6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2025-0017; FRL-13063-01-R4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is proposing to partially approve and partially conditionally approve changes to South Carolina's State Implementation Plan (SIP) to revise source testing requirements and regulations prescribing control requirements for certain stationary sources of nitrogen oxides (NO_x) submitted by the State of South Carolina, through the South Carolina Department of Environmental Services (SC DES), on October 1, 2007; July 27, 2016; September 5, 2017; April 24, 2020; and February 4, 2022. This action is being proposed pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2025-0017 at *https://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or

comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: 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:

Notice of proposed rulemaking (NPRM) acronyms and abbreviations. The EPA uses multiple acronyms and terms in this NPRM. 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:

CAA	Clean Air Act
CEMS	Continuous Emissions Monitoring System
CFR	Code of Federal Regulations
CHP	Combined Heat and Power
EPA	Environmental Protection Agency
FR	Federal Register
MMBtu	Million British Thermal Units
NAAQS	National Ambient Air Quality Standard or Standards
NESHAP	National Emission Standard for Hazardous Air Pollutants
NO_x	Nitrogen Oxides
NNSR	Nonattainment New Source Review
NPRM	Notice of Proposed Rulemaking
NSPS	New Source Performance Standards
NSR	New Source Review
PEMS	Predictive Emissions Monitoring System
PPMV	Parts per Million by Volume
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
SIP	State Implementation Plan

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I. Executive Summary

A. What Action is the EPA Proposing?

On October 1, 2007, July 27, 2016,[1] September 5, 2017,[2] and February 4, 2022,[3] SC DES[4] submitted SIP revisions that include changes to South Carolina's NO_x control requirements in the South Carolina Code of Regulations Annotated (S.C. Code Ann. Regs.) Regulation 61-62.5, *Air Pollution Control Standards*, Standard No. 5.2, *Control of Oxides of Nitrogen (NO_x)* (hereinafter "Regulation 61-62.5, Standard No. 5.2").[5] Additionally, SC DES submitted a SIP

[1] The EPA received the July 27, 2016, SIP revision, dated July 25, 2016, on July 27, 2016. Therefore, the EPA considers July 27, 2016, to be the official SIP revision submission date and refers to that SIP revision in this NPRM as the "July 27, 2016," SIP revision.
[2] The EPA received the September 5, 2017, SIP revision, dated September 1, 2017, on September 5, 2017. Therefore, the EPA considers September 5, 2017, to be the official SIP revision submission date and refers to that SIP revision in this NPRM as the "September 5, 2017," SIP revision.
[3] The EPA received the February 4, 2022, SIP revision, dated February 3, 2022, on February 4, 2022. Therefore, the EPA considers February 4, 2022, to be the official SIP revision submission date and refers to that SIP revision in this NPRM as the "February 4, 2022," SIP revision.
[4] On July 1, 2024, the South Carolina Department of Health and Environmental Control (SC DHEC) was restructured into a health agency, the Department of Public Health, and an environmental agency, the Department of Environmental Services (SC DES). In a letter dated June 20, 2024, South Carolina represented to the EPA that all the functions, powers, and duties of the environmental divisions, offices, and programs of SC DHEC, including the authority to administer and enforce SIPs, are retained and continued in full force and effect under SC DES. This letter is in the rulemaking docket for this proposed action. The terms "State," "Department," and "SC DES" are used interchangeably throughout this Notice of Proposed Rulemaking (NPRM).
[5] The April 24, 2020, SIP revision originally transmitted changes to Regulation 61-62.5, Standard No. 5.2 from South Carolina's "2018 General Assembly Package" SIP revision. However, in the letter submittal to the February 4, 2022, SIP revision, SC DES re-submitted a substantively identical version of the April 24, 2020, SIP revision with respect to Regulation 61-62.5, Standard No. 5.2, except for a correction. In the 2022 letter, SC DES states that the April 24, 2020, SIP revision transmitted "a preexisting error" that was subsequently identified and removed in the Department's "2016 End of Year Revisions" in 2017, noting that the previously removed error reappeared in the subsequent April 24, 2020, 2018 General Assembly Package SIP Revision and was subsequently corrected.

revision on April 24, 2020, that includes changes to the State's source testing requirements in S.C. Code Ann. Regs. Regulation 61-62.1, *Definitions and General Requirements*, Section IV, *Source Tests* (hereinafter "Regulation 61-62.1, Section IV").[6]

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 currently before the EPA no later than one year after the EPA's conditional approval of South Carolina's submissions, should the EPA finalize this partial conditional approval as proposed. Additionally, the supplemental materials include a CAA section 110(l) demonstration to support the corrective changes that the State intends to submit in a corrective SIP revision. Section IV, below, provides the EPA's analysis of the State's non-interference demonstration. On May 13, 2026, SC DES also submitted to the EPA a letter addressing subsection III(A) as revised in the July 25, 2016, SIP revision and paragraph I(B)(3) and subsection II(K) as added and revised in the February 4, 2022, SIP revision, respectively, stating that "the specific text identified…is no longer before EPA at this time."

Subsequently, on July 21, 2026,[7] SC DES submitted a letter removing from the EPA's consideration one provision in Regulation 61-62.5, Standard No. 5.2 for which the State, in its May 13, 2026, letter, requested conditional approval. This letter supersedes the May 13, 2026, request for conditional approval of paragraph I(B)(2). The July 21, 2026, letter removes from EPA consideration "I(B)(2), as submitted on July 25, 2016, and February 3, 2022." The States notes that in planned changes, the State will be "striking the referenced provision within Standard No. 5.2" and that "[t]herefore, the specific text…is not before the EPA at this time."[8] The EPA is therefore proposing to approve or conditionally approve the remainder of the revised

[6] The October 1, 2007, July 27, 2016, September 5, 2017, and April 24, 2020, SIP revisions contain revisions to other provisions in the South Carolina SIP that are not addressed in this NPRM.
[7] The EPA notes that the Agency received the letter, which is dated July 20, 2026, on July 21, 2026. For consistency, throughout this document we will refer to this as the July 21, 2026, letter.
[8] The State's letter received by the EPA on July 21, 2026, goes on to reiterate that I(B)(2), in addition to I(B)(3), II(K), and III(A), which were originally addressed in a May 13, 2026, letter are "no longer before EPA."

Regulation 61-62.5, Standard No. 5.2 provisions and Regulation 61-62.1, Section IV, in its entirety.

In this NPRM, the EPA is proposing to approve changes to South Carolina's regulations regarding source testing. Additionally, the EPA is proposing to approve portions of, and conditionally approve other portions of, the SIP submissions that make changes to South Carolina's NO_x control rule requirements. Section IV, below, provides the EPA's analysis of the State's CAA section 110(l) non-interference demonstration for the provisions that the EPA is proposing to act on in this NPRM.

B. What is the Legal Authority and What are the Requirements?

Under CAA section 110(k)(3), the EPA has a statutory obligation to approve SIP submittals that meet all applicable CAA requirements.[9] 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. If 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.

