Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

B. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T09–1337 to read as follows:

§ 165.T09–1337 Safety Zone; Huron River, Huron, OH.

(a) *Location.* The following area is a safety zone: All navigable waters of the Huron River within a 150-yard radius of 41°23′34.6″ N, 82°33′07.7″ W in Huron, OH. These coordinates are based on the North American Datum 83 (NAD 83).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Detroit (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 6:00 p.m. to 6:30 p.m. on December 5, 2026.

Caren C. Damon,

Captain, U.S. Coast Guard, Captain of the Port Sector Detroit.

[FR Doc. 2026–23304 Filed 11–13–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0359; EPA–R04–OAR–2024–0241; and EPA–R04–OAR–2025–0017; FRL–13063–02–R4]

Air Plan Partial Approval and Partial Conditional Approval; South Carolina; Minor Source Permit Program Revisions and Control of Oxides of Nitrogen and Source Testing Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is approving changes to South Carolina's State Implementation Plan (SIP) which revise the State's source testing requirements and its regulations prescribing minor source permit program requirements, including minor new source review (NSR) requirements, and partially approving and partially conditionally approving regulations prescribing control requirements for certain stationary sources of nitrogen oxides (NO_X) in SIP revisions submitted by the State of South Carolina, through the South Carolina Department of Environmental Services (SC DES), on October 1, 2007; July 18, 2011; June 17, 2013; August 8, 2014; January 20, 2016; July 27, 2016; September 5, 2017; April 24, 2020; February 4, 2022; and July 23, 2025. This action is being finalized pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective December 16, 2026.

ADDRESSES: The EPA has established three dockets for this action under Docket Identification Nos. EPA–R04–OAR–2017–0359; EPA–R04–OAR–2024–0241; and EPA–R04–OAR–2025–0017. All documents in the dockets are listed on the *regulations.gov* website. Although listed in the indices, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov* or in hard copy at the Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth

Street SW, Atlanta, Georgia 30303–8960. The EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Faith Goddard, Multi-Air Pollutant Coordination Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8757. Ms. Goddard can also be reached via electronic mail at *goddard.faith@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA uses multiple acronyms and terms in this action. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

APA Administrative Procedure Act
BACT Best Available Control Technology
BEA Bureau of Economic Analysis
CAA Clean Air Act
CEMS Continuous Emissions Monitoring Systems
CFR Code of Federal Regulations
CMS Continuous Monitoring Systems
CO Carbon Monoxide
COMS Continuous Opacity Monitoring Systems
CPMS Continuous Parametric Monitoring Systems
EPA Environmental Protection Agency
FIP Federal Implementation Plan
FR Federal Register
GDP Gross Domestic Product
LMP Limited Maintenance Plans
MRR Monitoring, Recordkeeping, and Reporting
NAAQS National Ambient Air Quality Standard or Standards
NEI National Emissions Inventory
NESHAPs National Emission Standards for Hazardous Air Pollutants
NO_X Nitrogen Oxides
NOD Notice of Drafting
NSPS New Source Performance Standards
NSR New Source Review
OAR Office of Air and Radiation
OFR Office of the Federal Register
PEMS Predictive Emissions Monitoring Systems
PM Particulate Matter
$PM_{2.5}$ Fine PM
PM10 Coarse PM
PSD Prevention of Significant Deterioration
PTE Potential to Emit
RFP Reasonable Further Progress
SC DES South Carolina Department of Environmental Services
SC DHEC South Carolina Department of Health and Environmental Control
SCCC South Carolina Chamber of Commerce
SCMA South Carolina Manufacturers Alliance
SCMC South Carolina Manufacturers + Commerce
SIP State Implementation Plan
SO_2 Sulfur Dioxide
TPY Tons Per Year
VOC Volatile Organic Compound

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I. Executive Summary

A. What action is the EPA taking?

In this action, the EPA is finalizing, entirely or in part, as described below, four proposed rulemakings. The EPA is finalizing three actions, one entirely and two in part, in which the Agency proposed to approve changes to the State's minor source permit program, including minor New Source Review (NSR), and one action in its entirety in which the Agency proposed to approve changes to its source testing requirements and to partially approve or conditionally approve changes to the State's regulations prescribing control requirements for certain stationary sources of nitrogen oxides (NO_X) in the South Carolina SIP. Specifically, in this action, the EPA is finalizing portions of an August 17, 2017, Proposed Rule in which the Agency proposed to approve changes to the State's minor source permitting program, including its minor NSR program, in SIP revisions submitted by SC DES through July 27, 2016.[1] The EPA is also finalizing portions of a January 21, 2025, Proposed Rule in which the Agency proposed to partially approve changes to the State's minor source permitting program in SIP revisions submitted through April 24, 2020.[2] Furthermore, the Agency is finalizing an August 19, 2026, Proposed Rule which proposed to approve additional changes to the State's minor source permitting program (hereinafter ''2026 Minor Source Permitting Proposed Rule'') in SIP revisions submitted by SC DES through July 23, 2025.[3] Finally, in this action, the EPA is finalizing an August 19, 2026, Proposed Rule which proposed to approve changes to the State's source testing requirements and partially approve and partially conditionally approve changes to South Carolina's NO_X control regulations for certain stationary sources (hereinafter ''2026 Source Testing and NO_X Control Proposed Rule'') in SIP revisions submitted through February 4, 2022.[4] As noted above, there are three dockets supporting this final action. Docket No. EPA–R04–OAR–2017–0359 contains information specific to the August 17, 2017, Proposed Rule; Docket No. EPA–R04–OAR–2024–0241 contains information specific to the January 21, 2025, and August 19, 2026, Proposed Rule which proposed changes to the State's minor source permitting provisions; [5] and Docket No. EPA–R04–OAR–2025–0017 contains information specific to the August 19, 2026, Proposed Rule which proposed changes to the State's source testing requirements and NO_X control regulations.

B. What is the legal authority and what are the requirements?

CAA section 110(a)(2)(C) requires that SIPs 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. CAA section 110(a)(2)(C) is the statutory foundation for the regulatory requirements in the portion of the Code of Federal Regulations (CFR) at 40 CFR 51.160–51.164, which apply to all new minor sources and modifications under a State's minor NSR program in accordance with 40 CFR 51.160, which sets forth requirements for ''legally enforceable procedures'' applicable to minor NSR programs. The implementing regulations at 40 CFR 51.160–51.164 serve primarily as the basis for the EPA's evaluation of minor NSR programs, and States have discretion to define the scope of their minor NSR programs within the bounds of CAA section 110 and 40 CFR 51.160–51.164.

[1] *See* 82 FR 39083.

[2] *See* 90 FR 6954.

[3] *See* 91 FR 53558.

[4] *See* 91 FR 53573.

[5] Docket No. EPA–R04–OAR–2024–0241 also contains information specific to a third August 19, 2026, proposed rule which proposed to approve changes to South Carolina's minor source permitting program provisions involving public participation, on which the EPA is not acting in this action. *See* 91 FR 53547.

Under CAA section 110(k)(3), the EPA has a statutory obligation to approve SIP submittals that meet all applicable CAA requirements.[6] Pursuant to CAA section 110(k)(3), the EPA may approve portions of a SIP submittal if those portions meet all the applicable CAA requirements.

Under CAA section 110(k)(4), the EPA may conditionally approve a SIP revision based on a commitment from a State to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the State fails to meet its commitment within one year of the final conditional approval, the conditional approval will be treated as a disapproval.

Additionally, under CAA section 110(l), the EPA cannot approve a SIP revision if it would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) (as defined by CAA section 171), or any other applicable requirement of the CAA.[7] The EPA evaluates CAA section 110(l) non-interference demonstrations on a case-by-case basis considering the circumstances of each SIP revision.

II. Final Action

In this action, the EPA is approving certain changes to South Carolina Code of Regulations Annotated (S.C. Code Ann. Regs.) Regulation 61–62.1, Section II (hereinafter ''Regulation 61–62.1, Section II''), *Permit Requirements.* Specifically, the EPA is approving changes in SIP revisions submitted by SC DES through July 27, 2016, proposed for approval on August 17, 2017, to the prefatory introductory paragraph to Regulation 61–62.1, Section II and subsections II(A), II(C), II(H), II(J), II(M), II(O), and subsection II(B), except for paragraph II(B)(2), subparagraphs II(B)(2)(b), (f), and (h), paragraph II(B)(3), and paragraphs II(B)(5)–(7). The EPA is approving further changes to subsections II(C) and II(H) in a SIP revision submitted by SC DES on April 24, 2020. The EPA is also approving changes submitted by SC DES through April 24, 2020, proposed for approval on January 21, 2025, to subsection II(K) and paragraph II(B)(2), to subparagraphs II(B)(2)(b) and II(B)(2)(f), and to paragraph II(B)(7). Additionally, the EPA is approving substantive and administrative changes to subparagraph II(B)(2)(h), except for the second and third sentences therein,[8] in SIP revisions submitted by SC DES through April 24, 2020, proposed for approval on August 19, 2026. Additionally, the EPA is finalizing further changes to paragraph II(K)(5) in a July 23, 2025, SIP revision, proposed for approval on August 19, 2026. The EPA is also approving administrative edits submitted on April 24, 2020, and proposed for approval on January 21, 2025, to subsections II(A), II(C), II(H), II(J)–II(M), and II(O), and to subsection II(B), except for II(B)(2)(h), which was addressed in the August 19, 2026, Proposed Rule, and paragraphs II(B)(3) and II(B)(5)–(6).[9]

In this action, the EPA is also approving changes to S.C. Code Ann. Regs. Regulation 61–62.1, section IV (hereinafter ''Regulation 61–62.1, Section IV''), *Source Tests,* in their entirety in a SIP revision submitted by SC DES on April 24, 2020, proposed for approval on August 19, 2026.

The EPA is partially approving or conditionally approving changes to S.C. Code Ann. Regs. Regulation 61–62.5, Standard No. 5.2 (hereinafter ''Regulation 61–62.5, Standard No. 5.2''), *Control of Oxides of Nitrogen (NO_X),* in SIP revisions submitted through February 4, 2022, proposed for approval on August 19, 2026. Specifically, the EPA is approving changes to Sections I–III and V–VII, including the reorganization of Sections V–VII. The EPA is also conditionally approving the portions of the SIP revisions consisting of the addition of and, as applicable, changes to Regulation 61–62.5, Standard No. 5.2, Section IV at: paragraphs IV(A)(1) and IV(C)(1); the second prefatory paragraph of subsection IV(D); and subparagraphs IV(A)(1)(a)–(d), IV(A)(2)(a)–(c), IV(B)(2)(a)–(b), IV(C)(1)(a)–(d), IV(C)(3)(c)–(d), and IV(D)(2)(a)–(b). Finally, the EPA is approving the remaining portions of Regulation 61–62.5, Standard No. 5.2, Section IV which are added and revised.

III. Background

A. The EPA's August 17, 2017, and January 21, 2025, Proposed Rules

On October 1, 2007, July 18, 2011, June 17, 2013, August 8, 2014, January 20, 2016, and July 27, 2016, SC DES submitted SIP revisions with changes to the State's minor source permitting program provisions in Regulation 61–62.1, Section II, *Permit Requirements,* which the Agency proposed to approve on August 17, 2017. On January 21, 2025, the Agency re-proposed approval of certain provisions evaluated in the 2017 Proposed Rule, including those that received adverse comments, and did not reconsider, or seek additional comments on, certain provisions evaluated in the 2017 Proposed Rule that did not receive comments. In the January 21, 2025, Proposed Rule, the EPA also proposed to act on further changes to Regulation 61–62.1, Section II in a subsequent SIP revision submitted by the State on April 24, 2020.

This action approves, in part, the following changes to the State's minor source permit program requirements, proposed for approval in the August 17, 2017, Proposed Rule: changes to minor source permitting prefatory language; construction permit applicability, exemptions, and permit application requirements; operating permit renewal requirements; permit conditions; and requirements for transfer of ownership or operation and inspection and entry. This action also approves additional changes to SC DES's minor source permit program requirements proposed for approval in the January 21, 2025, Proposed Rule. The following changes were proposed for approval in the 2025 Proposed Rule and are approved in this action, in part: (1) subsequent changes, *i.e.,* changes submitted after the July 27, 2016, SIP revision, to the State's construction permit application and operating permit renewal requirements, which were proposed for approval in the August 17, 2017, Proposed Rule and which the EPA did not reconsider, or seek additional comments on, in the January 21, 2025, Proposed Rule; (2) changes to construction permit exemptions and permitting exceptions,

[6] *See* 42 U.S.C. 7410(k)(3).

[7] CAA section 110(l) also requires each SIP revision to undergo reasonable notice and public hearing at the state level.

[8] The second and third sentences in subparagraph II(B)(2)(h) that the EPA is not incorporating by reference state: ''Unless otherwise exempt, sources may be exempted under this section at higher emission levels if there is a demonstration that there are no applicable limits or requirements. These applicable requirements include federally applicable limits or requirements.''

[9] As noted above, in this action, the EPA is not finalizing changes involving minor source permitting public participation proposed for approval on August 19, 2026. Specifically, in this action, the EPA is not finalizing changes to Regulation 61–62.1, subsections II(D), II(E), II(F), II(G), II(I), and II(N), submitted by SC DES in SIP revisions through April 24, 2020. This final action approves, in part, April 24, 2020, State-effective versions of subsections II(B), *Exemptions from the Requirement to Obtain a Construction Permit,* and II(H), *Operating Permit Renewal Requests,* including the renumbering of paragraph II(B)(2) to subsection II(H) and the renumbering of subparagraphs II(G)(4)(a)–(e) to subparagraphs II(J)(2)(a)–(e). However, because the Agency is not, in this action, finalizing changes to, in part, subsections II(E), II(F), II(G), or II(N), certain provisions remain in the SIP with June 24, 2005, State-effective dates, *i.e.,* paragraph II(B)(1) under II(B), *Operating Permit,* II(G), *Conditional Major Source Permits,* except for II(G)(4)(a)–(e), and II(H), *Synthetic Minor Plant Permits.* Therefore, with this final action, Regulation 61–62.1, Section II in the South Carolina SIP contains two subsections numbered II(B) and two subsections numbered II(H), with the State-effective dates noted above.

which were re-proposed for approval altogether in the January 21, 2025, Proposed Rule, along with additional changes submitted after the July 27, 2016 SIP revision, where applicable; and (3) universal administrative changes applicable to Section II in its entirety.[10] The details of South Carolina's submissions, as well as the background and the EPA's approval rationale, are described in the respective 2017 and 2025 Proposed Rules.

The EPA received one set of adverse comments on the 2017 Proposed Rule in a joint letter from the Sierra Club, the Center for Biological Diversity, and Our Children's Earth Foundation. These comments are available in the docket for the August 17, 2017, Proposed Rule.[11] In this action, the EPA is not finalizing any portions of the August 17, 2017, Proposed Rule that were the subject of the adverse comment received. Those portions that were the subject of the adverse comment were addressed in the January 21, 2025, Proposed Rule, the Minor Source Permitting Proposed Rule, or an August 19, 2026, proposed rule regarding other portions of the State's minor source permitting program, or South Carolina removed them from the EPA's consideration, as communicated in a July 21, 2026, letter. This action only finalizes portions of the August 17, 2017, Proposed Rule that were not discussed in the adverse comment, as described in Section II of this Final Rule.

In response to the January 21, 2025, Proposed Rule, the EPA received five sets of adverse comments from the following commenters: SC DES, the South Carolina Manufacturers Alliance (SCMA), Century Aluminum, the South Carolina Chamber of Commerce (SCCC), and BMW Manufacturing Co. LLC.[12] The EPA also received a comment from the Southern Environmental Law Center, on behalf of the South Carolina Coastal Conservation League, Sierra Club, and the Southern Alliance for Clean Energy, supporting the disapproval elements of its 2025 proposed action. All comments are available in the docket for the January 21, 2025, Proposed Rule.[13] In this action, the EPA is only addressing a subset of the adverse comments, which were procedural in nature and applied to the entire January 21, 2025, Proposed Rule. The EPA summarizes and responds to these procedural comments, regarding a January 28, 2025, Presidential Memorandum, in Section IV of this action. The remainder of the adverse comments received on the January 21, 2025, Proposed Rule relate to provisions upon which the EPA has re-proposed action in the Minor Source Permitting Proposed Rule and an August 19, 2026, proposed rule, or relate to provisions South Carolina removed from the EPA's consideration in a July 21, 2026, letter. Accordingly, this action only finalizes portions of the January 21, 2025, Proposed Rule that were the subject of general procedural adverse comment, as explained in Section II of this Final Rule.

