explicitly list a public website identified by the Department as a possible method of public notice, are consistent with the minor NSR public notice regulations at 40 CFR 51.161.<sup>22</sup> The Department can therefore make use of a website, public hearings, and other methods in lieu of or in addition to publication in a newspaper. The provisions at subsection II(N) prescribe generally applicable public notice procedures, and additional public notice requirements are contained in the major NSR and major operating permit (title V) regulations at Regulation 61–62.5, Standard No. 7, *Prevention of Significant Deterioration (PSD)*, 61–62.5, Standard No. 7.1, *Nonattainment New Source Review (NSR)*, and 61–62.70, *Title V Operating Permit Program*.

While the changes to the public notice requirements in the October 1, 2007 submittal applying public notice procedures to permitting activities beyond conditional major (operating) permits and synthetic minor (construction) permits at the State's discretion are an improvement, they do not fully satisfy the public notice procedures in 40 CFR 51.161. The

all written comments received by mail within the time specified for the public comment period.

<sup>22</sup> EPA has previously noted that the public notice requirement at 40 CFR 51.161(b)(3) is media neutral, and EPA modified 40 CFR 51.161 in an October 18, 2016, final rule to specifically allow for electronic notice of the draft permit and other information, including for synthetic minor sources. See 81 FR 71613.

Federal regulations provide that the legally enforceable procedures in 40 CFR 51.160 must require that the State provide for opportunity for public comment on the information submitted to the State by owners and operators, the State's analysis of the effects of the construction or modification of the project, and the State's proposed decision. In other words, in order for the SIP to meet the public notice requirements in 40 CFR 51.161, all of the projects that South Carolina determines are subject to minor NSR procedures pursuant to 40 CFR 51.160(e) need to be subject to public notice procedures prescribed in the SIP. While the changes transmitted in the October 1, 2007 submittal may increase the level of public participation in the minor NSR program, subsection II(N) as submitted, and as modified further in the July 18, 2011; August 8, 2014; and April 20, 2020 submittals, does not meet the minimum requirements in 40 CFR 51.160 and 51.161. Accordingly, EPA is proposing to disapprove subsection II(N).

### III. 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, and as discussed in Section II of this preamble, EPA is proposing to incorporate by reference South Carolina Regulation 61–62.1, Section II, *Permit Requirements*, State effective April 24, 2020, except for the following: subsection II(G), which is incorporated by reference with a State effective version of June 24, 2005; subsection II(B) at paragraph II(B)(2)(h); subsection II(B) at paragraph II(B)(3); subsection II(B) at paragraph II(B)(5); subsection II(B) at paragraph II(B)(6); subsection II(D); subsection II(F), except for the title and subparagraph II(F)(2)(g), which are incorporated by reference with a State effective date of June 24, 2005; and subsection II(I).<sup>23</sup> EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://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).

<sup>23</sup> If EPA finalizes disapproval of subsection II(E), *Synthetic Minor Construction Permits*, subsection II(H), *Synthetic Minor Plant Permits*, State effective June 24, 2005, would remain in the SIP. Additionally, final approval of subsection II(H), *Operating Permit Renewal Requests*, State effective April 24, 2020, would result in two subsections II(H) within into the SIP.

#### IV. Proposed Action

EPA is proposing to approve the portions of the SIP revisions consisting of the following changes: parenthesizing of the lettering and numbering of the titles of the sections and spelling out certain words instead of using numerical notation in Regulation 61–62.1, Section II, *Permit Requirements*, in the April 24, 2020, submittal; the aforementioned changes to Regulation 61–62.1, subsection II(B), except for subparagraph II(B)(2)(h), and paragraphs II(B)(3), II(B)(5), or II(B)(6); the changes to subsection II(C); the addition of and changes to subsection II(H), and the restructuring of and changes to subsection II(K). EPA is proposing to approve the aforementioned changes to the SIP for the reasons discussed in Section II of this document.

For the aforementioned reasons, EPA is also proposing to disapprove the portions of the South Carolina SIP revisions consisting of changes to: Regulation 61–62.1, subsection II(B) at paragraph (2)(h); paragraphs II(B)(3), II(B)(5), and II(B)(6); the addition of and changes to subsection II(D); the restructuring of and changes to subsection II(E);<sup>24</sup> the addition of and changes to subsection II(F);<sup>25</sup> the addition of and changes to subsection II(I); and the restructuring of and changes to subsection II(N).

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to review State choices, and approve those choices if they meet the minimum criteria of the Act. Accordingly, this proposed approval proposes to partially approve and partially disapprove a SIP submission as meeting or not meeting Federal requirements, respectively, and does not impose additional requirements beyond those imposed by State law.