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.[10] Section IV of this NPRM discusses South Carolina's CAA section 110(l) analysis

[9] *See* 42 U.S.C. 7410(k)(3).
[10] CAA section 110(l) also requires each SIP revision to undergo reasonable notice and public hearing at the state level.

supporting these changes that the EPA is proposing to act on in this NPRM. The EPA evaluates CAA section 110(l) non-interference demonstrations on a case-by-case basis considering the circumstances of each SIP revision. In its May 13, 2026, letter, the State clarifies that it "has not previously implemented" its discretion and commits not to do so "while the regulatory revisions are pending." Therefore, although the SIP would have discretionary provisions should the EPA finalize this partial conditional approval as proposed, 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.

II. Proposed Action

The EPA is proposing to approve the changes to Regulation 61-62.1, Section IV, *Source Tests*, in the April 24, 2020, SIP revision, as detailed in Section IV of this NPRM. The EPA is proposing to approve these changes for the reasons discussed Section IV of this NPRM.

The EPA is also proposing to approve the changes to Regulation 61-62.5, Standard No. 5.2, *Control of Oxides of Nitrogen (NO_x)*, in the October 1, 2007, July 27, 2016, September 5, 2017, and February 4, 2022, SIP revisions,[11] as detailed in Section IV of this NPRM, except for the portions of the SIP revisions consisting of the addition of and changes to certain provisions in Regulation 61-62.5, Standard No. 5.2, Section IV, which the EPA is proposing to conditionally approve, as described below. The EPA is proposing to approve the aforementioned changes to the SIP for the reasons discussed Section IV of this notice.

Finally, the EPA is proposing to conditionally approve the portions of the July 27, 2016, September 5, 2017, and February 4, 2022, SIP revisions consisting of the addition of and changes to certain provisions in Regulation 61-62.5, Standard No. 5.2, Section IV, *Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources*. Specifically, the EPA is

[11] In this NPRM, the EPA is not proposing to approve the addition of and changes to paragraph I(B)(2); the addition of paragraph I(B)(3); the changes to subsection II(K); or the changes to subsection III(A), submitted in SIP revisions through February 4, 2022. The State removed the addition of paragraph I(B)(3) and changes to subsections II(K) and III(A) from Agency consideration in a letter dated May 13, 2026, and the addition of and changes to paragraph I(B)(2) in a letter submitted on July 21, 2026.

proposing to conditionally approve the following provisions submitted by the State in the July 27, 2016; September 5, 2017; and February 4, 2022, SIP revision submittals: paragraph IV(A)(1), specifically IV(A)(1)(a)-(d); subparagraph IV(A)(2)(a)-(c); subparagraph IV(B)(2)(a); subparagraph IV(B)(2)(b); paragraph IV(C)(1), specifically IV(C)(1)(a)-(d); subparagraph IV(C)(3)(c); subparagraph IV(C)(3)(d); the second prefatory paragraph of IV(D); subparagraph IV(D)(2)(a); and subparagraph IV(D)(2)(b). The EPA is proposing to conditionally approve the aforementioned changes to the SIP for the reasons discussed Section IV of this notice.

III. Background

A. Regulation 61-62.1, Section IV—Source Tests

On April 24, 2020, SC DES submitted a SIP revision to the EPA that includes changes to South Carolina's generally applicable source testing requirements at Regulation 61-62.1, Section IV.[12, 13] Regulation 61-62.1, Section IV provides source testing procedures and schedules applicable to certain sources, including those conducting "a source test required under an applicable standard or permit condition" or "from which data will be submitted to the Department for any purpose." In this NPRM, the EPA is proposing to approve all of the changes to Regulation 61-62.1, Section IV in the April 24, 2020, SIP revision. The EPA discusses its proposed action with respect to the changes to Regulation 61-62.1, Section IV in Section III.A. of this NPRM.

B. Regulation 61-62.5, Standard No. 5.2—Control of Oxides of Nitrogen (NO_x)

On October 1, 2007, July 27, 2016, September 5, 2017, and February 4, 2022, SC DES submitted SIP revisions to the EPA that include changes to South Carolina's NO_x emission standards and control requirements for certain new and modified stationary sources at Regulation 61-62.5, Standard No. 5.2.[14] The State added Regulation 61-62.5, Standard No. 5.2, State

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[12] Regulation 61-62.1, Section IV was approved into the South Carolina SIP on August 10, 2004, and last updated on August 21, 2017. *See* 69 FR 48395; 82 FR 39537.

[13] Source tests, which are also known as "stack tests" or "performance tests," are used to measure emissions from specific sources.

[14] Regulation 61-62.5, Standard No. 5.2 was approved into the South Carolina SIP on August 26, 2005. *See* 70 FR 50195.

effective June 25, 2004, as part of its Early Action Compact (EAC) with the EPA to achieve emission reductions needed to attain the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) in certain EAC areas.[15] The regulation is a control measure for new and existing stationary sources that emit or have the potential to emit NO_x from fuel combustion, have not undergone a best available control technology (BACT) analysis for NO_x via prevention of significant deterioration (PSD) permitting, and meet other applicability criteria in Section I of the regulation. Regulation 61-62.5, Standard No. 5.2, was designed primarily to capture smaller sources that fall below PSD applicability thresholds which, for the most part, would not otherwise be required to install NO_x controls.

In a direct final rule published on August 16, 2017, the EPA approved the changes to Regulation 61-62.5, Standard No. 5.2 in the October 1, 2007, SIP revision, subject to the receipt of adverse comment.[16] The EPA's analysis and the rationale for approving the changes to Regulation 61-62.5, Standard No. 5.2 in South Carolina's 2007 SIP revision are described in that direct final rule. Comments on the August 16, 2017, direct final rule were due on or before September 15, 2017. The EPA received one adverse comment on the changes to Regulation 61-62.5, Standard No. 5.2.[17] Due to the receipt of an adverse comment, on October 13, 2017, the EPA withdrew the portion of the August 16, 2017, direct final rule approving the changes to Regulation 61-62.5, Standard No. 5.2 in the October 1, 2007, SIP revision.[18] On August 16, 2017, the EPA also published a NPRM corresponding to the direct final rule, so that, if the EPA received adverse comment on the August 16, 2017, direct final rule and subsequently withdrew that action, any comments received could be addressed in a subsequent final rule based on the NPRM.[19] However, the EPA did not finalize the August 16, 2017, NPRM.

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[15] An EAC was an agreement between a state, local governments, and the EPA to implement measures not necessarily required by the CAA to achieve cleaner air as soon as possible designed for areas that approached or monitored exceedances of the 8-hour ozone standard but were in attainment for the 1-hour standard. *See* 70 FR 30396 (May 26, 2005) and 70 FR 50195 (Aug. 26, 2005).
[16] *See* 82 FR 38825.
[17] Comment available at *https://www.regulations.gov/comment/EPA-R04-OAR-2017-0388-0007*.
[18] *See* 82 FR 38865
[19] *See* 82 FR 47634.

In this NPRM, the EPA is proposing to approve portions and conditionally approve other portions of South Carolina's NO_x control SIP revisions.[20, 21] Specifically, in this NPRM, EPA is proposing to approve changes to a portion of Regulation 61-62.5, Standard No. 5.2, submitted in SIP revisions dated October 1, 2007; July 27, 2016; September 5, 2017; and February 4, 2022. The EPA is proposing to conditionally approve changes to the following provisions submitted by the State in the July 27, 2016; September 5, 2017; and February 4, 2022, SIP revision submittals: IV(A)(1), including IV(A)(1)(a)-(d); IV(A)(2)(a), (b), and (c); IV(B)(2)(a); IV(B)(2)(b); IV(C)(1), including IV(C)(1)(a)-(d); IV(C)(3)(c); IV(C)(3)(d); IV(D)—the second prefatory paragraph; IV(D)(2)(a); and IV(D)(2)(b). The EPA's analysis of the changes proposed for approval or conditional approval in the aforementioned submittals is discussed below.