B. The EPA's August 19, 2026, Minor Source Permitting Proposed Rule

On October 1, 2007, July 18, 2011, August 8, 2014, April 24, 2020, and July 23, 2025, SC DES submitted SIP revisions that included changes to the State's minor source permitting program provisions in Regulation 61–62.1, Section II. This action approves, in part, the following changes to the State's minor source permit program requirements: administrative changes to reflect the restructuring of the South Carolina Department of Health and Environmental Control (DHEC) to the South Carolina Department of Public Health and the SC DES and certain construction permit exemption provisions, proposed for approval in the 2026 Minor Source Permitting Proposed Rule. The details of South Carolina's submissions, as well as the background and the EPA's approval rationale, are described in the 2026 Minor Source Permitting Proposed Rule.[14]

In response to the August 19, 2026, Minor Source Permitting Proposed Rule, the EPA received three sets of adverse comments, one from an individual commenter, and two from anonymous commenters. The EPA also received one set of comments from South Carolina Manufacturers and Commerce (SCMC),[15] one set from SC DES, and one set from an individual commenter,[16]

[10] In the January 21, 2025, Proposed Rule, the EPA proposed to disapprove portions of the State's SIP revisions with changes to Regulation 61–62.1, Section II. Specifically, the EPA proposed to disapprove subparagraph II(B)(2)(h); paragraphs II(B)(3), II(B)(5), and II(B)(6); and subsections II(D), II(E), II(F), II(G), II(I), and II(N), for reasons described therein. In this action, the Agency is not finalizing any portions of the January 21, 2025, partial disapproval and, therefore, is also not finalizing universal administrative changes applicable to those provisions proposed in that 2025 Proposed Rule. The EPA is also not responding to adverse comments addressing those portions of the January 21, 2025, Proposed Rule that the Agency is not finalizing as a part of this action. However, in this action, the EPA is finalizing relevant changes to subparagraph II(B)(2)(h), which were subsequently proposed for approval in the August 19, 2026, Proposed Rule. *See* 91 FR 53558. On August 19, 2026, in addition to the 2026 Minor Source Permitting and Source Testing and NO_X Control Proposed Rules, the EPA published a third Proposed Rule which proposed to approve changes to South Carolina's minor source permitting program provisions involving public participation, including administrative changes applicable to those provisions, contingent on the EPA finalizing a proposed change to relevant national regulations. *See* 91 FR 53547. In this action, the EPA is not finalizing the changes involving minor source permitting public participation proposed for approval in that August 19, 2026, Proposed Rule.

[11] Docket No. EPA–R04–OAR–2017–0359, available at *https://www.regulations.gov/docket/EPA-R04-OAR-2017-0359.*

[12] The comment from BMW Manufacturing Co., LLC supported comments on the January 21, 2025, Proposed Rule from SC DES, SCMA, and SCCC, ''as they object to the EPA's proposed disapproval,'' which the EPA is not finalizing in this action, and contained no additional substantive comments. Where relevant SCMA and SCCC comments are addressed in this action, the EPA's responses also cover BMW Manufacturing Co., LLC's supporting comments, as applicable.

[13] Docket No. EPA–R04–OAR–2024–0241, available at *https://www.regulations.gov/docket/EPA-R04-OAR-2024-0241.*

[14] *See* 91 FR 53558 (Aug. 19, 2026).

[15] SCMC's comment addressing, in part, the 2026 Minor Source Permitting Proposed Rule was submitted in response to the August 19, 2026, Proposed Rule which proposed to approve certain changes to South Carolina's minor source permitting program provisions involving public participation, which was collocated in Docket No. EPA–R04–OAR–2024–0241 with the Minor Source Public Participation Proposed Rule. *See* 91 FR 53547. In this action, the EPA is not finalizing the changes involving minor source permitting public participation proposed for approval in that Proposed Rule, but the Agency is addressing the portion of SCMC's comments relevant to the 2026 Minor Source Permitting Proposed Rule, which was collocated in Docket No. EPA–R04–OAR–2024–0241 with the Minor Source Public Participation Proposed Rule. SCMC takes issue with a statement in the August 19, 2026, Minor Source Permitting Proposed Rule which notes that ''the current SIP does not include specific exemptions from permitting for sources emitting SO_2, NO_X, or CO'' and frames the exemptions in the existing SIP inconsistently with the EPA's August 19, 2026, Proposed Rule but ''supports [the] EPA's proposed approval of the current exemption thresholds'' and ''respectfully encourages [the] EPA to finalize,'' in part, the 2026 Minor Source Permitting Proposed Rule ''as proposed.'' *See* 91 FR 53558, 53564. Therefore, the EPA interprets SCMC's comment as it relates to the 2026 Minor Source Permitting Proposed Rule as wholly supportive and, in this action, is not addressing SCMC's alternate interpretation of the existing SIP exemption.

[16] One commenter encourages the EPA to ''emphasize oversight, transparency, and protecting air quality.'' The commenter also states that although minor sources of air pollution ''may produce smaller amounts of pollution individually . . . it is important for the EPA and South Carolina to continue considering how emissions from multiple sources can affect air quality within a community.'' The commenter supports the changes proposed to Regulation 61–62.1, Section II in the 2026 Minor Source Permitting Proposed Rule and does not suggest any changes to the EPA's August 19, 2026, Proposed Rule. Therefore, the EPA views this comment as wholly supportive. The commenter also included comments on changes to ''changes to South Carolina's minor source permitting . . . public participation requirements'' in Regulation 61–62.1, Section II, which the EPA proposed action on in a separate August 19, 2026, Proposed Rule, as previously described in this action. *See* 91 FR 53547. These comments are outside the scope of this final action. The comment addressing, in part, the August 19, 2026, Proposed Rule which

Continued

supporting the proposed 2026 Minor Source Permitting action. All comments are available in the docket for the 2026 Minor Source Permitting Proposed Rule.[17] The EPA summarizes and responds to the adverse comments on the 2026 Minor Source Permitting Proposed Rule in Section IV of this action.

C. The EPA's August 19, 2026, Source Testing and NO_X Control Proposed Rule

On October 1, 2007, July 27, 2016, September 5, 2017, April 24, 2020, and February 4, 2022, SC DES submitted SIP revisions including changes to the State's source testing requirements in Regulation 61–62.1, Section IV, *Source Tests,* and NO_X control regulations applicable to certain stationary sources in Regulation 61–62.5, Standard No. 5.2, *Control of Oxides of Nitrogen (NO_X).*

This action approves changes to the State's source testing requirements concerning test plan submission timing and content as well as source testing notification timing and conduct requirements, along with administrative and clarifying edits, submitted by SC DES on April 24, 2020, and proposed for approval in the 2026 Source Testing and NO_X Control Proposed Rule.

This action also finalizes changes to the State's NO_X control regulations submitted by the State on October 1, 2007, July 27, 2016, September 5, 2017, and February 4, 2022, and proposed for approval or conditional approval in the 2026 Source Testing and NO_X Control Proposed Rule. Specifically, this action approves a portion of the State's SIP revisions requesting changes to its NO_X control regulations under provisions involving applicability and exemptions, definitions, NO_X emission limits and/or control requirements for new sources, certain monitoring, recordkeeping, and reporting (MRR) and testing requirements for new sources, and NO_X control, notification, and tune-up requirements for existing sources. This action also conditionally approves a portion of the State's SIP revisions requesting changes to certain MRR and testing requirements for new sources in its NO_X control regulations. On May 13, 2026, SC DES submitted supplemental materials, including a letter requesting that the EPA conditionally approve portions of the State's NO_X control SIP revisions based on a commitment under CAA section 110(k)(4) to adopt and submit corrective revisions to portions of the SIP provisions before the EPA no later than one year after the EPA's conditional approval of South Carolina's submissions. In this action, the EPA is finalizing the partial conditional approval as proposed on August 19, 2026. The details of South Carolina's submissions, as well as the background and the EPA's approval and conditional approval rationale, are described in the 2026 Source Testing and NO_X Control Proposed Rule.

In response to the August 19, 2026, Source Testing and NO_X Control Proposed Rule, the EPA received one set of adverse comments from an individual, and one set from an anonymous commenter. The EPA also received one set of comments from SCMC and one set from SC DES supporting the proposed 2026 Source Testing and NO_X Control action. All comments are available in the docket for the 2026 Source Testing and NO_X Control Proposed Rule.[18] The EPA summarizes and responds to the adverse comments on the 2026 Source Testing and NO_X Control Requirements Proposed Rule in Section IV of this action.

IV. Responses to Comments

A. Comments on the EPA's January 21, 2025, Proposed Rule Relevant to This Final Action

As noted above, in response to the January 21, 2025, Proposed Rule, the EPA received several sets of comments regarding its proposed disapproval of certain provisions in that Proposed Rule. In this action, the Agency is not finalizing the portions of the January 21, 2025, Proposed Rule which proposed to disapprove certain provisions. Therefore, the EPA is not addressing adverse comments related to the substance of its January 21, 2025, proposed partial disapproval. In this section, the EPA is addressing adverse comments related to procedural aspects of the January 21, 2025, Proposed Rule from SCMA, Century Aluminum, and SCCC involving the January 28, 2025, ''Regulatory Freeze Pending Review'' Presidential Memorandum[19] (hereinafter ''Regulatory Freeze Order'') that are not related to the substantive nature of the 2025 proposed disapproval. The EPA summarizes and responds to these procedural comments below.

i. Comment

The commenters state that the January 21, 2025, Proposed Rule is procedurally improper or deficient and contrary to the Presidential Executive Regulatory Freeze Order dated January 20, 2025, which instructs all executive departments and agencies to, in part, (1) ''not propose or issue any rule in any manner'' until reviewed and approved by a department or agency head appointed or designated by the President; (2) immediately withdraw any rules sent to the Office of the Federal Register (OFR) not published in the **Federal Register** (FR) for review and approval as described above; and (3) consider postponing for 60 days the effective date for any rules published in the FR or issued in any manner that have not taken effect, ''for the purpose of reviewing any questions of fact, law, and policy'' raised, and therefore should be ''immediately'' withdrawn or removed ''from publication.''

Specifically, the commenters claim that the 2025 proposal falls within the terms of the Executive Order requiring the immediate withdrawal of any rules sent to the OFR but not published in the FR. SCMA and SCCC further argue that the January 21, 2025, Proposed Rule does not meet the criteria set forth under an exemption to the Order for emergency situations or actions subject to judicial or statutory deadlines requiring prompt action and that the consent decree deadline in place at the time the Proposed Rule was signed and published[20] did not require such prompt action as to preclude review under the Regulatory Freeze Order. SCMA and SCCC conclude that the EPA should ''immediately'' withdraw the January 21, 2025, proposed rule, because it was published without authorization from the President, so it can undergo the process described in

proposed to approve certain changes to South Carolina's minor source permitting program provisions involving public participation was submitted under the 2026 Minor Source Permitting Proposed Rule, which was collocated in Docket No. EPA–R04–OAR–2024–0241 with the Minor Source Public Participation Proposed Rule. *See* 91 FR 53558.

[17] Docket No. EPA–R04–OAR–2024–0241, available at *https://www.regulations.gov/docket/EPA-R04-OAR-2024-0241.* As noted above, SCMC's comment addressing, in part, the 2026 Minor Source Permitting Proposed Rule was submitted under the August 19, 2026, Proposed Rule which proposed to approve certain changes to South Carolina's minor source permitting program provisions involving public participation. *See* 91 FR 53547.

[18] Docket No. EPA–R04–OAR–2025–0017, available at *https://www.regulations.gov/docket/EPA-R04-OAR-2025-0017.*

[19] *See* Memorandum of January 20, 2025; 90 FR 8249 (January 28, 2025).

[20] The consent decree deadline was later extended, in a series of extensions, and bifurcated to November 13, 2026, and March 31, 2027. Through this action, the EPA is taking final action on the portions of South Carolina's SIP submissions subject to the consent decree regarding the State's minor source permit program regulations revising the State's Federally approved minor source preconstruction and operating permit program and the State's source testing requirements and regulations prescribing control requirements for certain stationary sources of NO_X subject to the November 13, 2026 deadline.

the executive order, and Century Aluminum argues that the EPA ''should remove it from publication'' for further assessment regarding the proposal's alignment with the Administration's goals, *e.g.,* the executive order on ''Unleashing American Energy.'' [21]

ii. Response

The January 21, 2025, Proposed Rule is not inconsistent with the January 20, 2025, Presidential Regulatory Freeze Order. The January 2025 Proposed Rule was signed by the Acting Regional Administrator on January 6, 2025. The full version of the January 21, 2025, Proposed Rule was placed on the OFR's pre-publication website on January 17, 2025, with a planned publication date of January 21, 2025. At the time the January 20, 2025, Regulatory Freeze Order was issued, the EPA could no longer withdraw the January 21, 2025, Proposed Rule from the OFR's publication process. The EPA also notes that this action has gone through all necessary and appropriate review at the EPA prior to finalization.

B. Comments on the August 19, 2026, Minor Source Permitting Proposed Rule

As noted above, in response to the August 19, 2026, Minor Source Permitting Proposed Rule, the EPA received three sets of adverse comments on its proposed approval of certain provisions in that Proposed Rule. The EPA summarizes and responds to those adverse comments below.

i. Comment 1

The commenter takes issue with South Carolina's noninterference demonstration underlying the EPA's CAA section 110(l) finding for Regulation 61–62.1, Section II, subparagraph II(B)(2)(h), arguing that, at the ''sector level, the record does not isolate what fraction is attributable specifically to the minor sources actually exempted under this provision'' and requesting that the Agency carry its noninterference finding ''the last, unquantified step to the exempted sources themselves.'' The commenter also states that they find the State's May 13, 2026, CAA section 110(l) demonstration ''adding pollutant-by-pollutant NEI sector breakdowns and NAAQS design-value margin comparisons,'' which the commenter frames as ''narrowed'' by SC DES's July 21, 2026, letter, as ''a reasoned basis for the change'' to the EPA's treatment of subparagraph II(B)(2)(h) in the August 19, 2026, Proposed Rule, relative to the January 21, 2025, proposal. However, the commenter states that ''it inherits the unquantified-exempt-subset gap described above'' because ''the new demonstration still stops at the minor-NSR-sector level rather than the exempted-source level.'' The commenter also states that the State did not ''supply the technical basis for the . . . threshold expansion'' in the August 8, 2014, SIP revision and that there is no ''accompanying technical justification in the record before [the] EPA,'' and the Agency should ask South Carolina to supply one, given that ''two . . . affected pollutants . . . are ozone precursors.'' The commenter further states that the 2026 Minor Source Permitting Proposed Rule ''does not indicate'' and that ''[the] EPA should confirm that the version of subparagraph II(B)(2)(h) actually being approved matches what was . . . noticed for comment . . . or provide an additional comment period.'' The EPA summarizes and addresses these individual comments in Comments 1a through 1c, below.

1. Comment 1a

The commenter argues that ''the record isolates the specific nonpoint sector that includes minor sources regulated under the state's minor NSR program . . . [b]ut . . . does not isolate'' the fraction attributable to the minor sources exempt under subparagraph II(B)(2)(h). The commenter adds that the ''EPA repeatedly states only that exempt sources comprise 'an even smaller,' unquantified fraction of the already-isolated sector total.'' The commenter points to NO_X, volatile organic compound (VOC), and carbon monoxide (CO) percent contributions to total 2020 National Emissions Inventory (NEI) emissions for certain nonpoint sectors identified in the Proposed Rule and states that the ''EPA should require, or independently derive,'' minor source-specific, rather than minor-NSR-sector-specific emissions percentages ''before relying on this demonstration in a final action.''

2. Response 1a

The EPA disagrees with Comment 1a. The NEI is a comprehensive and detailed estimate of, in part, criteria pollutant and criteria precursor air emissions released every three years, based primarily on data provided by State, Local, and Tribal agencies for sources in their jurisdictions, supplemented by data developed by the EPA. As noted in the Proposed Rule, stationary sources subject to the State's minor NSR program and any sources qualifying for exemption from the program, including those exempt under Regulation 61–62.1, Section II, subparagraph II(B)(2)(h), fall into the nonpoint source category. NEI nonpoint sources include emissions estimates for sources which are individually too small in magnitude to report as point sources and typically too small, numerous, or difficult to inventory using methods for other classes of sources.[22] As the State explains in its CAA section 110(l) demonstration, South Carolina's State emissions inventory is limited to major sources, and not all minor stationary source emissions are accounted for in its NEI (*i.e.,* directly reported). This is because minor stationary sources do not trigger ''point source'' reporting requirements and are generally accounted for in the nonpoint inventory. However, as explained in the August 19, 2026, Proposed Rule, the EPA finds that the available 2020 NEI data, which the State divides by source category, then further by sector, indicates that the proportion of emissions that would be automatically exempt under the exemption thresholds in subparagraph II(B)(2)(h) comprise a very small portion of overall emissions in the State. Further, of the limited portion of 2020 NEI emissions attributable to permitted and exempt minor stationary sources, the subset of potentially exempt minor stationary sources comprises an even smaller fraction, as the commenter notes.

Although the commenter takes issue that ''the record does not isolate'' the fraction specifically attributable to minor sources exempt under these thresholds, the EPA evaluates CAA section 110(l) non-interference demonstrations on a case-by-case basis considering the circumstances of each SIP revision.[23] In this case, it is not necessary to derive and evaluate source-specific emissions estimates in lieu of sector-specific emissions estimates, as the commenter states. As discussed in detail in the Proposed Rule, the Agency has evaluated the change to Regulation 61–62.1, Section II, subparagraph II(B)(2)(h) in the SIP to include the addition of the threshold exemptions for certain sources of sulfur dioxide (SO_2), NO_X, and CO and the slightly increased exemption threshold for certain sources of particulate matter (PM), in light of, in part, the State's NAAQS attainment

[21] *See* Executive Order 14154 of January 20, 2025; 90 FR 8353 (Jan. 29, 2025).

