

and/or Safety Marine Information Broadcast (SMIB) as appropriate.

Dated: September 27, 2023.

**A.R. Bender,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.*

[FR Doc. 2023-21885 Filed 10-3-23; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2022-0397; FRL-10011-03-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 that pertain to Project Emissions Accounting (PEA) provisions. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act) and implementing Federal regulations.

**DATES:** This rule is effective November 3, 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:

Sarah LaRocca, 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) 562-8994. Ms. LaRocca can also be reached via electronic mail at [LaRocca.Sarah@epa.gov](mailto:LaRocca.Sarah@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Overview

EPA is approving a SIP revision submitted by South Carolina on February 3, 2022,<sup>1</sup> which updates the State's PSD and NNSR rules. Specifically, EPA is incorporating the PEA provisions in paragraphs (A)(2)(d)(vi) and (A)(2)(d)(vii) of South Carolina's Regulation 61-62.5, Standard No. 7—*Prevention of Significant Deterioration*, and the PEA provisions in paragraphs (A)(8) and (A)(9) of South Carolina's Regulation 61-62.5, Standard No. 7.1—*Nonattainment New Source Review* into the South Carolina SIP.<sup>2 3</sup>

Through a notice of proposed rulemaking (NPRM), published on July 26, 2022 (87 FR 44314), EPA proposed to approve the February 3, 2022, SIP revision as meeting the requirements of the Federal PSD and NNSR programs and as being consistent with the CAA.<sup>4</sup>

<sup>1</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>2</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 (NESHAPs) 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>3</sup> South Carolina's February 3, 2022, cover letter additionally references a June 21, 2021, withdrawal letter, which was sent to EPA while the Agency was in the process of approving the State's last update to the NSR regulations into the SIP. In the February 3, 2022, letter, SC DHEC confirms that the intention of the June 21, 2021, withdrawal letter remains the same and that it is not requesting EPA to approve the Ethanol Rule provisions, found in Regulation 61-62.5, Standard No. 7.1, at this time.

<sup>4</sup> Following the July 26, 2022, NPRM, EPA approved portions of South Carolina's PSD and NNSR regulations, including changes to reflect the regulation of greenhouse gases (GHGs) pursuant to the Tailoring Rule and updates promulgated in the

Additional details on South Carolina's February 3, 2022, revision 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.

##### II. 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, the Center for Biological Diversity. The Commenter provided supplemental documentation to support the comments submitted. The comments generally oppose approval of the changes in the February 3, 2022, SIP revision that incorporate the Federal PEA provisions at 40 CFR 51.165 and 40 CFR 51.166<sup>5</sup> into South Carolina's SIP. Below, EPA briefly summarizes the PEA Rule, which the Agency finalized on November 24, 2020 (85 FR 74890), and responds to the comments received on the July 26, 2022, NPRM.

An existing major stationary source proposing a physical change or a change in its method of operation must determine whether that project is a major modification subject to new source review (NSR) preconstruction permitting requirements by following a two-step test. The first step is to determine if there is a "significant emission increase" of a regulated NSR pollutant from the proposed modification. If there is, the second step is to determine if there is a "significant net emission increase" of that pollutant.

The PEA Rule maintained this two-step test while clarifying that emissions increases and decreases for projects that involve new and existing emissions units can be considered in the same manner as emissions increases and decreases for projects that only involve new units or only involve existing units in Step 1 of the NSR major modification applicability test.<sup>6</sup> More specifically, the PEA Rule made this clarification in language addressing the "hybrid test" for projects that involve a combination

recent NSR Corrections Rule, on August 23, 2023. See 88 FR 57358 (August 23, 2023). At that time, EPA took no action on the PEA provisions in paragraphs (A)(2)(d)(vi) and (A)(2)(d)(vii) of South Carolina's Regulation 61-62.5, Standard No. 7—*Prevention of Significant Deterioration*, the PEA provisions in paragraphs (A)(8) and (A)(9) of South Carolina's Regulation 61-62.5, Standard No. 7.1—*Nonattainment New Source Review*, and the portions of paragraphs (A)(11)(t) and (B)(22)(c)(xx) related to the Ethanol Rule Provisions found in Regulation 61-62.5, Standard No. 7.1.