IV. The EPA's Evaluation of South Carolina's Submittals

A. Regulation 61-62.1, Section IV—Source Tests

The EPA is proposing to approve the changes to Regulation 61-62.1, Section IV in the April 24, 2020, SIP revision. In the April 24, 2020, SIP revision, the changes to Regulation 61-62.1, Section IV revise the State's source testing procedures to make non-substantive administrative and clarifying edits (*e.g.*, reformatting subsections, paragraphs, subparagraphs, and rule references); correcting citations to the Code of Federal Regulations (CFR) by adding the word "Part,"; clarifying numbers; and substituting the word "standard" with "requirement." The EPA is proposing to approve these non-substantive administrative and clarifying edits because they will have no impact on air quality.

The April 24, 2020, SIP revision makes further changes to subsection IV(B), which

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[20] As previously explained, on July 21, 2026, SC DES submitted a letter removing from the EPA's consideration one provision, for which the State, in its May 13, 2026, letter, requested conditional approval in Regulation 61-62.5, Standard No. 5.2. South Carolina states that "the specific text…is not before the EPA at this time."

[21] In this NPRM, the EPA is not proposing to act on other changes to Regulation 61-62.5, Standard No. 5.2 included in the July 27, 2016, and February 4, 2022, SIP revisions, which the State, in its May 13, 2026, letter, removed from EPA consideration. Specifically, this proposal does not address changes to subsection III(A) submitted in the July 27, 2016, SIP revision or paragraph I(B)(3) or changes to paragraph II(K) submitted in the February 4, 2022, SIP revision, because the portions of the aforementioned SIP revisions containing changes to those provisions are no longer before the Agency.

specifies requirements for the submission and approval of site-specific test plans by a source owner, operator, or representative. In the SIP, subparagraph IV(B)(5)(a) requires the submission of test plans, or a letter amending a previously approved test plan, at least 45 days prior to the proposed test date, except for sources testing for substances listed in the State's regulations applicable to emissions of toxic air pollutants in Regulation 61-62.5, Standard No. 8, for which the submission of test plans or such a letter is required at least 60 days prior to the proposed test date. Subparagraph IV(B)(5)(b) exempts sources that are amending only the facility name, address, telephone number, contact, permit number, and/or source identification number from the requirements in subparagraph IV(B)(5)(a) and requires the submission of such amendments at least two weeks prior to the proposed test date. The April 24, 2020, SIP revision adds language at subparagraph IV(B)(5)(a) that allows source owners, operators, or representatives to submit site-specific test plans or a letter which amends a previously approved test plan at least 45 days prior to the proposed test date, "or as otherwise specified by a relevant federal or state requirement." This change would allow an owner, operator, or representative of a source subject to other applicable Federal or State standards (*e.g.*, New Source Performance Standards (NSPS) testing requirements under 40 CFR part 60) to comply with an alternate minimum test plan or amendment letter submission deadline specified in those standards. This change pertains to timing of test plan submissions only and therefore will have no impact on air quality. For these reasons, the EPA is proposing to approve the change to subparagraph IV(B)(5)(a) in the April 24, 2020, SIP revision.

The April 24, 2020, SIP revision makes similar changes to subsection IV(D), which specifies requirements for the notification and conduct of source tests. In the SIP, paragraph IV(D)(1) requires a source owner, operator, or representative to submit a complete written notification that a source test will be conducted at least two weeks prior to the test date. The April 24, 2020, SIP revision adds language that allows source owners, operators, or representatives to submit a complete written notification at least two weeks prior to the test date

"or as otherwise specified by a relevant federal or state requirement." Similar to the above-described revision to subparagraph IV(B)(5)(a), the change to paragraph IV(D)(1) would allow a source owner, operator, or representative to comply with an alternate source testing notification deadline specified in an applicable Federal or State standard to which the source is subject. This change pertains to timing of source testing notifications only and therefore will have no impact on air quality. For these reasons, the EPA is proposing to approve the change to paragraph IV(D)(1) in the April 24, 2020, SIP revision.

The April 24, 2020, SIP revision also makes a change to paragraph IV(D)(5), which, in the SIP, requires that source tests be 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," unless otherwise approved by the Department. The April 24, 2020, SIP revision adds to that requirement "or as otherwise specified in a relevant federal or state requirement." This change would allow an owner, operator, or representative of a source subject to other applicable Federal or State source testing standards, *e.g.*, performance testing standards NSPS or National Emission Standards for Hazardous Air Pollutants (NESHAPs), to comply with alternate source testing procedures specified in those standards.[22] This change to paragraph IV(D)(5) does not materially alter the existing SIP provision because the discretionary language in SIP-approved paragraph IV(D)(5) already allows the State to authorize such alternate source testing procedures. This change to paragraph IV(D)(5) does not materially alter the existing SIP provision because the discretionary language in SIP-approved paragraph IV(D)(5) already allows the State to authorize such alternative source testing procedures.[23] The State is recognizing that there could be a reason for testing to take place under an operating scenario that differs from the one that results in the highest emissions

[22] *E.g.*, performance testing requirements and procedures applicable to new stationary combustion turbines in 40 CFR 60.4340(a) and 40 CFR 60.4400 – 60.4415; and performance testing requirements and procedures applicable to stationary reciprocating internal combustion engines in 40 CFR 63.6620 and Table 4 to 40 CFR part 63, subpart ZZZZ.

[23] Evaluating the existing discretionary language in Regulation 61-62.1, Section IV, paragraph IV(D)(5) is beyond the scope of this proposed rulemaking action.

such as partial load conditions, which would be specified in relevant State or Federal standards. The April 24, 2020, SIP revision explains that this change is being made to clarify the appropriate production rate or operating parameter to be used while conducting a source test for clarity and internal consistency. Under subsection IV(B), the State must 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, the State includes in paragraph IV(D)(5) that any source test performed "at a production rate less than the rated capacity may result in permit limits on emission rates, including limits on production if necessary." Therefore, the State is able to evaluate the procedures and whether they meet the objective prior to the testing being conducted. For these reasons, the EPA is proposing to approve the change to paragraph IV(D)(5) in the April 24, 2020, SIP revision.

The April 24, 2020, SIP revision also makes a change to subsection IV(C), which specifies requirements for the content of site-specific test plans. In the SIP, subparagraph IV(C)(3)(b) requires that process descriptions in site-specific test plans include process design rates and normal operating rates. The April 24, 2020, SIP revision adds language requiring process descriptions to also include "operating rates specified by applicable regulation." This change ensures that, if any applicable regulations specify other source operating rates, those rates are included in the site-specific test plan. Therefore, the EPA proposes to approve the change to subparagraph IV(C)(3)(b) in the April 24, 2020, SIP revision.

The EPA is proposing to approve the aforementioned changes to Regulation 61-62.1, Section IV because they will not interfere with any applicable requirement concerning attainment and RFP (as defined in section 171), or any other applicable requirement of the CAA.

