

Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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. If you believe this rule has implications for federalism or Indian Tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

#### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01 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. 4321–4370f), 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 involves establishment of a temporary moving safety zone for navigable waters of the La Quinta Channel between gated pair lights 11 and 12 to the Sea buoy. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the rig NFE PIONEER I while it is towed from Kiewit Offshore Services. It is categorically excluded from further review under paragraph L60(c), in Appendix A, Table 1 of DHS

Instruction Manual 023–01–001–01, Rev. 1.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### **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; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

- 2. Add § 165.T08–0705 to read as follows:

#### **§ 165.T08–0705 Safety Zone; La Quinta and Corpus Christi Shipping Channel, Ingleside, TX.**

(a) *Location.* The following area is a safety zone: all navigable waters of the La Quinta Channel between gated pair lights 11 and 12 to the Sea buoy. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative.

(b) *Enforcement period.* This section will be enforced from 6 a.m. to 6 p.m. from August 21, 2023, through August 26, 2023.

(c) *Regulations.* (1) According to the general regulations in § 165.23 of this part, entry into this temporary moving safety zone is prohibited unless authorized by the COTP or a designated representative. They may be contacted on Channel 16 VHF–FM (156.8 MHz) or by telephone at 361–939–0450.

(2) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this safety zone through Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety

Marine Information Broadcasts as appropriate.

**M.A. Cintron,**

*Captain, U.S. Coast Guard, Acting Captain of the Port Sector Corpus Christi.*

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**BILLING CODE 9110–04–P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA–R04–OAR–2022–0397; FRL–10011–02–R4]

### **Air Plan Approval; South Carolina: New Source Review Updates**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (hereinafter referred to as SC DHEC or South Carolina) via a letter dated February 3, 2022. The SIP revision updates portions of South Carolina’s Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) regulations, including changes to reflect the regulation of greenhouse gases (GHGs) pursuant to the Tailoring Rule and updates promulgated in the recent NSR Corrections Rule. With the exception of the Project Emissions Accounting provisions, which EPA expects to act on in a separate final rule, EPA is approving these revisions pursuant to the Clean Air Act (CAA or Act) and implementing Federal regulations.

**DATES:** This rule is effective September 22, 2023.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2022–0397. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section,

Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Pearlene Williams-Miles, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9144. Ms. Williams-Miles can also be reached via electronic mail at [WilliamsMiles.Pearlene@epa.gov](mailto:WilliamsMiles.Pearlene@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. This Action

In this final rule, EPA is approving into the South Carolina SIP updated PSD and NNSR rules. Specifically, EPA is approving the incorporation by reference of South Carolina's Regulation 61–62.5, Standard No. 7—*Prevention of Significant Deterioration*, State effective on November 26, 2021, except for paragraphs (A)(2)(d)(vi) and (A)(2)(d)(vii) related to Project Emissions Accounting into South Carolina's SIP. EPA is also finalizing the incorporation by reference of South Carolina's Regulation 61–62.5, Standard No. 7.1—*Nonattainment New Source Review*, State effective on November 26, 2021, into South Carolina's SIP except for paragraphs (A)(8) and (A)(9) related to Project Emissions Accounting and the portions of paragraphs (A)(11)(t) and (B)(22)(c)(xx) related to the Ethanol Rule Provisions.

##### II. Background

As described in the notice of proposed rulemaking (NPRM) published on July 26, 2022,<sup>1</sup> over time, EPA has updated its NNSR and PSD permitting minimum requirements for State implementation plans at 40 CFR 51.165 and 51.166, respectively, and States and localities are required to update their SIP-approved rules to ensure consistency with these Federal rules.<sup>2</sup> Collectively, EPA commonly refers to its NNSR and PSD permitting programs as

the major “new source review,” or NSR, permitting programs.