<sup>5</sup> Some States, including South Carolina, choose to meet minimum PSD requirements within 40 CFR 51.166 by adopting language within the Federal PSD plan codified at 40 CFR 52.21.

<sup>6</sup> 88 FR at 74893.

of new and existing units by replacing the phrase “sum of the increases” with the phrase “sum of the difference.”<sup>7</sup> The Rule also explained that the revised term “sum of the difference,” would apply to “all emissions units” instead of “for each emissions unit” to better account for projects that involve multiple emission units.<sup>8</sup> Finally, the Rule added regulatory text to clarify that the term “sum of the difference” as used in the referenced subparagraphs shall include both increases and decreases in emissions as calculated in accordance with those subparagraphs.<sup>9</sup>

When EPA finalized changes in the PEA Rule, the Agency responded to adverse comments received on the changes as proposed. Since that time, a petition for judicial review of the PEA Rule was filed in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit).<sup>10</sup> However, this does not impede finalization of separate actions, including today’s rulemaking approving revisions to the South Carolina’s PSD and NNSR regulations. EPA provides further explanation below to address the Commenter’s concerns.

*Comment 1:* The Commenter states that “[e]ven under the EPA’s 2020 [PEA] rule, EPA cannot approve [South Carolina’s] plan revision without a requirement that a project consist of ‘substantially related’ activities.” The Commenter suggests that the February 3, 2022, submission fails to include a requirement that projects consist of substantially related activities.

The Commenter states that EPA relies on its January 1, 2009, rulemaking<sup>11</sup> (hereafter referred to as the 2009 NSR Aggregation Action, or the 2009 Action) in the PEA Rule to interpret “major NSR regulations as requiring that a project consist of ‘substantially related’ activities.” The Commenter asserts that EPA cannot approve South Carolina’s SIP revision without requiring the State to revise its SIP to conform with EPA’s interpretation of the 2009 action referenced in the PEA Rule. The Commenter further asserts that this requirement must be made part of the SIP so that it can be enforced by EPA and citizens pursuant to CAA sections 113 and 304. In the background section of its comments, the Commenter also states that this concern is “primarily a matter for the D.C. Circuit Court of

Appeals,” where the PEA Rule is currently being challenged.

*Response 1:* EPA requires NNSR and PSD SIP revisions to meet or exceed the minimum requirements codified at 40 CFR 51.165 and 51.166, respectively. Some States, including South Carolina, choose to meet minimum PSD requirements by adopting certain language within the Federal PSD plan codified at 40 CFR 52.21. The PEA Rule has been adopted into 40 CFR 51.165, 40 CFR 51.166, 40 CFR 52.21, and Appendix S to 40 CFR part 51. South Carolina adopted the PEA Rule changes within these rules verbatim, as described more fully in its February 3, 2022, submittal.

In this comment, the Commenter focuses not on whether South Carolina’s proposed PSD and NNSR SIP revisions comply with EPA’s minimum standards for PSD and NNSR plans codified at 40 CFR 51.165 and 40 CFR 51.166, which have also been adopted into 40 CFR 52.21 and Appendix S to 40 CFR part 51. Rather, the comments are directed at the substance of the PEA Rule itself. The Commenter, for example, explicitly takes the position that “EPA’s 2020 Rule is unlawful.”

The time for submitting comments on the PEA Rule was when EPA notified the public that it was considering adopting that rule and requested the public’s input.<sup>12</sup> EPA notes that the Commenter did not submit comments on the PEA Rule. EPA thus views the comments as untimely comments on the PEA Rule itself.<sup>13</sup> EPA addressed concerns regarding project aggregation in response to comments by other parties in that rulemaking action. *See* 85 FR 74890, 74898–900 (November 24, 2020). As noted by the Commenter, these concerns are “primarily a matter for the D.C. Circuit Court of Appeals,” where the PEA Rule is currently being challenged by States and organizations other than the Commenter.