B. Regulation 61-62.5, Standard No. 5.2—Control of Oxides of Nitrogen (NO_x)

The EPA is proposing to approve certain changes and conditionally approve certain other

changes to Regulation 61-62.5, Standard No. 5.2 (hereinafter "Standard No. 5.2") in the October 1, 2007, July 27, 2016, September 5, 2017, and February 4, 2022, SIP revisions.[24, 25] The EPA discusses the changes to Standard No. 5.2 and the rationale for its proposed action below.

The October 1, 2007, July 27, 2016, September 5, 2017, and February 4, 2022, SIP revisions make several non-substantive edits to Standard No. 5.2 that revise the State's NO_x emission standards and control requirements for certain new and modified stationary sources. In the October 1, 2007, SIP revision, the changes to Standard No. 5.2 consist of several minor edits, such as restructuring and clarifying language changes. In the July 27, 2016, SIP revision, the changes to Standard No. 5.2 consist of further administrative changes, such as reformatting subsections and rule references, adjusting punctuation, restructuring, and minor language edits. In the September 5, 2017, SIP revision, changes to Standard No. 5.2 adjust bolded and italicized text, correct a typographical error, and make clarifying language edits. In the February 4, 2022, SIP revision, changes to Standard No. 5.2 reformat subsections and rule references, correct citations to the CFR by adding the words "Parts" and "Part", adjust punctuation and table headings, correct "million British thermal units" (MMBtu) by removing the word "metric" after "million", correct typographical errors, including typographical rule reference, language, and punctuation errors, and make restructuring and clarifying language edits. The EPA is proposing to approve these non-substantive edits because they are administrative and/or clarifying in nature and will have no impact on air quality. The EPA's proposed action with respect to other changes to Standard No. 5.2 in the October 1, 2007, July 27, 2016, September 5, 2017, and February 4,

[24] In this NPRM, the EPA is not acting on changes to paragraph I(B)(2) in the July 27, 2016, and February 4, 2022, SIP revisions or the changes to subsection III(A) submitted in the July 27, 2016, SIP revision or paragraph I(B)(3) or changes to paragraph II(K) submitted in the February 4, 2022, SIP revision, because the portions of the aforementioned SIP revisions containing changes to those provisions are no longer before the Agency. *See* Section I.A of this NPRM.

[25] Where the EPA is proposing to act on changes to Standard No. 5.2, the Agency is evaluating the existing regulatory text in the SIP as the baseline regulatory text, overlaid by any subsequent changes transmitted in the October 1, 2007, July 27, 2016, and/or February 4, 2022, SIP revisions, if applicable, and, if applicable, any corrective changes that the State intends to submit in a corrective SIP revision, in line with its commitment, as described in the State's May 13, 2026, letter, to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval (*i.e.*, where the State has committed to specific regulatory changes in its request for partial conditional approval of certain Standard No. 5.2 provisions, the EPA is also considering the specific enforceable changes supporting the State's request).

2022, SIP revisions is discussed below.

1. Section I—Applicability

a. Subsection I(A)

i. October 1, 2007, SIP Revision

The October 1, 2007, SIP revision makes changes to Section I, which specifies the applicability of Standard No. 5.2. In the SIP, paragraph I(A)(1) states that subject sources include any new source "permitted to construct after the effective date of this regulation." The October 1, 2007, SIP revision revises Standard No. 5.2 applicability in paragraph I(A)(1) to provide that subject sources include any new source "constructed after June 25, 2004." The changes to paragraph I(A)(1) clarify the state effective date of the regulation, June 25, 2004, the date Standard No. 5.2 was finalized in the State Register. The changes are non-substantive and will have no impact on air quality. Therefore, the EPA is proposing to approve the changes to paragraph I(A)(1) in the October 1, 2007, SIP revision.

ii. July 27, 2016, SIP Revision

The July 27, 2016, SIP revision makes changes to subsection I(A) and paragraphs I(A)(2) and (3). In its submittal, South Carolina states that subsection I(A) is revised to explain which sources are subject to Standard No. 5.2. In the SIP, subsection I(A) states that Standard No. 5.2 applies to any stationary source that emits or has the potential to emit (PTE) NO_x from fuel combustion that has not undergone a BACT analysis for NO_x pursuant to the State's prevention of significant deterioration (PSD) regulations in Regulation 61-62.5, Standard No. 7 and meets one or more of the Standard No. 5.2 applicability criteria outlined in paragraphs I(A)(1)-(3). The July 27, 2016, SIP revision revises Standard No. 5.2 applicability at subsection I(A) to remove language limiting applicability to stationary sources of NO_x that have not undergone BACT analyses for NO_x in accordance with SC Regulation 61-62.5, Standard No. 7 and meet one or more the criteria listed in paragraphs I(A)(1)-(3). The SIP revision adds language stating that a

stationary source becomes an "affected source"[26] under the regulation by meeting one or more of the criteria specified in paragraphs I(A)(1)-(3). Although the revision removes the language specifying applicability to sources that have not undergone PSD BACT for NO_x, the July 27, 2016, SIP revision adds language to Standard No. 5.2 at Subsection I(B) which exempts any source that has undergone a BACT analysis for NO_x pursuant to the State's PSD regulations.[27] For this reason, the changes are non-substantive and will have no impact on air quality. Therefore, the EPA is proposing to approve the changes to Subsection I(A) in the July 27, 2016, SIP revision.

The July 27, 2016, SIP revision makes clarifying changes to paragraph I(A)(2). In the SIP, paragraph I(A)(2) states that Standard No. 5.2 applies to any existing source where a burner assembly is replaced with another burner assembly after the regulation effective date and specifies that the replacement of individual burner assembly components such as burner heads, nozzles, or windboxes does not trigger regulation applicability. The July 27, 2016, SIP revision adds language clarifying that any existing source where a burner assembly is replaced with another burner assembly after the regulation effective date becomes an "existing affected source" subject to Sections V, VI, and VII in Standard No. 5.2.[28] This change clarifies that the sources identified in paragraph I(A)(2) are existing affected sources subject to those Sections in the SIP. Another change to paragraph I(A)(2) clarifies that the replacement of individual burner assembly components does not trigger "affected source status."

In the SIP, paragraph I(A)(3) states that Standard No. 5.2 applies to any existing source

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[26] Definitions for new and existing affected sources were proposed to be added in the July 27, 2016, SIP revision in Standard No. 5.2 at Section II and are discussed in Section IV.B.2.a. of this NPRM. According to those definitions, which the EPA is proposing to approve for reasons explained below, an existing affected source is a source constructed on or before June 25, 2004, that meets the applicability requirements in paragraph I(A)(2) of Standard No. 5.2. A new affected source is a source constructed after June 25, 2004, or that meets the applicability requirements in paragraph I(A)(3) of Standard No. 5.2 (a new affected source will not be considered an existing affected source at burner assembly replacement under Standard No. 5.2, paragraph I(A)(2)).

[27] The EPA's proposed action with respect to the changes to Subsection I(B) is discussed in Section IV.B.1.b. of this NPRM.