[22] *See* 91 FR 53558, 53567 (Aug. 19, 2026). *See also* 40 CFR 51.50.

[23] Under CAA section 110(l), the Agency cannot approve a SIP revision if it would interfere with any applicable requirement concerning attainment and RFP (as defined by CAA section 171), or any other applicable requirement of the CAA.

history, long-term and recent air quality design values and margins between those design values and the NAAQS, and 2020 NEI data for pollutants and precursors. For the reasons stated therein, the EPA has determined that the added or revised exemption thresholds will not interfere with any applicable requirement or RFP, as defined in section 171, or any other applicable requirement of the CAA, and that the State has articulated the basis for setting the scope of its minor NSR program pursuant to CAA section 110(a)(2)(C) and 40 CFR 51.160(e).[24] Therefore, under CAA section 110(k)(3), the Agency is required to approve the changes to subparagraph II(B)(2)(h) submitted in South Carolina's SIP revisions through April 24, 2020.[25]

3. Comment 1b

The commenter states that the increased exemption thresholds in Regulation 61–62.1, Section II, subparagraph II(B)(2)(h), for PM, SO_2, NO_X, and CO in the August 8, 2014, SIP revision are not accompanied by a ''technical justification in the record before [the] EPA'' and that the EPA should request that the State ''supply the technical basis'' for the threshold exemption increase from one pound (lb)/hour to five tons per year (tpy) given that VOC and NO_X are ozone precursors.

4. Response 1b

The EPA disagrees with the commenter that there is no technical justification in the record supporting the changes to the exemption thresholds in Regulation 61–62.1, Section II, subparagraph II(B)(2)(h). The existing SIP exemption in question applies to sources with uncontrolled PM emission rates of less than one lb/hour and/or uncontrolled VOC emission rates of less than 1,000 lb/month. In the Proposed Rule, the EPA evaluated the net changes to the SIP—*i.e.,* the addition of the five tpy total uncontrolled potential to emit (PTE) exemption thresholds for sources of SO_2, NO_X, and CO, and the increased PM exemption threshold from one lb/hour to five tpy based on total uncontrolled PTE rather than uncontrolled emission rates.

As noted in the Proposed Rule, the State's May 13, 2026, CAA section 110(l) demonstration evaluates the revised exemption to support the five tpy thresholds for each of these pollutants.[26] In the case of PM emission sources, the State justified the increased exemption threshold from one lb/hour to five tpy by emphasizing how close the emission rate of 1.14 lb/hour is to the existing SIP-approved one lb/hour threshold [27] and further included a technical justification showing that this slight increase in the threshold would not interfere with the attainment or maintenance of any PM NAAQS.[28] For the other pollutant exemption thresholds (*i.e.,* SO_2, NO_X, and CO), the State addressed the exemption at five tpy for those pollutants,[29] which is the net change to the SIP.

As explained in the 2026 Proposed Rule, the Agency evaluated the 5 tpy exemption thresholds for VOC, PM, SO_2, NO_X, and CO in Regulation 61–62.1, subparagraph II(B)(2)(h), as revised through the April 24, 2020, SIP revision in light of the State's NAAQS attainment history, long-term and recent air quality design values and margins between the design values and respective NAAQS, and 2020 NEI data for pollutants and precursors.[30] This evaluation and the supporting documentation is contained in the record for this action. VOCs and NO_X are ozone precursors, as the commenter notes, and the EPA addressed the pollutant-specific exemptions for VOCs and NO_X in the context of their impacts on ozone as precursors in the Proposed Rule.[31] The EPA evaluated the State's demonstration supporting the net changes to the SIP resulting from the addition of the five tpy total uncontrolled PTE exemption threshold for sources of NO_X in the context of ozone formation. With respect to the exemption for sources of VOCs, an exemption for such sources with uncontrolled emission rates less than 1,000 lb/month is already approved in the SIP and was only altered to clarify the basis of the exemption threshold is total uncontrolled PTE, rather than actual emissions, increasing the stringency of the provision.

5. Comment 1c

The commenter notes that the State's July 21, 2026, letter ''narrowed the scope of what is before EPA'' following the May 13, 2026, conditional approval request ''covering broader text.'' The commenter then states that the Proposed Rule ''does not indicate'' that ''the narrowed language was subject to a fresh comment opportunity'' prior to the 2026 proposed approval and states that the ''EPA should confirm that the version of Regulation 61–62.1, Section II, subparagraph II(B)(2)(h) actually being approved matches what was previously noticed for comment, or provide an additional comment period specific to the narrowed text.''

6. Response 1c

As discussed in the 2026 Minor Source Permitting Proposed Rule, on May 13, 2026, SC DES submitted supplemental materials, including a letter requesting that the EPA conditionally approve portions of the State's minor source permitting SIP revisions, based on a commitment by the State under CAA section 110(k)(4), in part, to revise subparagraph II(B)(2)(h). The supplemental materials included the corrective changes that the State intended to submit in a corrective SIP revision and a CAA section 110(l) demonstration to support the corrective changes and a portion of the SIP submittals for which the State did not request conditional approval.

On July 21, 2026, the State submitted a letter which removed from the EPA's consideration the subset of provisions in Regulation 61–62.1, Section II for which the State, in its May 13, 2026, letter requested conditional approval, superseding the May 13, 2026, request for conditional approval of those same provisions. Specifically, the July 21, 2026, letter removed from the EPA's consideration two sentences within subparagraph II(B)(2)(h), and certain other Section II provisions, submitted in the August 8, 2014, and April 24, 2020, SIP revision, as described in the Minor Source Permitting Proposed Rule. Because the remainder of subparagraph II(B)(2)(h) meets all applicable CAA requirements, the EPA has a statutory obligation to approve that provision pursuant to CAA section 110(k)(3). Furthermore, the removal of the second and third sentences from subparagraph II(B)(2)(h) makes the provision more stringent.

The July 21, 2026, letter also requests that the EPA address changes to certain provisions in Regulation 61–62.1, Section II, noticed through its in-process ''2027 General Assembly Revisions''

[24] CAA section 110(a)(2)(C) requires SIPs to provide for the regulation of the modification and construction of stationary sources ''as necessary to assure that [the NAAQS] are achieved,'' and under 40 CFR 51.160, States' minor NSR programs must set forth legally enforceable procedures that, in part, identify the types and sizes of sources subject to review under the program and discuss the basis for determining which facilities will be subject to review.

[25] Under CAA section 110(k)(3), the EPA has a statutory obligation to approve SIP submittals that meet all applicable CAA requirements.

[26] *See* 91 FR 53558, 53564 (Aug. 19, 2026).

[27] The 1.14 lb/hour emission rate is derived from the form of the new exemption of 5 tpy.

[28] *See* 91 FR 53558, 53569–53572 (Aug. 19, 2026).

[29] *Id.* at 53564 (Aug. 19, 2026).

[30] *Id.* at 53564–53573 (Aug. 19, 2026).

[31] *Id.* at 53565–53566 (Aug. 19, 2026).

State rulemaking in a future separate EPA action through ''parallel processing.'' Parallel processing refers to a concurrent State and Federal proposed rulemaking action on a SIP revision.[32] The changes to subparagraph II(B)(2)(h) in the State's 2027 General Assembly Revisions for which the State requested parallel processing are substantively identical those changes to II(B)(2)(h) originally submitted in the May 13, 2026, conditional approval request, *i.e.,* the removal of the second and third sentences from subparagraph II(B)(2)(h), with the addition of a narrowed case-by-case exemption relative to the withdrawn language.

To support its parallel processing request, the State published a notice of drafting (NOD) of its draft SIP revision containing the changes to subparagraph II(B)(2)(h) in the State's 2027 General Assembly Revisions in the *State Register* on March 27, 2026,[33] and the comment period for the NOD closed on April 27, 2026. On June 26, 2026, the State published a notice of proposed regulation ''and public notice seeking comment on the . . . revisions to the SIP in the . . . *State Register*.'' [34] The comment period for that notice of proposed rulemaking on the draft SIP revision at the State level closed on July 27, 2026. In a June 26, 2026, letter to the EPA, SC DES requested the Agency provide comments on its proposed State rulemaking, and associated draft SIP revision, with respect to, in part, the changes to subparagraph II(B)(2)(h) in the 2027 General Assembly Revisions. The State noted that it ''received one, non-substantive public comment[ ]'' during its NOD comment period. In that letter, SC DES also explained that it ''held external stakeholder meetings to take recommendations and comments on those regulatory amendments identified by the internal workgroup'' and that, ''[t]hrough the stakeholder meetings, the [State] developed amendments to . . . Regulation 61–62 by consensus.'' The State offered its public hearing for the 2027 General Assembly Revisions and associated draft SIP revision, on August 24, 2026, and ultimately canceled the hearing as no requests to hold the hearing were received.

Therefore, to the extent that the commenter takes issue with the changes to subparagraph II(B)(2)(h) as originally included in the State's May 13, 2026, conditional approval request, in the 2026 Proposed Rule, the EPA did not propose to conditionally approve the amendments to subparagraph II(B)(2)(h). Instead, SC DES, in its July 21, 2026, letter, removed those amendments from the EPA's consideration and concurrently withdrew the second and third sentences of paragraph II(B)(2)(h), ''as submitted on August 8, 2014, and April 24, 2020.'' Furthermore, a draft SIP revision containing identical changes to subparagraph II(B)(2)(h), for which the State requested parallel processing, were subject to public notice and comment at the State level as discussed above.

ii. Comment 2

The commenter urges the EPA ''to withdraw its proposed full approval'' of Regulation 61–62.1, Section II in the 2026 Minor Source Permitting Proposed Rule. The commenter contends that that proposed action violates CAA sections 110(a)(2)(A), 110(a)(2)(C), 110(a)(2)(E), and 110(l) and ''fails the arbitrary-and-capricious standard of review under the Administrative Procedure Act (APA).'' The commenter also states that the EPA's ''decision to reverse its prior position'' from the January 21, 2025, proposed partial disapproval of Regulation 61–62.1, Section II to a full approval in the 2026 Minor Source Permitting Proposed Rule relies on commitment letters ''promising future state-level regulatory fixes rather than fully promulgated, legally binding state code.'' The commenter claims that the EPA should ''issue a partial disapproval or formal request for SIP withdrawal'' until South Carolina ''[f]ormally codifies enforceable minor source safeguards into [S]tate administrative code''; ''[r]e-executes'' its ''non-interference demonstration using post-2020 representative emissions inventory baselines''; ''[i]ncorporates practical MRR requirements into Regulation 61–62.1 to prevent Prevention of Significant Deterioration (PSD) circumvention''; and ''[s]upplements the record'' with a CAA section 110(a)(2)(E) demonstration ''verifying adequate DES staffing levels.'' The EPA summarizes and addresses these individual comments in Comments 2a through 2e, below.

1. Comment 2a

The commenter states that the 2026 Minor Source Permitting proposed approval, which supersedes the January 21, 2025, proposed partial disapproval, relies on commitment letters ''promising future state-level regulatory fixes rather than fully promulgated, legally binding state code'' The commenter also contends that the EPA cannot finalize the 2026 Minor Source Permitting proposed approval, in part, because it violates CAA section 110(a)(2)(A). With respect to CAA section 110(a)(2)(A), the commenter notes that ''SIP revisions must contain enforceable emission limitations and control measures at the time of federal approval'' and states that ''[i]nformal [S]tate promises to address regulatory gaps in future rulemaking cycles do not satisfy statutory enforceability mandates.''

2. Response 2a

The commenter appears to misunderstand the nature of the EPA's August 19, 2026, proposed approval. The EPA is not relying on state commitment letters promising future state-level regulatory fixes or promises to address regulatory gaps in future rulemaking cycles. The Agency did not propose to conditionally approve any relevant provisions addressed in 2026 Minor Source Permitting Proposed Rule. As noted above and in the 2026 Minor Source Permitting Proposed Rule, on May 13, 2026, the State submitted supplemental materials, including a letter submitting a conditional approval request, based on a commitment by the State under CAA section 110(k)(4), and a CAA section 110(l) demonstration to support the corrective changes that the State intended to submit in a future corrective SIP revision and to support the portion of the SIP submittals for which the State did not request conditional approval.[35] Also as previously explained, the State submitted a letter superseding the May 13, 2026, letter on July 21, 2026, that removed from the EPA's consideration the subset of provisions in Section II for which the State requested conditional approval. Additionally, the July 21, 2026, letter removed from the EPA's consideration two sentences within subparagraph II(B)(2)(h), with other Section II provisions, submitted through the April 24, 2020, SIP revision, as described in the 2026 Proposed Rule.[36] Therefore, the nature of the State's request for action on its SIP revisions was altered through the May 13, 2026, and the July 21, 2026, letters. Accordingly, in the August 19, 2026, Minor Source Permitting Proposed Rule, with respect to subparagraph II(B)(2)(h), for reasons stated therein, the EPA

[32] This process is outlined in Section 2.3.1 of 40 CFR part 51, Appendix V.

[33] *See* South Carolina *State Register,* Volume 50, Issue 3, available at *https://www.scstatehouse.gov/state_register.php.*

[34] *See* South Carolina *State Register,* Volume 50, Issue 6, available at *https://www.scstatehouse.gov/state_register.php. See also* Document No. 5457, the full copy of the proposed regulatory text at *https://des.sc.gov/permits-regulations/regulations-regulatory-updates/regulations-currently-under-amendment-recently-finalized.* These documents are available in Docket No. EPA–R04–OAR–2024–0241, the docket for this final action.

[35] *See* 91 FR 53558–53559 (Aug. 19, 2026).

[36] *Id.*

proposed to approve minor, administrative, clarifying, and other, substantive changes to subparagraph II(B)(2)(h), except for the second and third sentences, as submitted in the State's SIP revisions through April 24, 2020. The EPA disagrees that the Agency should withdraw the 2026 Minor Source Permitting Proposed Rule until the State formally codifies ''enforceable minor source safeguards into its administrative code,'' because the language that the EPA is approving into the SIP at subparagraph II(B)(2)(h) and paragraph II(K)(5) is State effective and will become federally enforceable upon incorporation into the SIP.

3. Comment 2b

The commenter also contends that the EPA cannot finalize the 2026 Minor Source Permitting proposed approval, in part, because it violates CAA section 110(a)(2)(A) and ''fails the arbitrary-and-capricious standard of review under the APA.'' The commenter cites to ''*State Farm*'' and *Encino Motorcars, LLC* v. *Navarro,* 579 U.S. 211 (2016), which the commenter states ''requires an agency reversing its prior factual or legal findings to provide a reasoned explanation for disregarding its previous record'' and states that the EPA ''fails to articulate a rational connection between the facts found'' in its January 21, 2025, partial disapproval and the 2026 Minor Source Permitting Proposed Rule.

4. Response 2b

The commenter does not support the notion that the 2026 Minor Source Permitting Proposed Rule is arbitrary or capricious under the APA with any evidence or analysis. The commenter simply provides a case name—*State Farm* [37]—and a citation to *Encino Motorcars, LLC* v. *Navarro,*[38] a case which found that a Federal agency has the authority to change its existing position on a final rule, provided it acknowledges the change in position and offers a reasonable explanation for the change. However, the EPA notes that the January 21, 2025, Proposed Rule did not constitute a final Agency action that the EPA had an existing position on. Furthermore, the EPA did articulate a reasonable explanation for changing from the January 21, 2025, proposed partial disapproval of Regulation 61–62.1, Section II, II(B)(2)(h) to the proposed approval of the portion of paragraph II(B)(2)(h) remaining before the EPA in the 2026 Minor Source Permitting Proposed Rule. As explained in the 2026 Minor Source Permitting Proposed Rule, on May 13, 2026, South Carolina submitted a supplemental CAA section 110(l) demonstration. This demonstration supported the substantive changes to Regulation 61–62.1, Section II in subparagraph II(B)(2)(h) proposed for approval in the 2026 Minor Source Permitting Proposed Rule. Additionally, in the July 21, 2026, letter, the State removed the portion of subparagraph II(B)(2)(h) providing the case-by-case exemption that the Agency was concerned with in the January 2025 Proposed Rule. Together, these letters provide a reasoned basis for the EPA's revised treatment of subparagraph II(B)(2)(h) in the 2026 Proposed Rule. Moreover, in this action, the EPA is also finalizing the portion of the SIP revisions to Regulation 61–62.1, Section II proposed for approval in the January 21, 2025, Proposed Rule and the August 17, 2017, Proposed Rule that the State did not remove from the EPA's consideration and which is not contingent on the finalization of a relevant national rulemaking, because there was not a reasoned basis to revise its previous interpretation that those provisions meet applicable statutory and regulatory requirements.

5. Comment 2c

The commenter takes issue with the EPA's noninterference evaluation under CAA section 110(l) supporting the changes to Regulation 61–62.1, Section II proposed in the 2026 Minor Source Permitting Proposed Rule, which they state ''relies on 2020 [NEI] baseline data to project that expanded minor source exemptions will not interfere'' with NAAQS attainment or RFP. Specifically, the commenter states that the 2020 NEI is a corrupted emissions baseline and ''reflects anomalous, pandemic-suppressed industrial output and transportation activity.'' The commenter further argues that using ''an artificially depressed baseline to model ambient impacts from minor source exemptions fails to provide a conservative or scientifically defensible projection of ambient air impacts.'' The commenter also argues that the EPA omitted cumulative impact analyses and ''failed to evaluate the aggregate, cumulative emission increases resulting from multiple unpermitted registration sources operating within the same air quality control region.''