In EPA’s July 26, 2022, NPRM, EPA did not propose to revise the minimum

standards within 40 CFR 51.165 or 51.166, and EPA did not seek comment on the PEA Rule, which EPA finalized in 2020. Rather, EPA explained that “EPA is proposing to approve [changes to South Carolina’s SIP] as meeting the requirements of the Federal PSD and NNSR programs and as being consistent with the CAA,” and EPA sought the public’s comments on this preliminary determination. *See* 87 FR 44315. The Commenter does not engage with the question of whether South Carolina’s proposed SIP revision (and EPA’s proposal to approve this SIP revision) complies with EPA’s minimum NSR standards, and therefore, these comments do not demonstrate that EPA may not approve the SIP revision.

The Commenter’s position is also based on an erroneous reading of the PEA rule. The PEA Rule preamble states “that state and local air agencies with approved SIPs are and were not required to amend their plans to adopt the interpretation that projects should be aggregated when ‘substantially related.’” *See* 85 FR at 74895, FN 57 (November 24, 2020).<sup>14</sup>

*Comment 2:* The Commenter states that EPA’s proposed approval violates the anti-backsliding provisions of the Act. Specifically, the Commenter asserts that adopting the PEA Rule would weaken the stringency of South Carolina’s SIP by allowing emission reductions to be considered at Step 1 of the NSR applicability process for the hybrid test for projects involving a combination of new and existing units; by not requiring that a project consist of “substantially related” activities; and by not ensuring that emission decreases considered at Step 1 will be “contemporaneous” with emission increases resulting from the project. The Commenter thus takes the position that South Carolina’s rules are more stringent without the adoption of the language from the PEA Rule. The Commenter asserts that South Carolina’s revision to the project emissions accounting portion of its rules is substantive and that EPA must therefore provide analysis demonstrating that the change to the South Carolina SIP will not violate section 110(l) and section 193 of the Act.

*Response 2:* EPA addressed the topic of anti-backsliding in the response to comments document for the PEA Rule.

<sup>14</sup> Footnote 57 cites to the memorandum from the EPA Administrator E. Scott Pruitt, to Regional Administrators, titled “Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program,” March 13, 2018 (“March 2018 Memorandum”) available at: [https://www.epa.gov/sites/production/files/2018-03/documents/nsr\\_memo\\_03-13-2018.pdf](https://www.epa.gov/sites/production/files/2018-03/documents/nsr_memo_03-13-2018.pdf).

<sup>7</sup> *Id.* at 74894.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *See State of New Jersey v. EPA*, 21–1033 (D.C. Cir. 2021).

<sup>11</sup> *See* 74 FR 2376.

<sup>12</sup> *See* 84 FR 39244 (August 9, 2019).

<sup>13</sup> As the Commenter also notes, litigation regarding the PEA Rule has been filed in the D.C. Circuit. The Commenter is not a party to that suit. Congress established a jurisdictional bar for judicial review to EPA rulemakings which states that “[a]ny petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the **Federal Register**, except that if such petition is based solely on grounds arising after such sixtieth day, then any petition for review under this subsection shall be filed within sixty days after such grounds arise.” CAA Subsection 307(b)(1). This language further indicates that submitting comments on a State’s implementation of a preexisting EPA rule is an improper method to challenge EPA’s underlying rule—such comments (and any related judicial review) must be submitted on the underlying rule itself.

In that document, EPA stated that “implementation of this rule will not cause States to violate the anti-backsliding requirements of the Clean Air Act. Allowing for PEA is consistent with the intent of the 2002 NSR Reform Rule and is more consistent with the Act than implementing Step 1 without PEA. That is because PEA would not subject a project which does not significantly increase emissions in and of itself, or actually result in a decrease [in] emissions, from being subject to NSR.”<sup>15</sup>

Regarding section 110(l) of the CAA, the nature of this revision to the South Carolina SIP does not provide cause for EPA to find that this revision would interfere with any applicable requirement of the South Carolina SIP concerning attainment and reasonable further progress or any other requirement of the CAA. The relevant South Carolina regulations are identical to those adopted by EPA, and South Carolina has been applying the prior version of its SIP-approved regulations consistent with EPA’s interpretation of its pre-PEA regulations, as articulated in the March 2018 EPA memorandum.<sup>16</sup> Like EPA’s regulations, South Carolina’s prior regulations included the term “sum of the difference.”<sup>17</sup> As explained in the March 2018 Memorandum, “the use of the phrase ‘sum of the difference’” allowed for the inclusion of both emission increases and decreases.<sup>18</sup> “The ‘difference’ between a unit’s projected actual emissions or potential to emit (following the completion of the project) and its baseline actual emissions (prior to the project) may be either a positive number (representing a projected increase) or a negative number (representing a projected decrease). In either case, the values that result from ‘summing’ the ‘difference’ could have been taken into

<sup>15</sup> See “Response to Comments Document on Proposed Rule: ‘Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting’”—84 FR 39244, August 9, 2019” (October 2020), at p. 114.