[28] Standard No. 5.2, Sections V, VI, and VII in the revised rule set forth requirements for existing affected sources, *i.e.*, those that replace an existing burner assembly. These sections are discussed below in Sections IV.B.5., 6., and 7. of this NPRM.

moved from one permitted facility to another after the regulation effective date, with the exceptions of process equipment and commercial or industrial boilers transferred between in-state facilities under common ownership. Further, in the SIP, paragraph I(A)(3) specifies that such transferred sources are considered existing sources under paragraph I(A)(2). The July 27, 2016, SIP revision adds language clarifying that any existing source moved from one permitted facility "in-state or out-of-state" to another permitted facility "in-state" after the regulation effective date is considered a "new affected source." New affected sources are subject to requirements for new sources in Section III and the new Section IV in the revised Standard No. 5.2. Other changes to paragraph I(A)(3) modify the exemption from new affected source status for existing process equipment and commercial or industrial boiler sources transferred between in-state facilities under common ownership. The revised provision provides that "[a]ny existing sources"–not just process equipment and commercial or industrial boilers–that are relocated between permitted in-state facilities under common ownership do not become existing affected sources under the regulation until paragraph I(A)(2) "is triggered," (*i.e.*, a burner assembly is replaced, consistent with the Standard No. 5.2 applicability to other existing subject sources).

The changes to paragraph I(A)(3) clarify that existing sources relocated from in- or out-of-state permitted facilities to another permitted in-state facility are considered new, rather than existing, affected sources. Standard No. 5.2, Section III, in the SIP, and as revised, prescribes NO_x emission limits and/or control requirements applicable to new sources as defined in paragraphs I(A)(1) and I(A)(3). In the SIP, paragraph I(A)(3) identifies a category of existing sources as those where any existing source is "removed from its presently permitted facility and moved to another permitted facility after the effective date of this regulation except process equipment and commercial or industrial boilers that are transferred between facilities within the state under common ownership. Such transfers will be considered as existing sources under (a)(2)." Although subsection III(A) states that sources defined in paragraphs I(A)(1) and I(A)(3) are subject to the requirements for new sources within that subsection, in the SIP, paragraph

I(A)(3) itself does not specify whether the affected sources it applies to are considered new sources nor whether the original permitted facility could be out-of-state, except where the previously described exempted process equipment and commercial or industrial boilers are concerned.

In the July 27, 2016, SIP revision, changes to paragraph I(A)(3) clarify that any existing sources transferred from in- or out-of-state to another permitted in-state facility subject to section I(A) are considered new affected sources under Standard No. 5.2, except for any existing sources relocated between facilities within the State under common ownership. For the latter existing sources, the revised language clarifies that they become existing affected sources under Standard No. 5.2 when paragraph I(A)(2) is triggered (*i.e.*, a burner assembly is replaced). The changes to paragraph I(A)(3) with respect to those sources that are considered new affected sources clarify that such sources must comply with the emission limits and/or control requirements in Section III once they are relocated.

The 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. The SIP specifies that an existing affected source is one that is moved to another permitted facility within the State under common ownership, after the effective date of the regulation, except for transfers of process equipment and commercial or industrial boilers. The change simply clarifies that the transfer of process equipment and commercial or industrial boilers transferred between in-state facilities under common control does not trigger new affected source status and has no practical effect on regulation applicability. Under Standard No. 5.2, process equipment and commercial and industrial boilers comprise all the relevant sources that could be transferred as described and trigger existing affected source requirements in paragraph I(A)(2). Although "process equipment" is not defined in the regulation or elsewhere in the SIP, a common understanding of the term in the context of Standard No. 5.2 would be equipment that is integral to the process that generates NO_x emissions through fuel burning (*e.g.*, cement kilns). The only new source types

listed in Section III that would not be considered "process equipment" and are not commercial or industrial boilers are internal combustion engines and gas turbines. The State notes explicitly in the definition of "Burner Assembly" in Standard No. 5.2 that "[a] self-contained chamber such as is found on a combustion turbine is not a burner assembly for the purposes of this regulation." Therefore, internal combustion engines and gas turbines, which do not have burner assemblies consistent with the definition in the regulation, cannot trigger existing source applicability under paragraph (I)(A)(2).

In the event that any internal combustion engines or gas turbines are relocated between permitted facilities within the State under common ownership, those units would be considered new affected sources. The changes to the exemption for existing sources relocated between permitted facilities in-state under common ownership in paragraph I(A)(3) do not practically affect the universe of sources subject to the requirements for new or existing affected sources in the regulation and therefore have no impact on air quality. Further, eliminating undefined terms, (*e.g.*, "process equipment") and utilizing the broader "any existing source" has no practical effect on the exemption from new affected source requirements. As revised, paragraph I(A)(3) does not exempt any sources relocated as previously described from regulation applicability but merely clarifies that such sources do not become existing affected sources until the qualifying burner replacement trigger under paragraph I(A)(2). For the reasons described above, the EPA is proposing to approve the changes to paragraphs I(A)(2) and (3) in the July 27, 2016, SIP revision. The EPA is proposing to approve the aforementioned changes to Standard No. 5.2, Subsection I(A) through the February 4, 2022, SIP revision, because they will not interfere with any applicable requirement concerning attainment and RFP (as defined in section 171), or any other applicable requirement of the CAA.

b. Subsection I(B)

i. October 1, 2007, SIP Revision

The October 1, 2007, SIP revision makes changes to Subsection I(B), which exempts

certain sources from all requirements within Standard No. 5.2 unless otherwise specified. The revision expands an exemption for certain emergency power generators. In the SIP, paragraph I(B)(2) exempts emergency power generators of less than 150 kilowatt (kW) rated capacity, as well as larger emergency power generators that operate 250 hours per year or less and have a method to record actual hours of use, such as an hour meter. The October 1, 2007, SIP revision modifies the exemption for emergency power generators to separate the existing exemption in paragraph I(B)(2) by including prefatory text at paragraph I(B)(2) and creating two new subparagraphs, I(B)(2)(a) and I(B)(2)(b). The revision expands the exemption to include emergency power generators of less than or equal to 150 kW rated capacity (subparagraph I(B)(2)(a)), as well as generators greater than 150 kW rated capacity "designated for emergency use only" that are operated "500 hours per year or less for testing and maintenance" and have a method to record actual hours of use, such as an hour meter (subparagraph I(B)(2)(b)). In its submittal, the State notes that paragraph I(B)(2) was amended "to ensure that exemptions are consistent with proposed amendments to Regulation 61-62.1, Section II," South Carolina's permitting requirements.[29]

The changes to paragraph I(B)(2) expand the 250-hour annual operating limit to 500 hours and clarify that these generators designated for emergency use only are limited to testing and maintenance uses. However, the changes to paragraph I(B)(2) in the October 1, 2007, SIP revision are superseded by relevant changes to subsection I(B) in the July 27, 2016, and February 4, 2022, SIP revisions, which the EPA is proposing to approve for reasons explained below or which the State, as previously noted, removed from the EPA's consideration in its July 21, 2026, letter.