6. Response 2c

The EPA disagrees with the commenter. As noted above, the NEI is a comprehensive and detailed estimate of, in part, criteria pollutant and criteria precursor air emissions that is released every three years, based primarily on data provided by State, Local, and Tribal agencies for sources in their jurisdictions, supplemented by data developed by the EPA. The 2020 NEI emissions inventory was the most recent publicly available at the time of South Carolina's development of its CAA section 110(l) demonstration and at the time of the EPA's Proposed Rule.[39] As previously noted, stationary sources subject to the State's minor NSR program and any sources qualifying for the exemption, including those exempt under Regulation 61–62.1, Section II, subparagraph II(B)(2)(h), fall into the nonpoint source category.[40] NEI nonpoint sources include emissions estimates for sources which are individually too small in magnitude to report as point sources and typically too small, numerous, or difficult to inventory using methods for other classes of sources. In the 2026 Proposed Rule, the EPA evaluated the State's CAA section 110(l) demonstration supporting the threshold exemptions for sources of pollutants justifying that such sources are not regulated under the scope of the State's minor NSR program and are exempt from the requirement to obtain a construction permit. SC DES evaluated the proportion of emissions likely impacted by the change to the scope of the minor NSR permitting program as well as current air quality levels and historical trends for ambient air quality design values across the entire State and concluded that the exempt sources would not interfere with attainment or maintenance of the NAAQS. As explained in that Proposed Rule, the EPA agrees with the State's contention that its available 2020 NEI data indicates that the proportion of emissions that would be automatically exempt under the exemption thresholds in subparagraph II(B)(2)(h) comprise a very small portion of overall emissions in the State and that, based on the State's rationale and supporting emissions data and air quality, the revised exemption for PM to five tpy and the new five tpy exemptions for

[37] It is unclear, but the comment may be referring to *Motor Vehicle Manufacturers Association* v. *State Farm Mutual Automobile Insurance Co.,* 463 U.S. 29 (1983), a case cited in *Encino Motorcars, LLC* v. *Navarro.* In *Motor Vehicle Manufacturers Association* v. *State Farm Mutual Automobile Insurance Co.,* the Court held that the arbitrary and capricious standard for reviewing agency actions rescinding rules subject to notice and comment was the same as for enacting rules subject to notice and comment. The January 21, 2025, Proposed Rule did not constitute a final Agency action since it was not finalized and therefore could not have been rescinded.

[38] 579 S. Ct. 211 (2016).

[39] *See* 40 CFR part 51, subpart A.

[40] The commenter's contention regarding suppressed transportation activity is outside the scope of this final rulemaking because Regulation 61–62.1, Section II applies only to stationary sources and does not regulate mobile sources.

NO_X, CO, and SO_2 in subparagraph II(B)(2)(h) would not interfere with attainment or maintenance of the NAAQS. The State therefore provided a basis for determining which sources will be subject to its program, pursuant to 40 CFR 51.160(e), and addressed the impact to the existing program under the SIP pursuant to CAA section 110(l). Thus, the EPA disagrees that the State was required to conduct cumulative air quality analysis beyond the assessment—described in this paragraph and in the Minor Source Permitting Proposed Rule—of emissions and air quality across the State.

The commenter did not elaborate on their arguments that the 2020 NEI data set reflects anomalous, pandemic-suppressed industrial output activity and serves as a corrupted, artificially depressed emissions baseline. Additionally, the commenter did not provide or reference any data sets or additional information to support their claim that evaluating the 2020 NEI emissions data to support the exemption thresholds under subparagraph II(B)(2)(h), as revised through 2020, fails to provide a conservative or defensible projection of the ambient air impacts. The EPA does not agree with the contention that there was pandemic-suppressed industrial output activity that created an artificially depressed emissions baseline. In fact, the State's 2019–2021 quarterly gross domestic product (GDP) values and annual total employment numbers indicate those parameters, which fell slightly in 2020, were quick to rise above pre-pandemic levels by 2021. The Bureau of Economic Analysis (BEA) ''SQGDP1 State quarterly gross domestic product (GDP) summary'' table for South Carolina's current-dollar GDP, in millions of current dollars,[41] indicates that, in 2020, the only quarter in which GDP fell below analogous 2019 levels was the second quarter, where GDP in 2020 was approximately 95% of the State's 2019 quarter two GDP value. Other than that, the State's 2020 first quarter GDP was approximately 102% of its 2019 first quarter GDP, and the table shows similar percentages for the 2020 third and fourth quarter GDP values, which were approximately 101% and 100% of the State's analogous 2019 GDP quarter values, respectively. In quarter four of 2020, the State's GDP was above pre-pandemic levels. In 2021, the State's first quarter GDP was approximately 104% of its 2020 first quarter GDP, and the 2021 second, third, and fourth quarter values were approximately 115%, 107%, and 110% of the State's analogous 2020 GDP quarter values, respectively. The BEA ''SASUMMARY State annual summary statistics: personal income, GDP, consumer spending, price indexes, and employment'' table for South Carolina's total employment, in terms of the number of jobs,[42] indicates that the State's 2020 total employment level dropped slightly and was approximately 98% of the 2019 level. In 2021, employment was above pre-pandemic levels, and the table shows that the State's 2021 and 2022 total employment levels were both approximately 104% of preceding year, *i.e.,* 2020 and 2021, levels, respectively. For these reasons, the EPA believes the 2020 NEI data are an adequate representation of ambient air emissions in South Carolina.

7. Comment 2d

The commenter argues that the State's revised Regulation 61–62.1, Section II ''minor source permitting thresholds . . . lack mandatory continuous MRR provisions,'' violating 40 CFR 51.160 and part C of title 1 of the CAA. The commenter states that, without continuous parametric monitoring or CEMS (continuous emissions monitoring systems), ''the [S]tate cannot verify that sources operating under automatic permit exemptions remain below minor source thresholds,'' citing lack of practical enforceability, and that [''[t]he absence of tracking mechanisms enables existing major stationary sources to undertake debottlenecking physical modifications under minor source exemption categories'' and bypass major NSR and PSD review under CAA section 165. The commenter concludes that the EPA should withdraw the 2026 Minor Source Permitting proposed full approval and issue a partial disapproval or ''formal request for SIP withdrawal'' until the State ''[i]ncorporates practical MRR requirements into Regulation 61–62.1 to prevent PSD circumvention.''

8. Response 2d

As discussed in the 2026 Minor Source Permitting Proposed Rule, CAA section 110(a)(2)(C) requires SIPs to include a program to regulate the construction and modification of any stationary source as necessary to assure that the NAAQS are achieved. Where the commenter asserts that the State's revised minor source permitting thresholds at issue ''lack mandatory continuous MRR provisions,'' violating 40 CFR 51.160 and part C of title 1 of the CAA, the Agency first notes that part C of title I of the CAA sets forth the PSD program, applicable to major stationary sources and major modifications in attainment and unclassifiable areas. The minor NSR program is established under CAA section 110(a)(2)(C) and its implementing regulations at 40 CFR 51.160–164, which serve primarily as the basis for the Agency's evaluation of States' minor NSR programs. States have discretion to define the scope of their minor NSR programs within the bounds of those regulations and CAA section 110.

The requirements in 40 CFR 51.160 require the legally enforceable procedures under a State's program to ''identify types and sizes of facilities . . . which will be subject to review . . .'' and ''discuss the basis for determining which facilities will be subject to review.'' [43] As explained in the 2026 Minor Source Permitting Proposed Rule, the EPA agrees with the State that five tpy is an appropriate PTE at which to set the scope of the minor NSR preconstruction review program pursuant to 40 CFR 51.160(e) for the relevant pollutants in South Carolina and that the State has articulated the basis for setting the scope of its minor NSR program pursuant to 51.160(e) and CAA section 110(a)(2)(C).[44] The provisions under 40 CFR 51.160 do not require a State to require MRR,

[41] *See* U.S. Bureau of Economic Analysis, ''SQGDP1 State quarterly gross domestic product (GDP) summary'' (accessed Thursday, October 1, 2026), available at *https://apps.bea.gov/itable/?ReqID=70&step=1&_gl=1*3bly7g*_ga*MTM1Mzk0ODU0NC4xNzkyNTIxNDI5*_ga_J4698JNNFT*czE3OTI1MjE0MjgkbzEkZzAkdDE3OTI1MjE0MjgkajYwJGwwJGgw#eyJhcHBpZCI6NzAsInN0ZXBzIjpbMSwyOSwyNSwzMSwyNiwyNywzMF0sImRhdGEiOltbIlRhYmxlSWQiLCI1MzIiXSxbIk1ham9yX0FyZWEiLCIwIl0sWyJTdGF0ZSIsWyIwIl1dLFsiQXJlYSIsWyI0NTAwMCJdXSxbIlN0YXRpc3RpYyIsWyItMSJdXSxbIlV2VhciIsWyIyMDI1IiwiMjAyNCIsIjIwMjMiLCIyMDIyIiwiMjAyMSIsIjIwMjAiLCIyMDE5Il1dLFsiWWVhciIsIlZ2luIiwiLTEiXV19* and in Docket No. EPA–R04–OAR–2024–0241, the docket for this final action.

[42] *See* U.S. Bureau of Economic Analysis, ''SASUMMARY State annual summary statistics: personal income, GDP, consumer spending, price indexes, and employment'' (accessed Thursday, October 1, 2026), available at *https://apps.bea.gov/itable/?ReqID=70&step=1&_gl=1*b3p1jx*_ga*MjU5NjMyODk3LjE3OTA4Njk5MzE.*_ga_J4698JNNFT*czE3OTA4NzYyODIkbzMkZzEkdDE3OTA4NzYyODgkajU0JGwwJGgw#eyJhcHBpZCI6NzAsInN0ZXBzIjpbMSwyOSwyNSwzMSwyNiwyNywzMF0sImRhdGEiOltlRhYmxlSWQiLCI2MDAiXSxbIk1ham9yX0FyZWEiLCIwIl0sWyJTdGF0ZSIsWyIwIl1dLFsiQXJlYSIsWyI0NTAwMCJdXSxbIlN0YXRpc3RpYyIsWyItMSJdXSxbIlV2VhciIsWyIyMDI1IiwiMjAyNCIsIjIwMjMiLCIyMDIyIiwiMjAyMSIsIjIwMjAiLCIyMDE5Il1dLFsiWWVhciIsIlZ2luIiwiLTEiXV19* and in Docket No. EPA–R04–OAR–2024–0241, the docket for this final action.

[43] *See* 40 CFR 51.160(e).

[44] *See* 91 FR 53558, 53565 (Aug. 19, 2026).

continuous or otherwise, for sources which the State has demonstrated are not required to be permitted for its program to meet the applicable statutory and regulatory requirements, consistent with 40 CFR 51.160(e).

Furthermore, language in Regulation 61–62.1, subparagraph II(B)(2)(h) provides that sources exempt under the thresholds in that paragraph ''may be . . . included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit'' and requires ''[e]missions calculations and any other information necessary to document qualification for this exemption'' to ''be maintained onsite and provided to [SC DES] upon request.'' Additional language in paragraph II(B)(7) notes that the exemptions under subsection II(B), including subparagraph II(B)(2)(h), ''do not relieve'' a source owner or operator ''from any obligation to comply with any other applicable requirements'' and clarifies that the State ''reserves the right to require a construction permit'' and will determine whether permit(s) are needed on a case-by-case basis, considering factors including, but not limited to, ''the nature and amount of pollutants,'' along with source location and ''proximity to residences and commercial establishments, etc.''

The commenter's contention that ''[t]he absence of tracking mechanisms enables existing major stationary sources to undertake debottlenecking physical modifications under minor source exemption categories,'' to include the automatic exemption thresholds in subparagraph II(B)(2)(h), and thereby ''bypass major NSR and PSD review,'' under CAA section 165 is unclear. To the extent the commenter is raising concerns that the new or revised exemption thresholds will enable existing major stationary sources to bypass major NSR and PSD requirements due to a lack of tracking exempt sources, the EPA disagrees and provides the following response.

First, the EPA notes that these exemptions are unavailable to major stationary sources. South Carolina defines ''stationary source'' at Regulation 61–62.1, Section I, as ''any building, structure, installation, or process which emits or may emit an air pollutant subject to regulation by any national or state standard. Use of the term 'source' is to be construed to mean 'stationary source.' '' Thus, the language in subparagraph II(B)(2)(h) exempting ''[s]ources with a total uncontrolled potential to emit (PTE)'' less than the thresholds in that provision indicates that those exemptions are only available for source-wide, *i.e.,* facility-wide, PTE below the applicability thresholds. South Carolina's permit exemption guidance explains the process of determining eligibility for the exemption and that facility-wide PTE must be reviewed against the thresholds.[45] Additionally, the State's CAA section 110(l) demonstration confirmed that potentially exempt emissions under subparagraph II(B)(2)(h) would originate from a small subset of the nonpoint sources in the State. Therefore, the EPA disagrees that sources exempt from minor NSR permitting under the subparagraph II(B)(2)(h) exemption thresholds, as revised through the April 24, 2020, SIP revision, *i.e.,* nonpoint stationary sources with facility-wide total uncontrolled PTE less than five tpy PM, SO_2, NO_X, and CO and less than 1,000 lb/month VOCs, will be able to use that provision to circumvent major NSR or PSD review and relevant associated requirements.

Furthermore, regarding the comment that the EPA should withdraw the 2026 Minor Source Permitting Proposed Rule proposing a full approval and instead issue a partial disapproval or ''formal request for SIP withdrawal'' until the State ''[i]ncorporates practical MRR requirements into Regulation 61–62.1 to prevent PSD circumvention,'' the Agency notes that the relevant portion of that regulation to this action, *i.e.,* Regulation 61–62.1, Section II, sets forth the State's minor NSR program. The EPA has determined that the changes being finalized therein in this action are consistent with the relevant statutory requirements under the CAA and its applicable implementing regulations. South Carolina's SIP-approved PSD program and the requirements therein, applicable to the construction and modification of major sources in attainment and unclassifiable areas, are in Regulation 61–62.5, Standard No. 7. South Carolina also has a SIP-approved major NSR program applicable to major sources and modifications in nonattainment areas in Regulation 61–62.5, Standard No. 7.1. Those regulations and the requirements therein are outside the scope of this action.

[45] *See Simplifying the Air Permitting Process: Exemptions,* South Carolina Department of Environmental Services, which can be found at *https://des.sc.gov/sites/des/files/Library/CR-010877.pdf* (2025) at pp. 4–7, Appendices A–B, available in Docket No. EPA–R04–OAR–2024–0241, the docket for this final action.

9. Comment 2e

The commenter states that CAA section 110(a)(2)(E)(i) ''requires the [S]tate to provide necessary assurances that the implementing agency possesses adequate personnel, funding, and authority to carry out the SIP.'' The commenter states that, ''[f]ollowing the dissolution of SC DHEC and the transition of air quality oversight to the newly established [DES], the record lacks evidence demonstrating that [SC] DES maintains adequate field inspection personnel to monitor compliance across unpermitted registration sources.'' The commenter concludes that the EPA should withdraw the 2026 Minor Source Permitting proposed full approval and issue a partial disapproval or ''formal request for SIP withdrawal'' until the State ''[s]upplements the record'' with a CAA section 110(a)(2)(E) demonstration ''verifying adequate DES staffing levels.''

10. Response 2e

When the EPA establishes a new NAAQS or revises an existing standard, the Agency must designate areas as meeting or not meeting the standard, *i.e.,* attainment or nonattainment, respectively, and CAA sections 110(a)(1) and 110(a)(2) require States to submit SIPs with general infrastructure elements, *i.e.,* ''infrastructure SIPs,'' showing that the State has the capacity to attain, maintain, and enforce a new or revised standard within three years of the promulgation of a new or revised NAAQS. Among the required CAA section 110(a)(2) elements that must be addressed in the infrastructure SIP is section 110(a)(2)(E). The EPA agrees that CAA section 110(a)(2)(E)(i) requires SIPs to provide ''necessary assurances that the State . . . will have adequate personnel, funding, and authority under State . . . law to carry out [the SIP] . . .'' The EPA has previously determined that the State's SIP satisfies CAA section 110(a)(2)(E)(i) when approving infrastructure SIPs for the majority of the active NAAQS, which are required in response to the promulgation of new or revised NAAQS.[46] As explained in the 2026

[46] The EPA approved South Carolina's SIP as meeting CAA section 110(a)(2)(E) for the various NAAQS as follows: 1997 8-hour ozone NAAQS (76 FR 41111, July 13, 2011); 2008 8-hour ozone NAAQS (80 FR 11136, Mar. 2, 2015); 2015 8-hour ozone NAAQS (85 FR 6808, Feb. 6, 2020); 2008 lead NAAQS (80 FR 57540, Sep. 24, 2015); 2010 1-hour NO_2 NAAQS (81 FR 63704, Sep. 16, 2016); 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS (77 FR 45492, Aug. 1, 2012); 2012 annual $PM_{2.5}$ NAAQS (82 FR 16930, Apr. 7, 2017); 2010 1-hour SO_2 NAAQS (81 FR 32651, May 24, 2016). As noted above, infrastructure SIPs are due following the promulgation of a new or revised NAAQS.