<sup>16</sup> The March 2018 Memorandum explained that EPA interpreted the pre-2020 PEA Rule NSR regulations as “provid[ing] that emissions decreases as well as increases are to be considered at Step 1 of the NSR applicability process, provided they are part of a single project.” March 2018 Memorandum, at p. 1. More specifically, in the March 2018 Memorandum, EPA interpreted the pre-2020 PEA Rule major NSR regulations to mean that emissions increases and decreases could be considered in Step 1 for projects that involve multiple types of emissions units in the same manner as they are considered for projects that only involve new or only involve existing emissions units.

<sup>17</sup> See Regulation 61–62.5, Standard No. 7 subparagraphs (a)(2)(iv)(c) and (d) and Standard No. 7.1 subparagraphs (b)(3 and 4) (2020).

<sup>18</sup> March 2018 Memorandum at 6–8.

consideration at Step 1 in determining the emissions impact of the project.”<sup>19</sup> Thus, this SIP action does not reflect a substantive change to South Carolina’s applicability requirements for NSR.<sup>20</sup> As was the case with the PEA Rule, this SIP revision only clarifies that PEA is allowed by removing any ambiguity. South Carolina’s regulations already allow for PEA, and the State has implemented the regulations accordingly, without interfering with attainment of the NAAQS. No areas within the State are designated as nonattainment.

Likewise, section 193 of the CAA does not prohibit EPA’s approval of this South Carolina’s SIP revision to incorporate the 2020 PEA Rule. This section of the Act requires analysis of a plan’s changes to ensure that an equivalent or greater emission reduction of a given pollutant is achieved within a given nonattainment area. For the reasons discussed above, the revised NSR provisions of the SIP should achieve equivalent emissions reduction as the pre-existing NSR provisions of the SIP. Moreover, although EPA is approving revisions to South Carolina’s NNSR provisions to be consistent with EPA’s NNSR regulations, there are currently no nonattainment areas in South Carolina to which these regulations apply, and these rules would therefore currently have no effect.<sup>21</sup> EPA designated and classified a portion of York County, South Carolina, within the Rock Hill-Fort Mill area as a moderate nonattainment area for the 8-hour ozone NAAQS of 0.08 parts per million set in 1997. Since then, however, EPA redesignated the area to attainment and, thus, South Carolina no longer has nonattainment areas that can be specifically considered under section 193 of the CAA. See 80 FR 76,865 (December 11, 2015).

*Comment 3:* The Commenter asserts that EPA should not act on South Carolina’s February 3, 2022, revision related to the South Carolina NNSR and

<sup>19</sup> *Id.*

<sup>20</sup> Permitting materials from a February 21, 2019, SC DHEC permitting decision have been added to the docket for this action as an example showing that South Carolina has already been implementing project emissions accounting and this action will not result in a substantive change to South Carolina’s PSD and NNSR programs. In this example, the source applied project emissions accounting at Step 1 of the PSD process. South Carolina then determined that the project in question was a major modification for volatile organic compounds (VOCs) and it applied the reasonable possibility provisions for all NSR pollutants calculated to have any increase above baseline actual emissions.

<sup>21</sup> South Carolina’s SIP-approved NNSR rules have a state-effective date of April 24, 2020. See 86 FR 59646 (October 28, 2021).

PSD rules in the SIP while pending litigation exists concerning the PEA Rule. The Commenter states that EPA provides no explanation of the manner at which it would reverse an approved revision should EPA rescind, or a court vacate, the PEA Rule.

*Response 3:* EPA disagrees with the Commenter that, while litigation is incomplete on the PEA Rule, EPA should not act on the South Carolina’s plan revision. The PEA Rule, promulgated November 24, 2020, is a current Federal regulation addressing major new source review. South Carolina’s February 3, 2022, submission merely adopts federally approved regulations. Should EPA rescind, or a court vacate, the PEA Rule, EPA has tools available to ensure that SIPs remain compliant with EPA’s rules.