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

##### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This proposed action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

##### B. Paperwork Reduction Act (PRA)

This proposed action does not impose an information collection burden under the PRA because it does not contain any information collection activities.

##### C. Regulatory Flexibility Act (RFA)

I certify that this proposed action will not have a significant economic impact on a substantial number of small entities under the RFA. This proposed action will not impose any requirements on small entities because it merely partially approves and partially disapproves a SIP submission as meeting or not meeting Federal requirements, respectively.

##### D. Unfunded Mandates Reform Act (UMRA)

This proposed action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The proposed action imposes no enforceable duty on any State, local or Tribal governments or the private sector.

##### E. Executive Order 13132: Federalism

This proposed action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

##### F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Because this proposed action merely partially approves and partially disapproves State law as meeting Federal requirements and does 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 Tribal 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.

##### G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. Therefore, this proposed action is not subject to Executive Order 13045 because it merely proposed to partially approve and partially disapprove a SIP submission as meeting or not meeting Federal requirements, respectively. Furthermore, EPA's Policy on Children's Health does not apply to this action.

##### H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

This proposed action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

##### I. National Technology Transfer and Advancement Act (NTTAA)

This proposed rulemaking does not involve technical standards.

##### J. Executive Order 12898 and Executive Order 14096: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations and Revitalizing Our Nation's Commitment to Environmental Justice for All

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with EJ concerns to the greatest extent

<sup>24</sup> See footnote 21.

<sup>25</sup> Final disapproval of subsection II(F) and subparagraph II(B)(2)(h) would leave subparagraph II(F)(2)(g), State effective June 24, 2005, in the SIP.

practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation's Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements E.O. 12898 and defines EJ as among other things, the just treatment and meaningful involvement of all people regardless of income, race, color, national origin, or Tribal affiliation, or disability in agency decision-making and other Federal activities that affect human health and the environment.

South Carolina did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the proposed action being taken here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898/14096 of achieving EJ for communities with EJ concerns.

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

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

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

Dated: January 6, 2025.

**Jeanne Gettle,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2025-00438 Filed 1-17-25; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 136

[EPA-HQ-OW-2024-0328; FRL 11799-01-OW]

RIN 2040-AG37

### Clean Water Act Methods Update Rule 22 for the Analysis of Contaminants in Effluent

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

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is proposing to promulgate new methods and update

the tables of approved methods for the Clean Water Act. The Clean Water Act requires the EPA to promulgate test procedures for the analysis of pollutants. Promulgating new methods and updating the tables of approved methods increases the quality and consistency of data collected for the purposes of the Clean Water Act. In this rule, the EPA proposes to add new EPA methods for per- and polyfluoroalkyl substances (PFAS) and polychlorinated biphenyl (PCB) congeners, and add methods previously published by voluntary consensus bodies that industries and municipalities would use for reporting under the EPA's National Pollutant Discharge Elimination System permit program. The EPA also proposes to withdraw the seven Aroclor (PCB mixtures) parameters. In addition, the EPA is proposing to simplify the sampling requirements for two volatile organic compounds, and make a series of minor corrections to existing tables of approved methods. This proposed rule does not mandate when a parameter must be monitored or establish a discharge limit.

**DATES:** Comments must be received on or before February 20, 2025.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA-HQ-OW-2024-0328, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.
- **Mail:** U.S. Environmental Protection Agency, EPA Docket Center, Office of Water Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- **Hand Delivery or Courier:** EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

**Instructions:** All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Adrian Hanley, Engineering and Analysis Division, Office of Water (4303T), Environmental Protection Agency, 1200 Pennsylvania Avenue

NW, Washington, DC 20460-0001; telephone number: 202-564-1564; email address: [hanley.adrian@epa.gov](mailto:hanley.adrian@epa.gov).

#### **SUPPLEMENTARY INFORMATION:** Table of Contents

- I. Public Participation
- II. General Information
- III. Background
- IV. Corrections or Amendments to the Text and Tables of 40 CFR part 136
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

#### **I. Public Participation**

##### *A. Written Comments*

Submit your comments, identified by Docket ID No. EPA-HQ-OW-2024-0328, 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 to the EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), 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. The 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). Please visit <https://www.epa.gov/dockets> for additional submission information; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments. Publicly available docket materials are available electronically in <https://www.regulations.gov> at the Water Docket in EPA Docket Center, EPA/DC, EPA West William J. Clinton Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Any copyright material can be viewed at the Reading Room, please contact the EPA Docket Center, Public Reading Room. The telephone number for the Public Reading Room is 202-566-1744, and the telephone number for the Water Docket is 202-566-2426. Fax: 202-566-9744. Email: [docket-customerservice@epa.gov](mailto:docket-customerservice@epa.gov).