In the October 1, 2007, SIP revision, a change to subsection I(B) modifies an exemption for combustion control devices at paragraph I(B)(4). In the SIP, paragraph I(B)(4) exempts any

[29] In the January 2025 NPRM, for reasons explained therein, the EPA proposed to approve similar changes expanding an exemption for emergency power generators from minor source construction permitting requirements. *See* 90 FR 6954.

device that functions "solely as a combustion control device" from Standard No. 5.2. A change to paragraph I(B)(4) adds language clarifying that waste heat recovery from combustion control devices "shall not be considered primary grounds for exclusion from this exemption." Waste heat recovery can help facilities reduce fuel consumption, as well as associated operating costs and pollutant emissions, by utilizing heat energy that would otherwise be lost. For example, combined heat and power (CHP) is an efficient method of providing power and useful thermal energy such as heating or cooling at the point of use with a single fuel source.[30] Although not strictly functioning as "combustion control" devices, those devices that function as combustion control devices that also recover waste heat can further reduce NO_x emissions, and the change to paragraph I(B)(4) is expected to have a neutral to positive impact on air quality. Therefore, the EPA proposes to approve the changes to paragraph I(B)(4) in the October 1, 2007, SIP revision.

ii. July 27, 2016, SIP Revision

In the July 27, 2016, SIP revision, changes to subsection I(B) remove exemptions from Standard No. 5.2 for the following sources: (1) fuel-burning sources less than 10 MMBtu/hour (hr) rated input capacity at paragraph I(B)(1); (2) emergency power generators at paragraph I(B)(2), as modified in the October 1, 2007, SIP revision and described above; (3) "Flares" at paragraph I(B)(8); and (4) "Fuel Cell Sources" at paragraph I(B)(10). The July 27, 2016, SIP revision also adds three new exemptions at paragraphs I(B)(1), (2), and (3), described below. The addition of the three new exemptions shift and renumber the remaining paragraphs in subsection I(B). In the July 27, 2016, SIP revision, changes to subsection I(B) also revise renumbered paragraphs I(B)(4), (6)-(8), (10)-(13), and (15). Paragraphs I(B)(5), (14), and (16) are simply renumbered without changes,[31] and paragraph I(B)(9) remains unchanged. In its submittal, the

[30] *See* June 2021 EPA CHP Partnership "Fuel and Carbon Dioxide Emissions Savings Calculation Methodology for Combined Heat and Power Systems" report, available at *https://www.epa.gov/sites/default/files/2015-07/documents/fuel_and_carbon_dioxide_emissions_savings_calculation_methodology_for_combined_heat_and_power_systems.pdf*.

[31] Paragraph I(B)(16), as renumbered in the July 27, 2016, SIP revision, includes discretionary language allowing the State to "consider any other exemptions…on a case-by-case basis." Evaluating the existing discretionary language in Standard No. 5.2, paragraph I(B)(16) is beyond the scope of this proposed rulemaking action.

State notes that subsection I(B) was amended to clarify sources exempt from Standard No. 5.2 and for internal consistency.

In the July 27, 2016, SIP revision, the removal of the exemption in paragraph I(B)(1) expands the applicability of the SIP because it results in Standard No. 5.2 applying to fuel-burning sources with less than 10 MMBtu per hour (10 MMBtu/hr) rated input capacity. In the SIP, any fuel-burning source with less than 10 MMBtu/hr rated input capacity is exempt from Standard No. 5.2. However, other relevant changes to subsection I(B) since the July 27, 2016, SIP revision, specifically those in the February 4, 2022, SIP revision, which the EPA is proposing to approve for reasons explained below supersede the removal of paragraph I(B)(1). Specifically, relevant changes to subsection I(B) in the February 4, 2022, SIP revision, which the EPA is proposing to approve, exempt boilers less than 10 MMBtu/hr rated input, nullifying the removal of the exemption as it applies to those boilers. The EPA's evaluation of the superseding revisions to paragraph I(B)(1) can be found in Section IV.B.1.b.iii. of this NPRM.

The July 27, 2016, SIP revision removes paragraph I(B)(2), the provision exempting emergency power generators from Standard No. 5.2 with less than or equal to a 150 kW rated capacity, and emergency power generators with a rated capacity greater than 150 kW designated for emergency use only operated no more than 500 hours annually for testing and maintenance, with a method to record actual hours of use, as previously described. Although new paragraph I(B)(1) in the July 27, 2016, SIP revision essentially maintains the exemption by exempting any NO_x-emitting source listed in Regulation 61-62.1, Subsection II(B),[32] under the State's minor source preconstruction permitting regulation, the revision is superseded by relevant changes to subsection I(B) in the February 4, 2022, SIP revision, and the July 21, 2026, letter.

Specifically, the February 4, 2022, SIP revision (1) narrows the scope of the exemption in

[32] Regulation 61-62.1, subsection II(B) lists emergency power generators less than or equal to 150 kW rated capacity or greater than 150 kW rated capacity designated for emergency use only, operated 500 hours or less annually for testing and maintenance, with a method to record actual use hours, as proposed for modification in the January 21, 2025, NPRM. *See* 90 FR 6954.

new paragraph I(B)(1), as added in the 2016 SIP revision, and (2) combines paragraph I(B)(1), as narrowed, and paragraph I(B)(2) into a single exemption at paragraph I(B)(2). The July 21, 2026, letter SC DES submitted removed from the EPA's consideration paragraph I(B)(2), as submitted in the July 27, 2016, SIP revision, and revised in the February 4, 2022, SIP revision.[33]

The EPA is proposing to approve the change removing paragraph I(B)(2) from the SIP, as requested in the July 27, 2016, SIP revision.[34] Further, since SC DES' July 21, 2026 letter removes paragraph I(B)(2) as revised in the February 4, 2022, SIP submittal, from the EPA's consideration, this approval results in the removal of the exemption for emergency power generators of less than 150 KW rated capacity, or those that operate 250 hours per year or less and have a method to record the actual hours of use such as an hour meter. Since these emergency generators will be subject to the NO_x emission limits and/or control requirements in Standard No. 5.2, the SIP revision is SIP-strengthening. The EPA discusses its proposed action with respect to changes to Standard No. 5.2, Subsection I(B) in the February 4, 2022, SIP revision in Section IV.B.1.b.iii. of this NPRM.

In the July 27, 2016, SIP revision, new paragraph I(B)(3) exempts from Standard No. 5.2 any source which has undergone a BACT analysis or is subject to Lowest Achievable Emission Rate (LAER) for NO_x pursuant to the State's PSD regulations in Regulation 61-62.5, Standard No. 7 and Nonattainment New Source Review (NNSR) regulations in Regulation 61-62.5, Standard No. 7.1, respectively. As explained previously in this NPRM, in the current SIP, subsection I(A) provides that Standard No. 5.2 applies to sources of NO_x that have not undergone a PSD BACT analysis, and a change to subsection I(A) in the July 27, 2016, SIP revision removes, in part, language capturing stationary sources of NO_x that have not undergone BACT analyses for NO_x. Therefore, the addition of the exemption for sources having undergone

[33] As previously noted, the July 21, 2026, letter removing paragraph I(B)(2) from EPA consideration supersedes the May 13, 2026, request for conditional approval of that provision.

[34] The October 1, 2007, SIP submittal as described above reformatted paragraph I(B)(2) and added an exemption for generators with a greater than 150 kW rated capacity designated for emergency use only and operated for a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.

a NO_x BACT analysis is a neutral, non-substantive change that has no practical effect on regulation applicability and therefore no impact on air quality.