EPA last approved updates to South Carolina's SIP-approved major NSR regulations on October 28, 2021, by acting on an April 24, 2020, submittal from the State. *See* 86 FR 59646. Since the time of South Carolina's April 24, 2020, submittal, EPA has updated the Federal major NSR regulations to clarify the Project Emissions Accounting provisions and to correct certain errors in the NSR regulations that had accumulated over time.<sup>3</sup>

On February 3, 2022, SC DHEC submitted SIP revisions to EPA for approval that included changes to South Carolina's major NSR permitting regulations to align them with recent updates to Federal requirements for PSD and NNSR permitting.<sup>4</sup> Specifically, these changes update South Carolina's Regulation 61–62.5, Standard No. 7—*Prevention of Significant Deterioration*, and Standard No. 7.1—*Nonattainment New Source Review*.<sup>5</sup> The State's February 3, 2022, SIP submittal incorporates into the South Carolina SIP updated PSD provisions related to the regulation of GHGs pursuant to the Tailoring Rule,<sup>6</sup> which was previously implemented in South Carolina through legislative action (South Carolina Joint Resolution H4888 (2010)). The State's February 3, 2022, SIP submittal also incorporates changes promulgated in EPA's November 24, 2020, Project Emissions Accounting Rule<sup>7</sup> and in EPA's July 19, 2021, NSR Corrections Rule.<sup>8</sup>

Through the July 26, 2022, NPRM, EPA proposed to approve these changes as meeting the requirements of the Federal PSD and NNSR programs and as being consistent with the CAA.

<sup>3</sup> The “Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting” rule was finalized on November 24, 2020. *See* 85 FR 74890 (hereinafter “Project Emissions Accounting Rule”).

<sup>4</sup> EPA notes that the February 3, 2022, submittal was received by EPA on February 4, 2022. For clarity, EPA will refer to this submittal based on the date of the letter.

<sup>5</sup> EPA notes that under the February 3, 2022, cover letter, SC DHEC also submitted updates to the following State Regulations: 61–62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; Regulation 61–62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*; and Regulation 61–62.70, *Title V Operating Permit Program*. However, South Carolina explains in the February 3, 2022, cover letter that these regulations are not part of the SIP, and they are not being requested for approval by EPA into the South Carolina SIP at this time.

<sup>6</sup> “Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule.” *See* 75 FR 31514 (June 3, 2010).

<sup>7</sup> *See* 85 FR 74890 (November 24, 2020).

<sup>8</sup> *See* 86 FR 37918 (July 19, 2021).

However, EPA excluded a portion of paragraphs (A)(11)(t) and (B)(22)(c)(xx) as they relate to the Ethanol Rule Provisions, found in Regulation 61–62.5, Standard No. 7.1, from the proposed approval. Additional details on South Carolina's February 3, 2022, revisions and EPA's analysis of the changes can be found in the July 26, 2022, NPRM. Comments on the July 26, 2022, NPRM were due on or before August 25, 2022.

##### III. Response to Comments

EPA received comments on the July 26, 2022, NPRM, which are included in the docket of this rulemaking. The comments arrived in a letter dated August 25, 2022, and originate from one Commenter, Center for Biological Diversity. The Commenter provided supplemental documentation to support the comments submitted. The comments generally oppose incorporating the Federal Project Emissions Accounting provisions at 40 CFR 51.165 and 51.166 within the February 3, 2022, submission.

EPA is not finalizing adoption of the Project Emissions Accounting provisions into South Carolina's SIP in this action.<sup>9</sup> Therefore, EPA is not responding to these comments at this time. EPA expects to take final action on the Project Emissions Accounting provisions contained within SC DHEC's submittal in a separate final rule and to respond to these comments in that action.

##### IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in sections I and II of this preamble, EPA is finalizing the incorporation by reference of South Carolina's Regulation 61–62.5, Standard No. 7—*Prevention of Significant Deterioration*, State effective on November 26, 2021, except for paragraphs (A)(2)(d)(vi) and (A)(2)(d)(vii) related to Project Emissions Accounting. EPA is also finalizing the incorporation by reference of South Carolina's Regulation 61–62.5, Standard No. 7.1—*Nonattainment New Source Review*, State effective on November 26, 2021, except for paragraphs (A)(8) and (A)(9) related to

<sup>9</sup> These provisions are contained in Regulation 61–62.5, Standard 7, section (A)(2)(d)(vi) (revising hybrid test in PSD rules); Regulation 61–62.5, Standard 7, section (A)(2)(d)(vii) (defining “sum of the difference” in PSD rules); Regulation 61–62.5, Standard 7.1, section (A)(8) (setting forth hybrid test in NNSR rules); Regulation 61–62.5, Standard 7.1, section (A)(9) (defining “sum of the difference” in NNSR rules).