Minor Source Permitting Proposed Rule, in a letter dated June 20, 2024, the State represented to the EPA that all functions, powers, and duties of the environmental divisions, offices, and programs of DHEC, including the authority to administer and enforce SIPs, are retained and continued in full force and effect under SC DES.[47]

The July 23, 2025, SIP revision includes a description of State's legal authority,[48] which cites to the requirements in 40 CFR 51.230(a)–(f) concerning the legal authority of States to carry out their SIPs. This description notes the adequacy of the State law with respect to each provision under 40 CFR 51.230, lists the relevant South Carolina Pollution Control Act statutes which ''demonstrate the adequacy of South Carolina law as required by 40 CFR 51.230,'' and references opinions from the Attorney General ''confirming the adequacy of South Carolina law.'' The July 23, 2025, SIP revision also discusses the State's authorities under its Pollution Control and Administrative Procedures Acts concerning notice and public hearings ''assuring compliance with the requirements of 40 CFR 51.102.'' These administrative materials in the July 23, 2025, SIP revision containing updates to Regulation 61–62.5, paragraph II(K)(5) to reflect the restructuring of the State agency, satisfy the State's obligation under Appendix V to 40 CFR part 51, 2.0.2.1.(c) to submit evidence that it has the necessary legal authority under State law to adopt and implement the SIP. Furthermore, the commenter appears to conflate the administrative changes proposed to paragraph II(K)(5) in the 2026 Minor Source Permitting Proposed Rule, which remove references to the former Board of Health and Environmental Control to reflect the restructuring of SC DHEC to the South Carolina Department of Public Health and SC DES, with the actual restructuring of the State agencies, *i.e.,* the restructuring of SC DHEC into health and environmental agencies,[49] which is outside the scope of this action. Therefore, the EPA has no reason to believe that its prior determinations under CAA section 110(a)(2)(E)(i) regarding South Carolina's SIP are no longer valid.

Further, Regulation 61–62.1, Section II provides the State with several ways to adequately monitor compliance across these sources. First, the State provides in subparagraph II(B)(2)(h) that ''[e]missions calculations and any other information necessary to document qualification for this exemption must be maintained onsite and provided to [SC DES] upon request.'' Additionally, paragraph II(B)(7) provides that ''the permitting exemptions in Section II(B) do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements.'' Moreover, Section II(O) provides that ''the owner or operator shall allow [SC DES]'' to ''[e]nter the facility where emissions-related activity is conducted, or where records must be kept under the permit.'' The commenter has not provided any evidence that the State cannot staff its agency or enforce its regulations or any information to invalidate the EPA's prior determinations under CAA section 110(a)(2)(E)(i) regarding South Carolina's SIP. For these reasons and those described above, the Agency rejects the commenter's conclusion that it should withdraw the 2026 Minor Source Permitting proposed full approval and issue a partial disapproval until the State provides a separate CAA section 110(a)(2)(E) demonstration to verify ''adequate . . . staffing levels,'' finding that the State's July 23, 2025, SIP revision, as proposed for approval in the August 19, 2026, Proposed Rule, meets Federal requirements concerning the legal authority of States to carry out their SIPs and satisfies its obligations to demonstrate that it has the necessary legal authority under State law to adopt and implement the SIP under 40 CFR part 51.

iii. Comment 3

The commenter directs the EPA to ''[r]e-evaluate South Carolina's minor source permit exemption thresholds'' in Regulation 61–62.1, Section II, proposed in the 2026 Minor Source Permitting Proposed Rule against the current fine PM ($PM_{2.5}$) standard and states that the Agency's CAA section 110(l) noninterference demonstration ''evaluates South Carolina's minor source exemption thresholds against obsolete ambient standards,'' arguing that the Agency evaluated the exemption thresholds ''against the revoked 12.0 $\mu g/m^3$ $PM_{2.5}$ standard. The commenter further states that that ''evaluation . . . relies on an artificially depressed, pandemic-era 2020 NEI baseline that understates ambient air impacts'' and also argues that the EPA omitted ''cumulative impact modeling'' and in so doing, ''failed to account for aggregate emissions growth driven by multiple unpermitted . . . sources across the region,'' stating that ''[b]y failing to model . . . unpermitted increases'' in $PM_{2.5}$, SO_2, and NO_X in light of ''the effective 9.0 $\mu g/m^3$ [$PM_{2.5}$] primary annual standard,'' the Agency ''approved these exemptions without demonstrating compliance with the active NAAQS.'' Additionally, the commenter directs the Agency to ''ask South Carolina to submit a formal Interstate Transport demonstration for unpermitted minor sources.'' The commenter takes issue that the State's SIP revisions ''contain[ ] no cross-border air quality transport modeling'' addressing the ''expanded minor source . . . exemptions . . .'' and their impacts on downwind states, citing the Agency's ''Good Neighbor'' provision and ''ongoing maintenance obligations for ozone and $PM_{2.5}$ in North Carolina and Georgia and stating that the ''automatic exemption categories along industrial interstate corridors . . . create[ ] unmonitored aggregate emissions growth that downwind states cannot track or account for.'' The EPA summarizes and addresses these individual comments in Comments 3a through 3c, below.

1. Comment 3a

The commenter states that the EPA's evaluation of noninterference of the changes to subparagraph II(B)(2)(h) ''evaluates the exemption thresholds therein ''against obsolete ambient standards,'' stating that the ''EPA evaluated South Carolina's minor source exemption cutoffs in Regulation 61–62.1 against the revoked 12.0 $\mu g/m^3$ $PM_{2.5}$ standard rather than the effective 9.0 $\mu g/m^3$ [$PM_{2.5}$] primary annual standard.'' The commenter directs the EPA to ''[r]e-evaluate South Carolina's minor source exemption thresholds against the 9.0 $\mu g/m^3$ [$PM_{2.5}$] standard.'' The commenter also argues that, ''[b]y failing to model whether unpermitted emissions increases'' for $PM_{2.5}$, SO_2, and NO_X ''will cause localized exceedances of the tightened [$PM_{2.5}$] standard, [the] EPA approved these exemptions without demonstrating compliance with the active NAAQS which fails to meet [CAA] requirements for controlling new sources of air pollution.''

2. Response 3a

The EPA disagrees that the State's CAA section 110(l) noninterference demonstration supporting the changes to Regulation 61–62.1, Section II proposed in the 2026 Minor Source Permitting Proposed Rule ''evaluates South Carolina's minor source exemption thresholds against obsolete ambient standards.'' As explained in the 2026 Proposed Rule, the Agency

[47] *See* 91 FR 53558–53559; footnote 1 (Aug. 19, 2026).

[48] Attachment 6, ''Copy of Legal Authority,'' to the July 23, 2025, SIP revision, which is available in Docket No. EPA–R04–OAR–2024–0241.

[49] The State law, ''2023 S.C. Act 60,'' was enacted on May 19, 2023, and became effective on July 1, 2024.

evaluated the exemption thresholds in Regulation 61–62.1, subparagraph II(B)(2)(h), as revised through the April 24, 2020, SIP revision in light of the State's NAAQS attainment history, long-term and recent air quality design values and margins between the design values and the NAAQS, and 2020 NEI data for pollutants and precursors. The EPA found that South Carolina's CAA section 110(l) demonstration shows that (1) the State has maintained the applicable 8-hour ozone standards since 2011, where valid data is available, (2) has never been designated nonattainment for any other NAAQS evaluated, and (3) continues to attain each applicable form of the standards for the relevant pollutants, *i.e.,* NO_2, CO, SO_2, and PM—including $PM_{2.5}$ and coarse PM (PM_{10}). Specifically, the EPA evaluated the most recent (2025) certified design values in South Carolina for the fourth-highest daily maximum 8-hour average ambient ozone, daily maximum 1-hour average ambient NO_2, annual arithmetic mean and 24-hour ambient $PM_{2.5}$, 1-hour ambient SO_2, 24-hour ambient PM_{10}, annual average ambient NO_2, and 1-hour and 8-hour ambient CO concentrations, along with long-term ozone, NO_2, $PM_{2.5}$, SO_2, and PM_{10} design values and margins between the design values and the NAAQS from 2008–2025 for most pollutants and long-term CO design values and NAAQS margins from 2010–2025.[50] The EPA found that the air quality monitors in the State are below the relevant NAAQS and identified the available margins between the applicable NAAQS and the design values, including the State's long-term air quality design values.

Accordingly, the EPA also disagrees with the commenter's contention that it ''evaluated South Carolina's minor source exemption cutoffs in Regulation 61–62.1[,] [subparagraph II(B)(2)(h)] against the revoked 12.0 μg/m^3 $PM_{2.5}$ standard rather than the effective 9.0 μg/m^3 [$PM_{2.5}$] primary annual standard,'' which was effective May 6, 2024.[51] First, the EPA never revoked the 2012 $PM_{2.5}$ standard of 12.0 μg/m^3 and that standard remains in effect. Furthermore, the highest design value in South Carolina is 8.5 μg/m^3, which is below any $PM_{2.5}$ standard in effect. The State's May 13, 2026, CAA section 110(l) demonstration supporting the changes to subparagraph II(B)(2)(h) expressly states that, despite significant population growth and resulting higher mobile source emissions, aggregate emissions continue to fall, and the State remains in attainment for all criteria pollutants, ''including the . . . $PM_{2.5}$ standard of 9.0 μg/m^3.'' [52]

The Agency also disagrees that ''[b]y failing to model whether unpermitted emissions increases'' for $PM_{2.5}$ and precursors, SO_2 and NO_X ''will cause localized exceedances of the tightened standard,'' and that the Agency ''approved these exemptions without demonstrating compliance with the active NAAQS'' and failed to meet CAA requirements. As explained in the 2026 Proposed Rule and above, the Agency evaluated the exemption thresholds in subparagraph II(B)(2)(h), as revised through the April 24, 2020, SIP revision, in light of the most recent (2025) certified design values in South Carolina. As explained further in the 2026 Minor Source Permitting Proposed Rule, with respect to the NO_2, $PM_{2.5}$, and SO_2 NAAQS, the State did provide adequate rationale based on the State's air quality design values and 2020 NEI data to demonstrate that the five tpy PTE automatic exemption thresholds for PM, NO_X, and SO_2 will not interfere with the State's attainment or maintenance of the NO_2, $PM_{2.5}$, and SO_2 NAAQS and will not interfere with any applicable requirement concerning attainment and RFP (as defined in section 171), or any other applicable requirement of the CAA.

As discussed in the Proposed Rule, the State has the ability to determine the appropriate scope of its minor NSR program pursuant to 40 CFR 51.160(e) and CAA section 110(a)(2)(C). In this instance, the State has determined that the sizes of sources qualifying for the exemption in subparagraph II(B)(2)(h), as revised through the April 24, 2020, SIP revision, would not impact its ability to attain or maintain the NAAQS, including the 2024 annual $PM_{2.5}$ NAAQS, based on current air quality and the proportion of emissions in the State likely to be covered by the exemption. The commenter has not provided any evidence that those sources of PM, SO_2, or NO_X which would be automatically exempt from the requirement to obtain a minor NSR construction permit due to their size, at total uncontrolled PTE of five tpy, would cause localized exceedances of the $PM_{2.5}$ NAAQS. Larger sources remain subject to the State's minor NSR program, which requires air dispersion modeling or other information demonstrating that emissions from the facility will not interfere with the attainment or maintenance of any NAAQS. Additionally, for major sources, the State's approved major source PSD program remains in effect and requires air quality impact analysis and modeling.

3. Comment 3b

The commenter also states that the Agency's evaluation is ''scientifically indefensible because it relies on an artificially depressed, pandemic-era 2020 NEI baseline that understates ambient air impacts.'' The commenter further argues that the Agency omitted cumulative impact modeling and therefore ''failed to account for aggregate emissions growth'' resulting from ''multiple unpermitted registration sources across the region.''

4. Response 3b

Where the commenter states that the Agency's evaluation is lacking because it relies on ''an artificially depressed, pandemic-era 2020 NEI baseline that understates ambient air impacts'' and that the Agency omitted cumulative impact modeling and ''failed to account for aggregate emissions growth driven by multiple unpermitted registration sources across the region,'' the commenter did not elaborate on their arguments or provide or reference any data sets or additional information to support their claims. See section IV.B.ii.6 of this action, above, for the EPA's response to substantively identical comments.

5. Comment 3c

The commenter goes on to argue that the State's ''submittal contains no cross-border air quality transport modeling'' to evaluate the impacts of the expanded Regulation 61–62.1, Section II minor source permit exemptions in South Carolina on downwind states. The commenter further argues that the EPA's ''Interstate Transport Mandates ('Good Neighbor' Provision) . . . strictly prohibits state plan provisions that contribute significantly to nonattainment or interfere with maintenance of any NAAQS in neighboring states'' and notes that South Carolina borders North Carolina and Georgia air quality control regions ''that face ongoing maintenance obligations for ozone and $PM_{2.5}$.'' The commenter states that, ''[b]y creating automatic exemption categories along industrial interstate corridors . . . , South Carolina creates unmonitored aggregate emissions growth that downwind states cannot track or account for in their own attainment planning,'' citing ''the I–85 corridor impacting North Carolina.'' The commenter directs the EPA to request ''a formal Interstate Transport

[50] *See* 91 FR 5355, 53566–53567, 53569–53571 (Aug. 19, 2026).

[51] *See* 89 FR 16202.

[52] *See* p. 7 of 21 in the State's CAA section 110(l) demonstration.

demonstration for unpermitted minor sources'' from the State.

6. Response 3c

The EPA disagrees that South Carolina is required to submit cross-border air quality transport modeling to support its revision to the scope of the State's minor NSR permitting program. In SC DES's CAA section 110(l) demonstration, the State determines, and the EPA agrees, based on the State's rationale and supporting emissions data and air quality, as further explained in the 2026 Minor Source Permitting Proposed Rule, that the proportion of minor stationary source emissions comprises a very small portion of overall emissions in the State, and the subset of automatically exempt minor stationary source emissions under the exemption thresholds in Regulation 61–62.1, Section II, subparagraph II(B)(2)(h) comprises an even smaller fraction. The State finds that the small sources exempt from Regulation 61–62.1, Section II under the five tpy exemption thresholds for PM, NO_X, CO, and SO_2 and the 1,000 lb/month threshold for VOCs in subparagraph II(B)(2)(h) will not interfere with attainment and maintenance of the NAAQS. Accordingly, these small nonpoint sources, which represent a very small fraction of the State's overall emissions, are not likely to interfere with NAAQS maintenance in downwind states. As noted above, larger sources are still subject to the State's minor NSR program and the permitting requirements in Regulation 61–62.1, Section II to determine compliance with the NAAQS, and even larger (major) sources would trigger PSD permitting and corresponding requirements in Regulation 61–62.5, Standard No. 7, to assess air quality impacts.

Furthermore, the EPA has approved South Carolina's interstate transport SIPs which were due for the following current NAAQS: the 2015 8-hour ozone,[53] 2010 1-hour SO_2,[54] 2010 1-hour NO_2,[55] and 2006 24-hour $PM_{2.5}$ standards,[56] and for which the State has remaining maintenance obligations, *i.e.,* the 2008 8-hour ozone standard,[57] and previously determined that South Carolina was not linked to any downwind nonattainment or maintenance areas for the 1997 or 2008 8-hour ozone standard,[58] pursuant to CAA section 110(a)(2)(D)(i)(I), *i.e.,* ''the Good Neighbor provision.'' The EPA also previously approved the State's interstate transport SIP for the 2012 annual $PM_{2.5}$ NAAQS.[59]

There are no maintenance areas in Georgia or North Carolina near the South Carolina border, except for the Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina bi-state area (hereafter ''the bi-state Charlotte area'') for the 1997 and 2008 8-hour ozone NAAQS.[60] The bi-state Charlotte area for the 1997 and 2008 8-hour ozone NAAQS includes a portion of York County, South Carolina (hereinafter ''York County Area''), that, for the 1997 8-hour ozone NAAQS, includes the Catawba Indian Nation and, for the 2008 8-hour ozone NAAQS, does not. The York County Area is under its second 2008 8-hour ozone maintenance plan, approved on November 20, 2025,[61] and the North Carolina portion of the bi-state Charlotte area is under its first 2008 8-hour ozone maintenance plan, with a second 2008 8-hour ozone maintenance plan proposed for approval on September 23, 2026.[62] The York County Area and North Carolina portion of the bi-state Charlotte area are also under limited maintenance plans (LMPs) for the 1997 8-hour ozone NAAQS. South Carolina's LMP for the Catawba Indian Nation portion of the York County Area, which is the only part of the 1997 York County Area without a corresponding maintenance plan for the 2008 ozone NAAQS, *i.e.,* an ''orphan maintenance area,'' was approved on January 25, 2022.[63] On January 13, 2023, the EPA also approved North Carolina's LMP for the orphan maintenance area portion of the bi-State Charlotte area not covered by a corresponding maintenance plan for the 2008 ozone NAAQS.[64] Due to the continued implementation of these maintenance plans for the 1997 and 2008 ozone NAAQS, the EPA believes that adequate safeguards exist to prevent interference with attainment or maintenance of the ozone NAAQS, as a result of any possible emissions growth in South Carolina in the York County area, and downwind impacts to the bi-state Charlotte area.