With respect to the added exemption for sources subject to LAER pursuant to the State's NNSR regulations, these requirements apply to new major sources and major modifications at existing sources for pollutants in areas designated "nonattainment" for one or more NAAQS. LAER for a source is the more stringent emissions rate based on 1) the most stringent emissions limitation in any state's SIP for the source class or category, unless the owner or operator demonstrates that such limitation is not achievable; or 2) the most stringent emission limitation achieved in practice for the source class or category.[35] South Carolina currently has no nonattainment areas, but, if an area in the State were to be designated "nonattainment" and future projects were to trigger NNSR for NO_x, those sources exempt from Standard No. 5.2 under new paragraph I(B)(3) would be subject to the State's NNSR requirements, including the requirement to install LAER for NO_x, and would be covered by those more stringent requirements. Therefore, the addition of new paragraph I(B)(3) exempting from Standard No. 5.2 sources subject to LAER would not interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of the Act, and the EPA is proposing to approve the addition of new paragraph I(B)(3) in the July 27, 2016, SIP revision.

In the July 27, 2016, SIP revision, changes to paragraph I(B)(4) clarify that 200-brake horsepower is equivalent to 149 kW. Changes to paragraphs I(B)(6)-(8) replace "NO_x controls" and "controls" with "NO_x limits" and "limits," respectively, to clarify that certain sources are exempt from Standard No. 5.2 if they are subject to equivalent or more stringent NO_x emission limits in applicable Federal regulations (NSPS or NESHAPs), equivalent or more stringent NO_x emission limits in the State's SIP-approved NO_x budget program regulations in Regulation 61-62.96, or NO_x emission limits in the State's SIP-approved NO_x budget program regulations in Regulation 61-62.99 for stationary sources outside the trading program. In the July 27, 2016, SIP

[35] *See* Regulation 61-62.5, Standard No. 7.1, Paragraph (B)(20).

revision, the removal from the SIP of the exemptions for flares at paragraph I(B)(8) and fuel cell sources at paragraph I(B)(10) expands Standard No. 5.2 applicability to capture the universe of sources formerly covered by those exemptions. Another change to paragraph I(B)(10) in the July 27, 2016, SIP revision corrects an exemption to clarify that it applies to engine test cells "and/or" stands.

In the July 27, 2016, SIP revision, changes to paragraph I(B)(12) revise an exemption for certain portable and temporary internal combustion engines. In the current SIP, paragraph I(B)(12) exempts from Standard No. 5.2 portable and temporary internal combustion engines, such as those associated with generators, air compressors, or other applications, if they fall in categories listed in 40 CFR part 89, *Control of Emissions from New and In-Use Nonroad Compression-Ignition Engines*. Changes to paragraph I(B)(12) in the July 27, 2016, SIP revision renumber the paragraph to I(B)(11) and add that portable and temporary internal combustion engines that fall in categories listed in 40 CFR part 1039, *Control of Emissions From New and In-Use Nonroad Compression-Ignition Engines*, and 40 CFR part 1068, *General Compliance Provisions for Highway, Stationary, and Nonroad Programs*, are also exempt from Standard No. 5.2. Following the 1990 amendments to the CAA, which authorized the EPA to set emission standards for nonroad engines, the Agency conducted a series of rulemakings to adopt emission control programs for different nonroad sectors.[36] Since then, the Agency has migrated "legacy" emission control programs under title 40 from subchapter C to subchapter U,[37] and, in each case, the migration corresponded to new emission standards and substantially updated compliance and testing provisions.[38] For land-based nonroad diesel engines, the EPA adopted emission standards for model year 1996 and later nonroad compression-ignition engines under 40 CFR part 89 and migrated regulatory requirements for those engines to 40 CFR part 1039, with additional testing

[36] From 1994 through 1999, the EPA adopted these emission control programs in 40 CFR parts 89, 90, 91, 92, and 94 (in subchapter C). *See* 86 FR 34308, 34342 (June 29, 2021).
[37] Starting in 2002, the EPA adopted emission standards and related provisions for additional nonroad emission control programs, codified in 40 CFR parts 1048, 1051, 1065, and 1068 (in subchapter U). *See* id.
[38] As a result of this migration, engine manufacturers have not certified engines under the legacy parts – including part 89 – for roughly a decade or more. *See* id.

and compliance provisions in 40 CFR parts 1065 and 1068.[39] The regulations in 40 CFR Part 1039 apply for new compression-ignition nonroad engines, with certain exceptions,[40] and certain in-use land-based compression-ignition nonroad engines,[41] and certain standards applicable to nonroad compression-ignition engines originally adopted under 40 CFR part 89 are identified in Appendix I to 40 CFR part 1039.

40 CFR part 1068 provides general compliance provisions for highway, stationary, and nonroad programs and applies to certain engine and equipment categories described in 40 CFR 1068.1(a), including land-based nonroad compression-ignition engines subject to 40 CFR part 1039,[42] certain stationary compression-ignition engines, large nonroad spark-ignition engines subject to 40 CFR part 1048, certain stationary spark-ignition engines, and small nonroad spark-ignition engines subject to 40 CFR part 1054.[43] A "[n]onroad engine," as defined in 40 CFR part 1068.30, is an internal combustion engine that meets certain criteria, including the criterion that an engine, by itself or on a piece of equipment, is portable or transportable, which under the definition of nonroad engine means designed to be and capable of being carried or moved from one location to another.[44] The definition of nonroad engine in 40 CFR part 1068.30, also provides that an internal combustion engine is not a nonroad engine if it is regulated under 40 CFR part 60 or otherwise regulated by a Federal NSPS promulgated under CAA section 111, unless that engine meets certain criteria and is voluntarily certified under 40 CFR part 60. The definition also provides that if a portable or transportable engine remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at

[39] *See* id. at 34372 and 40 CFR 89.1.
[40] 40 CFR 1039.5 specifies certain engines excluded from the requirements in 40 CFR part 1039, *e.g.*, engines in locomotives certified under 40 CFR part 1033 and marine engines subject to 40 CFR part 94.
[41] 40 CFR 1039.1(b) specifies emission standards applicable to in-use engines starting with model years noted in Table 1 of 40 CFR 1039.1.
[42] 40 CFR part 1068 applies for engines certified under 40 CFR part 89 to the extent and in the manner specified in 40 CFR part 1039. *See* 40 CFR 1068.1(a)(6).
[43] 40 CFR part 1068 applies for nonroad spark-ignition engines certified under 40 CFR part 90 to the extent and in the manner specified in 40 CFR part 1054. *See* 40 CFR 1068.1(a)(13).
[44] Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. *See* 40 CFR 1068.30.

a seasonal source, it is not a nonroad engine.[45]

In the July 27, 2016, SIP revision, the changes to renumbered paragraph I(B)(11) exempt from Standard No. 5.2 certain portable and temporary internal combustion engines, *i.e.*, large nonroad spark-ignition engines subject to 40 CFR part 1048 and small nonroad spark-ignition engines subject to 40 CFR part 1054. However, because paragraph I(B)(11) exempts portable and temporary internal combustion engines, as distinguished from stationary engines in 40 CFR 1068.31(e), and Standard No. 5.2 was designed to regulate stationary sources of NO_x, the expanded exemption applicable to portable and temporary internal combustion engines listed in 40 CFR part 1068 does not affect the universe of stationary sources of NO_x subject to the regulation. The changes to paragraph I(B)(11) also update the exemption from Standard No. 5.2 for the universe of portable and temporary nonroad compression-ignition internal combustion engines subject to Federal requirements. For these reasons, the EPA is proposing to approve the changes to paragraph I(B)(11) in the July 27, 2016, SIP revision.