<sup>1</sup> *See* 87 FR 44314.

<sup>2</sup> Over time, EPA has also updated its corresponding PSD and NNSR rules at 40 CFR 52.21 and 40 CFR part 51, appendix S.

Project Emissions Accounting and the portions of paragraphs (A)(11)(t) and (B)(22)(c)(xx) related to the Ethanol Rule Provisions. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>10</sup>

#### V. Final Action

EPA is approving, with the exceptions noted, the changes to the South Carolina Regulation 61–62.5, Standards No. 7—*Prevention of Significant Deterioration*, and Standard No. 7.1—*Nonattainment New Source Review*, both State effective on November 26, 2021. These changes were submitted by South Carolina on February 3, 2022.

#### 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. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); 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 final rule merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law, this final rule for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120 (Settlement Act), “all State and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant State and local agencies and authorities.” The CIN also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by State law or local governing bodies, in accordance with the Settlement Act.

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of

environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

SC DHEC did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and 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 section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 23, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

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

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

Dated: August 17, 2023.

**Jeaneanne Gettle,**

*Acting Regional Administrator, Region 4.*

For the reasons stated in the preamble, 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.*

<sup>10</sup> *See* 62 FR 27968 (May 22, 1997).

**Subpart PP—South Carolina**

■ 2. In § 52.2120(c), amend the table under the heading “Regulation No.

62.5” by revising the entries for “Standard No. 7” and “Standard No. 7.1” to 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. 62.5.	Air Pollution Control Standards.			
Standard No. 7 ..	Prevention of Significant Deterioration.	11/26/2021	8/23/2023, [Insert citation of publication].	Except for the project emissions accounting provisions at paragraphs (A)(2)(d)(vi) and (A)(2)(d)(vii).
Standard No. 7.1	Nonattainment New Source Review.	11/26/2021	8/23/2023, [Insert citation of publication].	Except for the ethanol production facilities exclusion in paragraphs (A)(11)(t) and (B)(22)(c)(xx) and the project emissions accounting provisions at paragraphs (A)(8) and (A)(9).

\* \* \* \* \*  
[FR Doc. 2023–18120 Filed 8–22–23; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2022–0682; FRL–10126–02–R9]

**Air Plan Approval; California; San Diego County Air Pollution Control District; Oxides of Nitrogen**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the San Diego County Air Pollution Control District (SDCAPCD) portion of the California State Implementation Plan (SIP). The California Air Resources Board (CARB) submitted the rule, on behalf of SDCAPCD, to the EPA as part of the requirement to implement major source

reasonable available control technology (RACT) for emissions of oxides of nitrogen (NO<sub>x</sub>) for the San Diego County ozone nonattainment area. This revision concerns NO<sub>x</sub> emissions from boilers, process heaters, and steam generators. We are approving a local rule to regulate these emission sources under the Clean Air Act (CAA or the “Act”).

**DATES:** This rule is effective September 22, 2023.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2022–0682. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact

the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** La Kenya Evans-Hopper, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3245 or by email at [evanshopper.lakenya@epa.gov](mailto:evanshopper.lakenya@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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**I. Proposed Action**

On January 30, 2023 (88 FR 5833), the EPA proposed to approve the following rule into the California SIP.

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
SDCAPCD .....	69.2.2	Medium Boilers, Process Heaters, and Steam Generators .....	09/09/21	03/09/22

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

**II. Public Comments and EPA Responses**

The EPA’s proposed action provided a 30-day public comment period. During this period, we received three comments, two of which were

submitted by the same commenter. The full text of all three comments is available in the docket for this rulemaking. The comments were broadly supportive of SIPs, in the general sense, as a necessary tool to