Based on the information above, the EPA disagrees that the added or revised automatic exemption thresholds in Regulation 61–62.1, Section II, subparagraph II(B)(2)(h) will contribute significantly to nonattainment or interfere with maintenance of any NAAQS in neighboring States or create ''unmonitored aggregate emissions growth that downwind states cannot track or account for in their own attainment planning'' and rejects the commenter's direction to request ''a formal Interstate Transport demonstration for unpermitted minor sources'' from South Carolina.

C. Comments on the EPA's August 19, 2026, Source Testing and NO_X Control Proposed Rule

As noted above, in response to the August 19, 2026, Source Testing and NO_X Control Proposal, the EPA received two sets of adverse comments on its proposed approval of certain provisions in that Proposed Rule. In this section, the EPA summarizes and responds to those adverse comments below.

i. Comment 1

The commenter takes issue with the change to South Carolina's source testing provisions in Regulation 61–62.1, Section IV, in paragraph IV(D)(5) and the EPA's conclusion that evaluating the discretionary language already in the SIP at paragraph IV(D)(5) is beyond the scope of the 2026 Source Testing and NOx Control Proposed Rule. The commenter also states that the ''alternate-production-rate language'' in paragraph IV(D)(5) ''goes to the substance of what gets tested'' and that the EPA ''identifies two safeguards,'' arguing that they are ''weaker than the disclaimer implies.'' The commenter further states that the Agency did not address ''whether a future state-adopted 'requirement' could supersede the production-rate condition being approved . . . without EPA review'' and argues that the EPA ''should either analyze the scope of this discretion before finalizing approval or condition approval on retaining review authority over future state-adopted alternate testing rates.'' The commenter frames South Carolina's May 13, 2026, clarification regarding Regulation 61–62.5, Standard No. 5.2 that it has not previously implemented its discretion under Standard No. 5.2 and its commitment not to do so while the regulatory revisions to those provisions are pending as ''a representation that narrows'' their previously described

[53] *See* 86 FR 68413 (Dec. 2, 2021).

[54] *See* 84 FR 54498 (Oct. 10, 2019).

[55] *See* 82 FR 45995 (Oct. 3, 2017).

[56] *See* 77 FR 61724 (Oct. 11, 2012).

[57] *See* 85 FR 3 (Jan. 2, 2020).

[58] *See* 81 FR 74504, 74524 (Oct. 26, 2016).

[59] *See* 83 FR 48387 (Sept. 25, 2018).

[60] For the 1997 8-hour ozone NAAQS, the bi-state Charlotte area consists of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, and Union Counties and a portion of Iredell County, North Carolina, and a portion of York County, South Carolina, including the Catawba Indian Nation reservation lands. For the 2008 8-hour ozone NAAQS, the bi-State Charlotte area includes portions of Cabarrus, Gaston, Iredell, Lincoln, Rowan, and Union Counties and the entirety of Mecklenburg County, North Carolina, and a portion of York County, South Carolina, that does not include the Catawba Indian Nation.

[61] *See* 90 FR 52248.

[62] *See* 91 FR 60349.

[63] *See* 87 FR 3673.

[64] *See* 88 FR 2245.

''testing-discretion concern'' in Regulation 61–62.1, Section IV. The commenter also takes issue with ''the unexamined discretion'' in Regulation 61–62.5, Standard No. 5.2, paragraph I(B)(18), ''allowing case-by-case exemptions from Standard No. 5.2'' and the EPA's conclusion that ''reviewing this discretion is 'beyond the scope'' of the [2026 Source Testing and NO_X Control Proposed] action.''

Further, the commenter takes issue with ''an undefined term that determines which emission standards apply,'' *i.e.,* ''process equipment,'' which the commenter frames as ''the operative term'' which governs the scope of an exemption the State's NO_X control regulations in Regulation 61–62.5, Standard No. 5.2, in paragraph I(A)(3). The commenter states that the exemption ''stakes are bounded,'' noting that Standard No. 5.2 ''was designed primarily to capture smaller sources that fall below PSD applicability thresholds'' and excludes ''BACT [(Best Available Control Technology)]-analyzed sources . . . entirely'' but argues that the ''EPA should still require the [S]tate to define 'process equipment' before finalizing approval.'' Finally, the commenter argues that South Carolina's CAA section 110(l) demonstration supporting the changes proposed to Regulation 61–62.5, Standard No. 5.2 in the 2026 Source Testing and NO_X Control Proposed Rule is ''entirely qualitative'' and ''contains no quantified emissions or reasonable-further-progress analysis'' and states that the EPA ''should require quantified analysis . . . or explain why a qualitative assertion suffices.'' The commenter states that their comments, further described below, identify ''gaps in scope and definition, not objections to the approval framework'' in the 2026 Source Testing and NO_X Control Proposed Rule, but states that ''[c]losing them would let [the] EPA finalize an approval that streamlines a fragmented SIP history without leaving open-ended, unreviewed discretion in the operative text.'' The EPA summarizes and addresses these individual comments in Comments 1a through 1d, below.

1. Comment 1a

The commenter states that the Agency, in the Proposed Rule, declined to evaluate the added discretionary ''as otherwise specified'' language added to Regulation 61–62.1, paragraph IV(D)(5) in the April 24, 2020, SIP revision allowing a source subject to other applicable Federal or State source testing standards to comply with alternate source testing procedures specified therein. The commenter states that the ''alternate-production-rate language'' in paragraph IV(D)(5) ''goes to the substance of what gets tested'' and argues that, although the State can evaluate test procedures under subsection IV(B) before testing, the EPA cannot review the test plan. The commenter also states that this ''state review . . . is the very discretion EPA declines to evaluate.'' Additionally, the commenter argues that, where paragraph IV(D)(5) provides that tests at production rates below rated capacity may result in permit limits on emission or production rates, if necessary, the State is not obligated to impose those limits. The commenter further states that ''whether a future state-adopted 'requirement' could supersede the production-rate condition being approved . . . without EPA review'' ''remains unaddressed.''

2. Response 1a

The exact nature of this comment is unclear; however, the commenter appears to misunderstand the EPA's statement in the August 19, 2026, Source Testing and NO_X Control Proposed Rule that evaluating the existing discretionary language in Regulation 61–62.1, Section IV, paragraph IV(D)(5) was beyond the scope of that proposed rulemaking action.[65] The commenter states that the EPA declined to evaluate the discretionary language—''or as otherwise specified in a relevant federal or state requirement''—in paragraph IV(D)(5), added in the April 24, 2020, SIP revision, as well as the language in subsection IV(B) which provides that the State must approve the test plan prior to the source conducting the test. As explained in the Proposed Rule, the discretionary language in SIP-approved paragraph IV(D)(5)—''Unless approved otherwise by the Department, the owner, operator, or representative shall ensure that source tests are conducted while the source is operating at the maximum expected production rate or other production rate or operating parameter which would result in the highest emissions for the pollutants being tested''—already allows the State to authorize alternate source testing procedures. It is that existing language that the EPA declined to evaluate in the 2026 Source Testing and NO_X Control Proposed Rule, because the Agency previously approved it into the SIP, and it was not altered by any of the SIP revisions covered by that Proposed Rule. As discussed in the Proposed Rule, the Agency did evaluate the change to paragraph IV(D) in the April 24, 2020, SIP revision to add ''or as otherwise specified in a relevant federal or state requirement,'' which allows a source owner, operator, or representative to comply with alternate source testing procedures specified in other applicable state or federal source testing standards.[66] However, as explained in the 2026 Proposed Rule, the change to paragraph IV(D)(5) does not materially alter the existing SIP provision because the State already retains the discretion, under the existing SIP provision, to authorize such alternate source testing procedures.

In the State's April 24, 2020, SIP revision, the added language in Regulation 61–62.1, paragraph IV(D)(5) clarifies the State's existing ability to require source testing representative of different operating conditions for consistency with Federal or other State source testing regulations in instances where subject sources are also subject to Federal or State source testing standards designed to represent alternate operating scenarios disparate to those prescribed in paragraph IV(D)(5) in the SIP. In those cases, subject sources would not be able to comply with applicable Federal source testing requirements, and the source testing requirements under paragraph IV(D)(5) in the SIP at the same time. As noted above, the change to paragraph IV(D)(5) does not substantively alter the State's existing level of discretion but highlights that SC DES may exercise its discretion authority to allow sources subject to other testing requirements, such as Federal testing requirements, to test accordingly and maintain compliance with the testing requirements in the SIP. Some Federal programs require that performance tests be conducted under such conditions as the Administrator specifies based on the representative performance of the affected facility.[67] [68] The NESHAPs under 40 CFR part 63 further define representative performance as normal operating conditions.[69] NESHAPs under 40 CFR part 61 require that emission tests be conducted ''under such conditions as the Administrator shall specify based on design and operational characteristics of the source.''[70] Individual standards may more

[65] *See* 91 FR 53573, 53577, footnote 23 (Aug. 19, 2026).

[66] Federal source testing standards may include New Source Performance Standards (NSPS) under CAA section 111 or National Emission Standards for Hazardous Air Pollutants (NESHAPs) under CAA section 112.

[67] *See Issuance of the Clean Air Act National Stack Testing Guidance,* available at *https://www.epa.gov/sites/default/files/2013-09/documents/stacktesting_1.pdf* (2009) at pp. 14–15.

[68] *See* 40 CFR 60.8 and 63.7(e)

[69] *See* 40 CFR 63.7(e).

[70] *See* 40 CFR 61.13(e).

specifically define operating conditions under which performance tests can or should be conducted. For example, stationary combustion turbines subject to 40 CFR part 60, subpart KKKKa, may test under varied conditions not necessarily intended to represent maximum possible emissions,[71] *e.g.,* up to 30 percent less than peak load conditions or at the highest achievable load point, if at least 70 percent of peak load cannot be achieved in practice.[72] The change to Regulation 61–62.1, paragraph IV(D)(5) indicates that such sources could comply with NSPS requirements under subpart KKKKa, *i.e.,* to test at lower load conditions than the base load, and the State could exercise its discretion to allow subject sources testing at lower load conditions under subpart KKKKa to fulfill the testing requirements in the SIP under paragraph IV(D)(5) at the same time.

Regarding the commenters concerns about the ''safeguards'' they claim the EPA identified in the proposed rule,[73] the Agency again reiterates that the commenter appears to misunderstand the EPA's finding that evaluating the existing discretionary language in Regulation 61–62.1, paragraph IV(D)(5) was beyond the scope of the 2026 Proposed Rule. That ''disclaimer,'' noting that the discretionary language already approved into the SIP was beyond the scope of the proposal, did not rely on the ''safeguards'' cited by the commenter. Rather, the State's test plan evaluation procedures and its ability to restrict emission or production rates, through permitting, clarify that, when exercising its already SIP-approved discretion authority, the State is able to evaluate a source's testing procedures in light of the test objective(s), and therefore ''determine whether any source test method proposed in the site-specific test plan is appropriate,'' [74] and impose permit conditions to restrict the source's emissions or production accordingly, if needed.

The commenter states that the 2026 Source Testing and NO_X Control Proposed Rule did not address ''whether a future state-adopted 'requirement' could supersede the production-rate condition being approved . . . without EPA review.'' The comment refers to the change to Regulation 61–62.1, paragraph IV(D)(5) proposed for approval that adds language clarifying the State's existing ability, under paragraph IV(D)(5), to authorize source testing representative of different operating conditions for consistency with other relevant requirements, such as Federal source testing regulations or any source testing specified in other State regulations. It is not clear in what ways ''a future state-adopted 'requirement' could supersede'' the added language clarifying the State's existing discretion, as the commenter states, since the new language does not add a specific ''production-rate condition'' in paragraph IV(D)(5) in the first place.

Where the commenter addresses the State's May 13, 2026, clarification regarding Regulation 61–62.5, Standard No. 5.2 that it has not previously implemented its discretion under those provisions and its commitment not to do so while the regulatory revisions to Standard No. 5.2 are pending, stating that that ''representation . . . narrows the testing-discretion concern'' [concerning Regulation 61–62.1, Section IV], the commenter appears to conflate the discretionary language in Regulation 61–62.5, Standard No. 5.2, proposed for conditional approval in the 2026 Source Testing and NO_X Control Proposed Rule, with the discretionary language concerning source tests in Regulation 61–62.1, Section IV.

3. Comment 1b

The commenter contends that the existing ''unexamined discretion'' in South Carolina's NO_X control provisions at Regulation 61–62.5, Standard No. 5.2, paragraph I(B)(16) allows ''case-by-case exemptions from Standard No. 5.2.'' The commenter argues that the EPA and the public cannot ''verify how many sources have been exempted or whether exempted emissions are excluded from the [S]tate's reasonable-further-progress accounting'' because there is no accompanying ''registry or reporting requirement.'' The commenter further states that ''[a] bounded exemption authority'' or, ''at minimum,'' ''a public reporting requirement . . . would keep this provision from becoming an unreviewable off-ramp from the rule's emission limits.''

4. Response 1b

The SIP revisions through February 4, 2022, did not modify the language or meaning of this provision, which was already approved into the SIP at paragraph I(B)(17). The EPA evaluated the approvability of this language under the CAA in 2005 when acting on the SIP revision asking the Agency to incorporate it into the SIP.[75] The SIP revisions subject to this action merely renumbered paragraph I(B)(17), first to I(B)(16), in the July 27, 2016, SIP revision, and then to I(B)(18), in the February 4, 2022, SIP revision, due to the deletion and addition of several other paragraphs in Section I(B). Accordingly, as noted in the 2026 Source Testing and NO_X Control Proposed Rule, the language of this provision is outside the scope of this action.[76]

5. Comment 1c

The commenter argues that the term ''process equipment'' is not defined in Regulation 61–62.5, Standard No. 5.2 nor elsewhere in the State's SIP but states that ''the operative term'' governs the scope of the exemption in Regulation 61–62.5, Standard No. 5.2, paragraph I(A)(3) and that its undefined nature ''invites inconsistent classification.''

6. Response 1c

The EPA disagrees with the commenter's characterization that the term ''process equipment'' determines which emission standards apply and governs the scope of the exemption in Standard No. 5.2, paragraph I(A)(3), and therefore ''invites inconsistent classification.'' As explained in the 2026 Source Testing and NO_X Control Proposed Rule, changes to paragraph I(A)(3) in the SIP revisions through February 4, 2022, eliminate the term ''process equipment'' and provide that ''[a]ny existing sources'' relocated between permitted in-state facilities under common ownership do not become existing sources under Standard No. 5.2 until paragraph I(A)(2) is triggered, *i.e.,* until a burner assembly is replaced, consistent with Standard No. 5.2 applicability to other existing subject sources.[77] Further, as noted in the 2026 Proposed Rule, ''[t]he changes to paragraph I(A)(3) clarify and delineate when a source qualifies as a new affected source as opposed to remaining an existing affected source.'' [78] Therefore, the EPA disagrees with the commenter's statement that the Agency should require the State to define ''process equipment,'' a term which the State removed from Standard No. 5.2 altogether in clarifying changes to paragraph I(A)(3) in its SIP revisions.

[71] *See* 40 CFR 60.4400.

[72] *See* 40 CFR 60.4400(b).

[73] The ''safeguards'' the commenter cites from the Proposed Rule are that the State can evaluate test procedures pursuant to Regulation 61–62.1, subsection IV(B) before testing and that tests at production rates below rated capacity may result in permit limits on emission or production rates, if necessary. The commenter states that they are ''weaker than the disclaimer implies.''

[74] *See* Regulation 61–62.1, Section IV, paragraph (B)(4).

[75] *See* 70 FR 50195 (Aug. 26, 2005).

[76] *See* 91 FR 53573, 53580; footnote 31 (Aug. 19, 2026).

[77] *See* 91 FR 53573, 53578–53579 (Aug. 19, 2026).

[78] *See* 91 FR 53573, 53579 (Aug. 19, 2026).

7. Comment 1d

The commenter contends that South Carolina's CAA section 110(l) demonstration supporting the changes proposed to Regulation 61–62.5, Standard No. 5.2 is ''entirely qualitative'' and ''contains no quantified emissions or reasonable-further-progress analysis'' showing that in Standard No. 5.2 ''the specific MRR provisions EPA is conditionally approving will not interfere with attainment.''