### III. Incorporation by Reference

In this document, 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 and II of this preamble, EPA is finalizing the incorporation by reference of paragraphs (A)(2)(d)(vi) and (A)(2)(d)(vii) of South Carolina’s Regulation 61–62.5, Standard No. 7—*Prevention of Significant Deterioration*, and paragraphs (A)(8) and (A)(9) of South Carolina’s Regulation 61–62.5, Standard No. 7.1—*Nonattainment New Source Review*, all state effective on November 26, 2021. 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>22</sup>

### IV. Final Action

EPA is approving the SIP revision adopting the PEA Rule provisions of 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, into the SIP. These changes were submitted by South Carolina on February 3, 2022.

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

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. 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 14094 (88 FR 21879, April 11, 2023);
- 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 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, February 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. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 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 December 4, 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: September 27, 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.*

#### Subpart PP—South Carolina

- 2. In § 52.2120, in table 1 to paragraph (c), under "Regulation No. 62.5" revise 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 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	10/4/2023, [Insert citation of publication].	
Standard No. 7.1	Nonattainment New Source Review.	11/26/2021	10/4/2023, [Insert citation of publication].	Except for the ethanol production facilities exclusion in paragraphs (A)(11)(t) and (B)(22)(c)(xx).

\* \* \* \* \*  
 [FR Doc. 2023-21722 Filed 10-3-23; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R07-OAR-2023-0403; FRL-11259-02-R7]

**Air Plan Approval; MO; Control of Emissions From Volatile Organic Liquid Storage**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Missouri State Implementation Plan (SIP) related to the control of emissions from volatile organic liquid storage. These revisions do not impact the stringency of the SIP or have an adverse effect on air quality. The EPA’s approval of this rule revision is being done in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 3, 2023.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2023-0403. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, *i.e.*, 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 [www.regulations.gov](http://www.regulations.gov)

or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:**

Bethany Olson, Environmental Protection Agency, Region 7 Office, Air Permitting and Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7905; email address: [olson.bethany@epa.gov](mailto:olson.bethany@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document “we,” “us,” and “our” refer to EPA.

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**I. What is being addressed in this document?**

The EPA is approving revisions to the Missouri SIP received on February 15, 2019, and June 10, 2021, and a supplemental submission on April 24, 2023. The revisions are to Title 10, Division 10 of the Code of State Regulations (CSR), 10 CSR 10-5.500 “Control of Emissions from Volatile Organic Liquid Storage.” The purpose of the state regulation is to limit the volatile organic compound (VOC) emissions from installations with volatile organic liquid storage vessels in the St. Louis 1997 eight (8)-hour ozone nonattainment area by incorporating reasonably available control technology (RACT) as required by the Clean Air Act Amendments (CAAA) of 1990. Missouri made multiple revisions to the rule. The revisions add incorporations by reference to other state rules, add definitions specific to the rule, revise unnecessarily restrictive or duplicative

language, and make administrative wording changes. EPA finds that these revisions meet the requirements of the Clean Air Act, do not impact the stringency of the SIP, and do not adversely impact air quality. The full text of the rule revisions as well as EPA’s analysis of the revisions can be found in the technical support document (TSD) included in the docket for this action.

**II. Have the requirements for approval of a SIP revision been met?**

The State’s submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on the first SIP revision from June 15, 2018, to September 6, 2018, and held a public hearing on August 30, 2018. Missouri received ten comments from two sources during the comment period on 10 CSR 10-5.500. The EPA provided nine comments. Missouri responded to all comments and revised the rule based on public comments prior to submitting to EPA, as noted in the State submission included in the docket for this action. The State provided public notice on the second SIP revision from November 15, 2019, to February 6, 2020, and held a public hearing on January 30, 2018. Missouri received one comment from a staff member during the comment period. The State revised the rule purpose statement based on the comment prior to submitting to EPA.

The EPA’s Notice of Proposed Rulemaking and supporting information contained in the docket were made available for public comment from August 22, 2023, to September 21, 2023. The EPA received no comments. In addition, as explained above and in more detail in the technical support