8. Response 1d

As discussed previously, the EPA evaluates CAA section 110(l) non-interference demonstrations on a case-by-case basis considering the circumstances of each SIP revision. The addition of the MRR and certain other requirements, *e.g.,* testing requirements, to Regulation 61–62.5, Standard No. 5.2, in Section IV enhance enforceability and are therefore SIP-strengthening. As discussed in the 2026 Source Testing and NO_X Control Proposed Rule, the State, in its May 13, 2026, CAA section 110(l) demonstration supporting the changes to Standard No. 5.2 proposed for conditional approval frames the corrections to the added MRR and source testing provisions as removing ''open-ended discretionary language'' and adding ''increased clarity and specificity'' for source testing and monitoring requirements. The State explains that it ''does not expect any emission increases as a result of the changes'' and that its committed corrections to the provisions requested for conditional approval ''will enhance transparency'' and the ability to evaluate source compliance with Standard No. 5.2.[79]

As explained in the 2026 Source Testing and NO_X Control Proposed Rule, the EPA proposed to conditionally approve portions of the State's SIP revisions to Regulation 61–62.5, Standard No. 5.2, in Section IV through February 4, 2022, based on a commitment under CAA section 110(k)(4) to adopt and submit corrective revisions to portions of the SIP provisions currently before the EPA no later than one year after the EPA's final conditional approval of South Carolina's submissions. The corrections to which the State has committed will, as the State notes in its CAA section 110(l) demonstration, ''bound or entirely remove Department discretion'' and ''strengthen the . . . SIP,'' ensuring practicable enforceability.

Although the commenter states that South Carolina's noninterference demonstration is ''entirely qualitative'' and ''contains no quantified emissions or reasonable-further-progress analysis,'' as explained above and in the 2026 Source Testing and NO_X Control Proposed Rule, the added MRR and testing requirements in Regulation 61–62.5, Standard No. 5.2 for which the State has requested conditional approval are SIP-strengthening, as proposed for conditional approval, and the changes to those provisions to which the State has committed: (1) will not increase emissions, (2) will further strengthen the SIP, (3) ensure practicable enforceability, and (4) are not inconsistent with the requirements under CAA section 110(l) or any other applicable CAA requirements. Further, since the changes are SIP-strengthening and the State is currently in attainment with respect to all NAAQS, SC DES is under no obligation to demonstrate RFP toward attainment of any standard. The 2026 Proposed Rule explained, and the commenter did not refute, that the added MRR and testing requirements are SIP-strengthening. Therefore, the qualitative CAA section 110(l) demonstration provided by the State to support the proposed conditional approval of the relevant MRR and testing provisions in Regulation 61–62.5, Standard No. 5.2 is sufficient.

ii. Comment 2

The commenter acknowledges ''the utility of updating state-level monitoring and reporting frameworks'' in Regulation 61–62.5, Standard No. 5.2 and urges ''the EPA to strengthen its oversight regarding conditional approvals, continuous monitoring rigor, and enforceable correction timelines.'' Specifically, the commenter takes issue with ''[t]he EPA's utilization of a partial conditional approval mechanism'' and states that, ''[u]nder [CAA] mandates, conditional approvals are an extraordinary administrative remedy, not a permanent parking lot for deficient rules.'' The commenter also contends that the ''proposed rule. . .heavily relies on periodic stack testing or parametric monitoring parameters'' and states that ''CEMS provide the only reliable, 24/7 accountability necessary to verify that industrial sources are continuously complying with NO_X emission limits and protecting local ozone and [PM] attainment standards.'' The commenter concludes that EPA should require the State to prioritize CEMS and incorporate ''audit testing protocols'' ''[w]here periodic stack testing or parametric monitoring is required.'' The commenter also takes issue with what it states is ''a recurring flaw across state SIP frameworks,'' ''the absence of rigorous, legally enforceable timelines to address and correct operational deficiencies identified during . . . tune-ups.'' The commenter concludes that ''[t]he EPA . . . must ensure that South Carolina's revisions to Standard No. 5.2 do not introduce regulatory blind spots that undermine regional air quality goals'' and that the Agency ''can fulfill its statutory obligation to protect ambient air quality under the [CAA]'' ''b[y] enforcing strict oversight of the conditional approval clock, pushing for 24/7 continuous monitoring, and closing loopholes on equipment tune-up timelines.'' The commenter states that, ''[t]o ensure that South Carolina's SIP revisions genuinely protect public health and comply with federal attainment mandates, the EPA must incorporate and enforce the remediation measures outlined'' in their comments, described below. The EPA summarizes and addresses these individual comments in Comments 2a through 2c, below.

1. Comment 2a

The commenter states that the EPA's ''partial conditional approval mechanism relies entirely on the [S]tate's good-faith and timely correction of identified regulatory deficiencies,'' framing conditional approvals as an extraordinary administrative remedy, and urges ''the EPA to strictly monitor the statutory one-year clock triggered by the conditional approval,'' emphasizing that, if the State ''fails to submit the required corrective amendments to its source testing and [CEMS] provisions within the mandatory timeframe, the EPA must immediately convert the action to a full disapproval and initiate a [Federal Implementation Plan (FIP)] clock under [s]ection 110(c) of the Act.''

2. Response 2a

The Agency agrees with the commenter that its partial conditional approval mechanism with respect to certain MRR and testing provisions in Regulation 61–62.1, Standard No. 5.2 relies on the State's ''timely correction of identified regulatory deficiencies''; but the EPA disagrees that, under the CAA, the conditional approval mechanism is ''an extraordinary administrative remedy.'' As noted in the 2026 Source Testing and NO_X Control Proposed Rule and above, CAA section 110(k)(4) expressly authorizes the EPA to conditionally approve a SIP revision based on a commitment from a State to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. Where the commenter urges the EPA to

[79] *See* 91 FR 53573, 53591 (Aug. 19, 2026).

''strictly monitor the statutory one-year clock triggered by the conditional approval,'' as noted in the 2026 Proposed Rule and above, if the State fails to meet its commitment within one year of the final conditional approval, the conditional approval will be treated as a disapproval, and the EPA will publish a notification of the disapproval of the relevant MRR and testing requirements. If the conditional approval is converted to a disapproval, the final disapproval triggers the FIP requirement under CAA section 110(c). If, however, South Carolina fulfills its commitment within one year of final conditional approval, the requirements of the conditionally approved NO_X control SIP revision will remain a part of the SIP until the EPA takes final action approving or disapproving the corrective SIP revision.

The commenter fails to identify how the proposed partial conditional approval of the State's MRR and testing requirements under Regulation 61–62.5, Standard No. 5.2 in the 2026 Source Testing and NO_X Control Proposed Rule would ''undermine regional air quality goals.'' Furthermore, as explained in the 2026 Proposed Rule and above, the Agency's proposed partial conditional approval of the MRR requirements is SIP-strengthening.

3. Comment 2b

The commenter states that ''[p]eriodic testing creates an inherent compliance loophole,'' *i.e.,* that ''industrial facilities frequently optimize operations, adjust fuel mixes, or throttle production specifically for the scheduled day of a stack test, yielding emissions data that fails to reflect routine, variable operations.'' The commenter states that the ''EPA should require South Carolina to prioritize [CEMS] wherever technically and economically feasible,'' framing CEMS as ''the only reliable, 24/7 accountability necessary to verify that industrial sources are continuously complying with NO_X emission limits and protecting local ozone and [PM] attainment standards.'' The commenter further states that, ''[w]here periodic stack testing or parametric monitoring is permitted, the [S]tate must incorporate mandatory, unannounced audit testing protocols.''

4. Response 2b

The EPA disagrees that CEMS provides ''the only reliable . . . accountability necessary to verify'' that sources are in continuous compliance with ''NO_X emission limits'' and that ''local ozone and [PM] attainment standards'' are protected. Continuous monitoring systems (CMS) include CEMS, continuous opacity monitoring systems (COMS), and continuous parametric monitoring systems (CPMS).[80] Federal requirements, including SIP-approved requirements, can necessitate periodic or continuous monitoring to demonstration compliance and ensure practicable enforceability. Under Regulation 61–62.5, Standard No. 5.2, in Section IV, new affected sources are either subject to 40 CFR part 60, and any applicable NO_X monitoring requirements therein, or to CEMS, PEMS, or manufacturer's certification requirements, and/or source testing provisions under Section IV. If the Agency takes final action approving a corrective SIP revision consistent with the commitment in the State's May 13, 2026, conditional approval request and supplement, the CEMS and source testing requirements applicable to certain new affected sources will apply without being subject to the State's discretion. If the State fails to submit the corrective revisions to which it has committed within the one-year conditional approval timeframe, the conditional approval will become a disapproval.[81]

Where the commenter takes issue with the State's addition of parametric monitoring requirements to Regulation 61–62.5, Standard No. 5.2, applicable to certain new affected boilers and turbines under Section IV, as explained in the 2026 Proposed Rule, CEMS and PEMS are each designed to assess continuous compliance, and the use of PEMS can provide more flexible and less expensive options than CEMS for demonstrating compliance of regulated sources, while providing ''reasonable assurance of compliance.'' [82] Possible considerations a source could factor into account when requesting PEMS in lieu of CEMS include cost and space. The key indicators, *i.e.,* parameters, that are monitored have an established and measured relationship with the underlying operating conditions that represent compliance with the applicable emission limits or control requirements. With respect to the added parametric monitoring requirements applicable to certain large boilers in lieu of CEMS in certain circumstances under paragraph IV(A)(1), PEMS to measure NO_X and oxygen or carbon dioxide must be ''installed, calibrated, maintained, and operated in accordance with approved methods in Regulation 61–62.60,'' which is where South Carolina incorporates the Federal NSPS regulations by reference, and sources subject to CEMS and PEMS are required to submit equivalent excess emissions and monitoring systems performance reports semiannually. These reports require detailed descriptions of any excess emissions and the circumstances surrounding excess emissions events, along with descriptions of periods during which the CMS was inoperative. For the added parametric monitoring requirements applicable to certain turbines, those requirements depend on source characteristics, *e.g.,* NO_X control technology, and subject sources are also subject to the source testing requirements in paragraph IV(C)(3), during which the parameters continuously monitored must be evaluated ''to establish acceptable values and ranges.'' Subject source owners or operators are also required to develop and keep on-site a parameter monitoring plan.

Likewise, regarding the comments concerning the State's addition of stack testing requirements to Standard No. 5.2,[83] stack testing is an established CAA compliance monitoring tool across Federal regulations, *e.g.,* NSPS under 40 CFR parts 60 or NESHAPs under parts 61 and 63, used to determine a facility's compliance with emission limits, or capture or control efficiencies established pursuant to CAA requirements. Stack tests are conducted under testing conditions that are generally representative of operating conditions and which should demonstrate that a source is capable of complying with applicable emission standards at all times.[84] [85]Under Regulation 61–62.5, Standard No. 5.2, Section IV, source tests ''will be used to

[80] CPMS—or predictive emissions monitoring systems (PEMS)—measures one or more parameters that are a key indicator of system performance, as explained in the 2026 Source Testing and NO_X Control Proposed Rule. *See* 91 FR 53573, 53588 (Aug. 19, 2026).

[81] As noted in the 2026 Source Testing and NO_X Control Proposed Rule, although this action finalizing the partial conditional approval as proposed incorporates into the SIP the above-described discretionary provisions, the EPA understands that the State will not exercise its discretion in implementing the provisions of Standard No. 5.2 as the State moves through its process to go through its procedures to adopt the committed changes. *See* 91 FR 53573, 53575 (Aug. 19, 2026).

[82] Musatti, Daniel C., et al. ''Section 2, Chapter 4, Section 4.3: Parametric Monitoring.'' *EPA Air Pollution Control Cost Manual.* EPA/452/B–02–001, 2000 at p. 4–12. Available via: *https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution.*

[83] In Standard No. 5.2, stack testing, *i.e.,* performance or source testing, requirements are added under Section IV, applicable to certain new affected boilers, internal combustion engines, turbines, and other new affected sources.

[84] *See, e.g.,* 40 CFR 60.8(c); 40 CFR 63.7(e).

[85] *See* ''Issuance of the Clean Air Act National Stack Testing Guidance,'' (2009) at pp. 14–15, available at *https://www.epa.gov/sites/default/files/2013-09/documents/stacktesting_1.pdf.*

show compliance with the NO_X standard[s].'' With respect to the added source testing requirements applicable to certain new affected sources, *i.e.,* smaller boilers, certain internal combustion engines and turbines, and other affected source types, Regulation 61–62.5, Standard No. 5.2, Section IV requires all source testing to be ''conducted in accordance with Regulation 61–62.1, Section IV.''

As described in the 2026 Proposed Rule and above, Regulation 61–62.1, Section IV, as revised through the April 24, 2020, SIP revision, requires at subsection IV(B) that the State approve the test plan required under subsection IV(C) prior to the source conducting the test. The test plan includes the test objective at paragraph IV(C)(2), which constitutes a description of the overall purpose of the test and the citation of any State or Federal regulation or permit condition requiring the test. Additionally, under Regulation 61–62.1, subsection IV(B), the State may request any additional information related to the test plan and will deny any plan for which additional requested information is not submitted. Under Regulation 61–62.1, subsection IV(C), in addition to the test objective, the plan must include process descriptions; safety considerations; sampling and analytical procedures; sampling locations and documentation; internal quality assurance/quality control measures for applicable test methods; and final report content. Under Regulation 61–62.1, subsection IV(J), modifications to the plan must be approved before the test. Under Regulation 61–62.1, subsection IV(D), a source owner, operator, or representative must notify the State of the source test prior to the test date and provide access to the facility for source testing observation. Furthermore, Under Regulation 61–62.1, subsection IV(E), the State may request that source test samples collected be split for independent analysis or analysis in the State laboratory, and performance testing for certain methods must include a test method performance audit, if a performance audit sample is commercially available, using a blind audit sample supplied by an accredited audit sample provider and analyzed during the test in order to indicate test data bias. Regulation 61–62.1, subsection IV(E) also gives the State discretion to require subsequent remedial actions based on split samples and/or performance audit results. Regulation 61–62.1, subsection IV(G) covers noncompliant test results and requires a source owner, operator, or representative to submit a written plan including interim actions to minimize emissions pending a demonstration of compliance, corrective actions taken or proposed to return the source to compliance, the intended method used to demonstrate source compliance, *e.g.,* retest and proposed date, and any changes necessary to the site-specific test plan before the retest. Under Regulation 61–62.1, subsection IV(H), a source owner, operator, or representative or source test consultant must provide access to the analytical laboratory for observation of instrument calibrations and field and audit sample analyses, and, under Regulation 61–62.1, subsection IV(I), the State may inspect the source(s) tested. Thus, the State has the authority and the ability to oversee the test plan and testing, to audit the tests, and to inspect the source(s) being tested.

As explained in the 2026 Source Testing and NO_X Control Proposed Rule, the State's added parametric monitoring requirements under Regulation 61–62.5, Standard No. 5.2 in Section IV, applicable to certain turbines, serve to demonstrate compliance with the NO_X emission limits and/or control requirements in Standard No. 5.2. With respect to the State's added source testing requirements and the PEMS requirements, to which it has committed to add for certain large boilers, in Section IV, if South Carolina fulfills its commitment in line with the May 13, 2026, commitment letter and supplement, and if the EPA approves the corrective SIP revision under CAA section 110(k)(4), those SIP-strengthening requirements would no longer be subject to the State's discretion. For the reasons described in the 2026 Proposed Rule and in this action, the EPA disagrees that: (1) it should ''push[ ] for 24/7 continuous monitoring'' and require the State to ''prioritize [CEMS] wherever technically and economically feasible,'' in lieu of other, *i.e.,* parametric monitoring and source testing, monitoring methods; (2) periodic testing requirements, such as those added to Regulation 61–62.5, Standard No. 5.2, in Section IV applicable to certain sources create ''an inherent compliance loophole'' whereby facilities can ''optimize operations, adjust fuel mixes, or throttle production specifically for the . . . day of a stack test, yielding emissions data that fails to reflect routine, variable operations''; and (3) for periodic stack testing or parametric monitoring, the State ''must incorporate mandatory, unannounced audit testing protocols.''

With respect to the commenter's statement that periodic testing requirements create ''an inherent compliance loophole,'' as explained above: (1) source testing is an established compliance tool used to determine a facility's compliance or capture or control efficiencies; (2) under Regulation 61–62.1, Section IV, source test conditions can dictate permit emission or production rate limits, and (3) under Regulation 61–62.5, Standard No. 5.2, Section IV, source tests ''will be used to show compliance with the NO_X standard[s].'' Furthermore, in Standard No. 5.2, certain sources, *i.e.,* certain turbines also subject to PEMS, as noted above, as well as internal combustion engines, are subject to additional source testing provisions. These provisions require, with respect to turbines, monitoring of continuously monitored parameters during testing ''to establish acceptable values and ranges'' which will be evaluated continuously, and, with respect to internal combustion engines, source owners or operators to operate affected engines within parameter(s) established during the most recent compliant source test. A State-issued summary of that test must be maintained with the engine's required permit.

With respect to the commenter's statement concerning unannounced audit testing for sources subject to periodic source testing or parametric monitoring requirements, as noted above, new affected sources subject to parametric monitoring under Standard No. 5.2 without concurrent applicable source testing requirements, *i.e.,* certain large boilers, are required to submit detailed excess emissions reports semiannually. For sources subject to source testing requirements in Standard No. 5.2, and therefore Regulation 61–62.1, Section IV, Regulation 61–62.1, subsection IV(E) provides for test method performance audits, if relevant samples are commercially available from an accredited provider. Furthermore, as described above, under Regulation 61–62.1, the State may request any test plan-related information not already provided and can inspect the source(s) tested; observe the test itself, as well as instrument calibrations, and field and audit sample analyses; and independently analyze test samples. Finally, Regulation 61–62.1, Section II(O) requires each facility to allow SC DES to: (1) ''enter the facility where emissions-related activity is conducted, or where records are kept under the conditions of the permit''; (2) ''have access to and copy . . . any records that must be kept under the conditions of the permit''; (3) ''[i]nspect any facilities, equipment (including

monitoring and air pollution control equipment), practices, or operations regulated or required''; and (4) ''sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.''

5. Comment 2c

The commenter cites ''the absence of rigorous, legally enforceable timelines to address and correct operational deficiencies identified during tune-ups'' and states that requirements to perform tune-ups are ''meaningless if a facility is not legally bound to fix sub-optimal combustion efficiency, high carbon monoxide markers, or elevated NO_X emissions within a strict window.'' The commenter claims that the ''EPA must require South Carolina to amend its rule to establish a hard, legally enforceable deadline, not to exceed 30 days from the completion of a tune-up report, for a facility to complete and verify corrective actions following any failed or sub-optimal diagnostic check.'' The commenter also claims that ''any exceedance discovered during a tune-up must be treated as a reportable deviation rather than corrected under a shroud of administrative discretion.''

6. Response 2c

The commenter's state that ''a recurring flaw across . . . SIP frameworks is the absence of rigorous, legally enforceable timelines to address and correct operational deficiencies during . . . tune-ups'' is outside the scope of 2026 Source Testing and Control of NO_X Proposed Rule. As explained in the 2026 Source Testing and NO_X Control Proposed Rule, the State's changes to its tune-up requirements applicable to new affected sources are consistent with or comparable to the SIP-approved tune-up requirements. The changes also clarify tune-up requirements applicable to existing affected sources. The EPA, therefore, evaluated the overall changes to the State's SIP-approved tune-up requirements for sources covered by Standard No. 5.2.

Regarding the commenter's claim that tune-up requirements are ''meaningless if a facility is not legally bound to fix sub-optimal combustion efficiency, high carbon monoxide markers, or elevated NOx emissions within a strict window,'' the EPA notes that the purpose of conducing tune-up activities is to optimize combustion efficiency, so the actions taken in support of this objective are generally completed during the process.[86] The State's tune-up requirements in Regulation 61–62.5, Standard No. 5.2 represent routine maintenance that helps to ensure optimal functioning of the combustion units,[87] so the EPA finds that the aim of the required tune-ups is to ''fix sub-optimal combustion efficiency.''

Moreover, and regarding the commenter's contention that ''any exceedance discovered during a tune-up must be treated as a reportable deviation,'' Standard No. 5.2 requires that all tune-up records be maintained on-site for inspection by DES for five years and tune-up plans be maintained.[88] Additionally, Regulation 61–62.1, Section V, *Credible Evidence,* provides at Section V(A), that ''[t]he monitoring data collected and records of operations would serve as the basis for a source to certify compliance, and could be used by the Department as direct evidence of an enforceable violation of the underlying emission limitation or standard.'' Therefore, the State has access to the records supporting those activities and the ability to review information generated during tune-ups. Furthermore, exceedances of emission limits are not allowed under the State's SIP. Additionally, as noted in the August 19, 2026, Proposed Rule and this action, the State's regulations at issue, *i.e.,* Regulation 61–62.1, Section IV and Regulation 61–62.5, Standard No. 5.2, contain MRR and source testing requirements for subject sources to demonstrate compliance with applicable requirements, including Federal and SIP requirements. Regulation 61–62.5, Standard No. 5.2 requires specific excess emissions reporting for units with CEMS. South Carolina also requires excess emissions reporting for units without CEMS via a required standard permit condition at Regulation 61–62.1, Section II, subparagraph (J)(1)(c). Therefore, to the extent a tune-up activity identifies a performance issue that has caused excess emissions, sources are required to include the relevant information in reporting.

For the reasons discussed above, the EPA rejects the commenter's contention that it ''must require South Carolina . . . to establish a . . . legally enforceable deadline, not to exceed 30 days from the completion of a tune-up report, for a facility to complete and verify corrective actions following any failed or sub-optimal diagnostic check'' and the inference that the State's tune-up requirements under Standard No. 5.2 reflect ''loopholes'' with respect to ''equipment tune-up timelines.'' As noted above, the corrective actions supporting the tune-up are generally conducted in sync with the required tune-up, and the State has established other monitoring and testing requirements more specifically intended to assess compliance with the requirements of Standard No. 5.2, although it has the ability to access and assess the tune-up records, as needed.

V. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Sections I through IV of this preamble, the EPA is finalizing the incorporation by reference of South Carolina Regulation 61–62.1, Section II, *Permit Requirements,* State effective April 24, 2020,[89] [90] except the following: subsections II(D), II(E), II(F), II(I), and II(N); paragraphs II(B)(3), II(B)(5), and II(B)(6); and the following two sentences under subparagraph II(B)(2)(h): ''Unless otherwise exempt,

[86] *See, e.g., Small Entity Compliance Guide for Area Source Boilers, National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers, 40 CFR Part 63, Subpart JJJJJJ* (2016) at pp. 16–18, available at *https://www.epa.gov/sites/default/files/2017-01/documents/area-boiler-compliance-guide.pdf.*

[87] *See, e.g.,* Harrell, Greg, *Boiler Tune-up Guide for Natural Gas and Light Fuel Oil Operation,* (2005) at pp. 1–1, 2–1, available at *https://www.epa.gov/sites/default/files/2016-09/documents/boiler_tune-up_guide-v1.pdf.*

[88] Under Standard No. 5.2, new and existing sources are required to perform tune-ups every 24 months, maintain tune-up records on-site for five years, available for SC DES inspection, and retain a tune-up plan on file, except that boilers and internal combustion engines subject to Federal tune-up requirements in 40 CFR part 63 must comply with those requirements instead.

[89] In the January 21, 2025, Proposed Rule, the EPA proposed to approve administrative edits to Regulation 61–62.1, Section II, State effective April 24, 2020. In this final action, the Agency is finalizing those changes as proposed in the 2025 Proposed Rule for subsections II(A); II(C); II(H); II(J)–II(M); and II(O), in their entireties, and paragraphs II(B)(1); II(B)(2); subparagraphs II(B)(2)(a)–(g); and paragraphs II(B)(4) and II(B)(7), under subsection II(B). In this action, the EPA is also finalizing administrative edits to Regulation 61–62.1, Section II, subparagraph II(B)(2)(h), State effective April 24, 2020, except for the second and third sentences, proposed for approval in the August 19, 2026, Proposed Rule.

[90] Paragraph II(B)(1), under subsection II(B), *Operating Permit,* and subsection II(H), *Synthetic Minor Plant Permits,* State effective June 24, 2005, are also incorporated by reference into the SIP under South Carolina Regulation 61–62.1, Section II and are not affected by this action and the approval of subsection II(B), *Exemptions from the Requirement to Obtain a Construction Permit,* and subsection II(H), *Operating Permit Renewal Requests,* State effective April 24, 2020. Resultingly, with this final action, Regulation 61–62.1, Section II in the South Carolina SIP contains two subsections numbered II(B) and two subsections numbered II(H), with the State effective dates noted above.

sources may be exempted under this section at higher emission levels if there is a demonstration that there are no applicable limits or requirements. These applicable requirements include federally applicable limits or requirements,'' which are not incorporated into the SIP;[91] except for subsection II(G), which is incorporated by reference with a State effective date of June 24, 2005, except for subparagraphs II(G)(4)(a)–(e), which are also not incorporated into the SIP;[92] and except for paragraph II(K)(5), which is incorporated by reference with a State effective date of May 23, 2025. The EPA is also finalizing the incorporation by reference of South Carolina Regulation 61–62.1, Section IV, *Source Tests,* State effective April 24, 2020. Additionally, the EPA is finalizing the incorporation by reference of South Carolina Regulation 61–62.5, Standard No. 5.2, *Control of Oxides of Nitrogen (NO_X),* State effective April 24, 2020, except subsection II(K)[93] and subsection III(A),[94] which are incorporated by reference with a State effective date June 25, 2004, and paragraphs I(B)(2) and I(B)(3), which are not incorporated into the SIP.[95] The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under CAA sections 110 and 113 as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[96]

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations.[97] Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

Because this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law, this 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 Catawba Indian Nation 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.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under CAA section 307(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 15, 2027. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.[98]

List of Subjects in 40 CFR Part 52

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

[91] In this action, the EPA is not finalizing changes to Regulation 61–62.1, Section II, subsections II(D), II(E), II(F), II(G), II(I), and II(N), submitted by SC DES in SIP revisions through April 24, 2020. The EPA proposed approval of Regulation 61–62.1, Section II, subsections II(D), II(E), II(F), II(G), II(I), and II(N) in a separate August 19, 2026, Proposed Rule, contingent on the EPA finalizing a proposed change to relevant national regulations. *See* 91 FR 53547. In this action, the EPA is also not finalizing changes to the second and third sentences within subparagraph II(B)(2)(h) and to paragraphs II(B)(3), II(B)(5), and II(B)(6), under subsection II(B) in Regulation 61–62.1, Section II, submitted by SC DES in SIP revisions through April 24, 2020. On July 21, 2026, SC DES submitted a letter removing from EPA consideration the second and third sentences within subparagraph II(B)(2)(h) and removing paragraphs II(B)(3), II(B)(5), and II(B)(6), as submitted through the April 24, 2020, SIP revision.

[92] Subparagraphs II(G)(4)(f) and (g) are incorporated by reference with a State effective date of June 24, 2005.

[93] As finalized, the June 25, 2004, state-effective version of the definition of ''Source'' under Standard No. 5.2, Section II, will remain in the SIP, unnumbered.

[94] As finalized, the June 25, 2004, state-effective version of subsection III(A), numbered III(a), will remain in the SIP.

[95] On May 13, 2026, SC DES submitted a letter removing from the EPA's consideration paragraph I(B)(3) and subsections II(K) and III(A), as submitted through the February 4, 2022, SIP revision. Additionally, on July 21, 2026, SC DES submitted a letter removing from the EPA's consideration paragraph I(B)(2), as submitted through the February 4, 2022, SIP revision. These materials are available in Docket No. EPA–R04–OAR–2025–0017.

[96] 62 FR 27968 (May 22, 1997).

[97] *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a).

[98] *See* CAA section 307(b)(2).

Dated: November 6, 2026.

Kevin McOmber,

Regional Administrator, Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart PP—South Carolina

■ 2. In § 52.2120(c), amend the table by revising the entries under ''Regulation No. 62.1'' for ''Section II'' and ''Section IV''; and under ''Regulation No. 62.5'' for ''Standard No. 5.2''.

The revisions read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED SOUTH CAROLINA LAWS AND REGULATIONS

State citation	Title/ subject	State effective date	EPA approval date	Explanation
Regulation No. 62.1	Definitions and General Requirements.			
*	*	*	*	* * *
Section II	Permit Requirements	4/24/2020	11/16/2026, 91 FR [Insert **Federal Register** page where the document begins].	Except paragraphs II(B)(3), II(B)(5), and II(B)(6); and the following two sentences under subparagraph II(B)(2)(h): ''Unless otherwise exempt, sources may be exempted under this section at higher emission levels if there is a demonstration that there are no applicable limits or requirements. These applicable requirements include federally applicable limits or requirements.'' which are not incorporated into the SIP. Except subsections II(D), II(E), II(F), II(I), and II(N), which are not incorporated into the SIP. Except subsection II(G), which is incorporated by reference with a State effective date of June 24, 2005, except for subparagraphs II(G)(4)(a)–(e), which are not incorporated into the SIP; subparagraphs II(G)(4)(f) and (g) are incorporated by reference with a State effective date of June 24, 2005. Except paragraph II(K)(5), approved on November 16, 2026 with a State effective date of May 23, 2025. The SIP contains, under subsection II(B), *Operating Permit,* paragraph II(B)(1), State effective June 24, 2005, and subsection II(B), *Exemptions from the Requirement to Obtain a Construction Permit,* approved on November 16, 2026 with a State effective date of April 24, 2020. The SIP contains subsection II(H), *Synthetic Minor Plant Permits,* state effective June 24, 2005, and subsection II(H), *Operating Permit Renewal Requests,* approved on November 16, 2026 with a State effective date of April 24, 2020.
*	*	*	*	* * *
Section IV	Source Tests	4/24/2020	11/16/2026, 91 FR [Insert **Federal Register** page where the document begins].	
*	*	*	*	* * *
Regulation No. 62.5	Air Pollution Control Standards.			
*	*	*	*	* * *
Standard No. 5.2	Control of Oxides of Nitrogen (NO_X).	4/24/2020	11/16/2026, 91 FR [Insert **Federal Register** page where the document begins].	Except subsection III(A) and the portion of Section II that defines ''Source'', which are State effective June 25, 2004; and paragraphs I(B)(2), I(B)(3), and (II)(K), which are not incorporated into the SIP.
*	*	*	*	* * *

* * * * *

■ 3. Add § 52.2132 to read as follows:

§ 52.2132 Identification of plan–conditional approval.

The EPA is conditionally approving the portions of the July 27, 2016, September 5, 2017, and February 4, 2022, SIP revisions that revise the following provisions of Regulation 61–62.5, Standard No. 5.2, *Control of Oxides of Nitrogen (NO_X),* Section IV, *Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:* paragraphs IV(A)(1) and IV(C)(1); the second prefatory paragraph of subsection IV(D); and subparagraphs IV(A)(1)(a)–(d), IV(A)(2)(a)–(c), IV(B)(2)(a)–(b), IV(C)(1)(a)–(d), IV(C)(3)(c)–(d), and IV(D)(2)(a)–(b). The conditional approval is based on a commitment included in a letter from the South Carolina Department of Environmental Services (SC DES) dated May 13, 2026, from Myra Reece, Director, SC DES, to Kevin J. McOmber, Regional Administrator, EPA Region 4, to adopt certain revisions to these rule provisions removing or bounding State discretion in setting the applicable monitoring, recordkeeping, reporting, and testing requirements specified in those provisions and to submit the amended rule provisions to the EPA within 12 months of the effective date of the final conditional approval. If SC DES fails to meet their commitment by December 16, 2026, the conditional approval is treated as a disapproval for those affected provisions.

[FR Doc. 2026–23219 Filed 11–13–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1302

RIN 0970–AD21

Restoring Flexibility To Support Head Start Program Access

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: In this final rule, the Administration for Children and Families (ACF) removes requirements from the Head Start Program Performance Standards (Performance Standards) to restore local flexibility to Head Start programs and improve access to quality services. Specifically, this final rule removes requirements related to wages and benefits that the Administration believes are not in line with the plain language of the Head Start Act and are costly and overly prescriptive for Head Start programs and staff. ACF estimates these changes will result in over $2 billion in future cost savings for Head Start programs. The rescissions in this final rule impact the costliest parts of the final rule published by the Office of Head Start (OHS) in 2024, *Supporting the Head Start Workforce and Consistent Quality Programming.*

DATES: *Effective date:* January 15, 2027.

FOR FURTHER INFORMATION CONTACT: Shawna Pinckney, Office of Head Start, 866–763–6481, *OHS_Policy@acf.hhs.gov.*

I. Background

The Federal Head Start program provides early education and other comprehensive services to low-income pregnant women and children prenatal to age 5 in center- and home-based settings across the country. Since its inception in 1965 as part of the War on Poverty, Head Start has been a leader in providing high-quality services that support the development of children from low-income families, helping them enter kindergarten more prepared to succeed in school and in life. Research shows that the first five years of a child's life are pivotal for brain development, laying the foundation for all future learning, behavior, and health.[1] For children in poverty, this period is even more crucial, as they often face additional stressors—such as inadequate nutrition or limited access to educational resources—that can hinder brain development.[2] Research demonstrates that early intervention, including quality early education, is key to disrupting the cycle of poverty and supporting the development of young children so they are more prepared to succeed in school and in life. Indeed, a wealth of evidence supports the positive outcomes for low-income children and their families who participate in and graduate from Head Start programs.[3]

The Head Start Program Performance Standards (Performance Standards), first published in the 1970s, are the foundation on which Head Start programs design and deliver high-quality, comprehensive services to children and their families. They set forth the requirements local grant recipients must meet to support the cognitive, social, emotional, and healthy development of children enrolled in the program. They include requirements to provide education, health, mental health, nutrition, and family and community engagement services, as well as requirements for local program governance and Federal administration of the program.

The *Improving Head Start for School Readiness Act of 2007* (the 2007 Reauthorization), which amended the Head Start Act (the Act), required the Department of Health and Human Services (HHS) to ensure children and families receive quality Head Start services. The 2007 Reauthorization also required the Secretary of HHS to revise the Performance Standards, as needed. This authority has provided a basis for updates and changes made to the Performance Standards since 2007. HHS conducted a major revision of the Performance Standards through a final rule published in 2016 to implement the statutory changes in the 2007 Reauthorization and to enhance program requirements to reflect the latest science on child development. Subsequently, HHS published a final rule in 2024[4] that added a number of specific and costly requirements for programs related to supports for the Head Start workforce, among other changes. This final rule makes necessary changes to bring the Head Start regulations in line with the Head Start Act. It restores flexibility to local Head Start programs and improves access for children and families by removing the costly requirements added in 2024. These changes are explained in greater detail in the sections that follow.

II. Statutory Authority

This final rule is being issued under the authority granted to the Secretary of

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