In the July 27, 2016, SIP revision, changes to paragraph I(B)(12), renumbered from I(B)(13), revise an exemption for combustion sources that operate at a capacity of less than 10 percent per year. The changes to renumbered paragraph I(B)(12) exempt combustion sources that operate at an "annual capacity factor" of 10 percent "or less."[46] The revised provision will exempt combustion sources operating at an annual capacity factor of 10 percent, whereas now, the SIP exempts sources operating at an annual capacity factor of 9.99 percent or lower. This change will have a negligible impact on air quality. Therefore, the EPA is proposing to approve the changes to paragraph I(B)(12) in the July 27, 2016, SIP revision.

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[45] *See also* 40 CFR 1068.31(e)(1) and (2), which state that a nonroad engine ceases to be a nonroad engine and becomes a new stationary engine if it meets this criterion or is otherwise regulated by a Federal NSPS under CAA section 111.

[46] A definition for "Annual Capacity Factor" was proposed to be added in the July 27, 2016, SIP revision in Standard No. 5.2 at Section II and is discussed in Section IV.B.2.a. of this NPRM. According to that definition, which the EPA is proposing to approve for reasons explained below, annual capacity factor is the ratio between actual heat input to a combustion unit from fuels during a calendar year and potential heat input to the steam generating unit had it been operated for 8,760 hours during a calendar year at the maximum steady state design heat input capacity.

A change to paragraph I(B)(13) in the July 27, 2016, SIP revision amends an exemption for special use burners that are operated less than 500 hours a year. In the SIP, any special use burners, such as startup/shutdown burners, that are operated less than 500 hours a year are exempt from the requirements in Standard No. 5.2. The change to paragraph I(B)(13) provides that such special use burners are only exempt from existing source replacement requirements. With this change, special use burners, when operated less than 500 hours annually, are now subject to the requirements for new sources in the regulation, *e.g.*, emission limitations and/or control requirements in Section III. These burners are still exempt from the requirements for existing sources in the regulation, meaning they are not considered existing affected sources when a burner assembly is replaced and therefore are not subject to the requirements in the regulation for such sources pursuant to paragraph I(A)(2). The revised language in paragraph I(B)(13) removing the exemption for certain new affected special use burners from Standard No. 5.2 expands the regulation's applicability and therefore strengthens the SIP.

In the July 27, 2016, SIP revision, changes to paragraph I(B)(16) renumbers the paragraph to I(B)(15) and clarify that portable sources such as asphalt or concrete batch plants are "considered existing sources only and become existing affected sources when the burner assembly is replaced" pursuant to paragraph I(A)(2). In the current SIP, paragraph I(B)(16) states that those sources are only exempt from the requirements in Section III, which specifies emission limits and/or control requirements for new affected sources. The revised language in renumbered paragraph I(B)(15) clarifies that portable sources are exempt from standards for new sources in Standard No. 5.2, but subject to standards for existing affected sources in the regulation when a burner assembly is replaced.

In the July 27, 2016, SIP revision, the removal from the SIP of paragraphs I(B)(8) and I(B)(10) expands regulation applicability and therefore has a neutral to positive impact on air quality. The changes to paragraphs I(B)(4), (6)-(8), (10), and (15) are non-substantive and therefore have no impact on air quality. The changes to renumbered paragraph I(B)(11) do not

meaningfully affect the universe of stationary sources of NO_x subject to the regulation, and the changes to renumbered paragraph I(B)(12) will have a negligible impact on air quality. The change to renumbered paragraph I(B)(13) (paragraph I(B)(14) in the current SIP) expands Standard No. 5.2 applicability to capture new special use burners operated less than 500 hours a year as new affected sources and therefore has a neutral to positive impact on air quality. Therefore, the EPA is proposing to approve the removal of current paragraphs I(B)(8) and (10) and the changes to paragraphs I(B)(4), renumbered I(B)(6)-(8), renumbered I(B)(10)-(13), and renumbered I(B)(15) in the July 27, 2016, SIP revision.

iii. February 4, 2022, SIP Revision

The February 4, 2022, SIP revision adds exemptions at new paragraphs I(B)(1), (3), and (9), described below, shifting and renumbering the remaining paragraphs.[47] In its February 4, 2022, submittal, the State notes that, in part, paragraph I(B)(1) is replaced with language to ensure consistency and clarify sources that are exempt from Standard No. 5.2, including boilers less than 10 MMBtu/hr rated input.

As noted above, the July 27, 2016, SIP revision removes from Standard No. 5.2 an exemption for any fuel-burning sources less than 10 MMBtu/hr rated input capacity at paragraph I(B)(1) in the SIP, and the February 4, 2022, SIP revision adds an exemption for boilers less than 10 MMBtu/hr rated input at new paragraph I(B)(1). Taken together, the previously described changes narrow the universe of exempt sources under paragraph I(B)(1) from *any* fuel-burning source less than 10 MMBtu/hr rated input capacity to only boilers of the same input capacity and are expected to have a neutral to positive impact on air quality. Therefore, the EPA is proposing to approve the addition of new paragraph I(B)(1) in the February 4, 2022, SIP revision.

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[47] As previously noted, the addition of the permitting exemptions in paragraphs I(B)(1) and (2) to Standard No. 5.2 in the July 27, 2016, SIP revision is superseded by relevant changes to paragraph I(B)(2) in the February 4, 2022, SIP revision. Subsequently, on July 21, 2026, South Carolina removed from EPA consideration "I(B)(2), as submitted on July 25, 2016, and February 3, 2022." The States notes that "the specific text…is not before the EPA at this time." Furthermore, as previously noted, the State submitted a May 13, 2026, letter, stating that specific text in limited portions of the SIP revisions submitted on July 27, 2016, and February 3, 2022, including subsection I(B)(3), "is not before the EPA at this time." The letter received by the EPA on July 21, 2026, also reiterated that I(B)(2), I(B)(3) and two other provisions, II(K), and III(A), are "no longer before EPA."

In the February 4, 2022, SIP revision, new paragraph I(B)(9) exempts from Standard No. 5.2 any source subject to equivalent or more stringent NO_x emission limits pursuant to requirements in Regulation 61-62.97, the State's Cross-State Air Pollution Rule (CSAPR) trading program regulations in the SIP. New paragraph I(B)(9) only serves to exempt from Standard No. 5.2 sources already subject to equivalent or more stringent NO_x limits under the State's SIP-approved CSAPR NO_x annual trading program regulations, which adopt and incorporate by reference certain provisions of 40 CFR part 97, subpart AAAAA and include certain other provisions related to South Carolina's CSAPR NO_x annual trading program. For this reason, the added exemption under new paragraph I(B)(9) from the requirements in Standard No. 5.2 for sources subject to the State's CSAPR requirements would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act. Therefore, the EPA is proposing to approve the addition of new paragraph I(B)(9) in the February 4, 2022, SIP revision.

The EPA is proposing to approve the aforementioned changes to Standard No. 5.2, subsection I(B), because they will not interfere with any applicable requirement concerning attainment and RFP (as defined in section 171), or any other applicable requirement of the CAA.

2. Section II—Definitions

a. July 27, 2016, SIP Revision

In the July 27, 2016, SIP revision, the changes to Regulation 61-62.5, Standard No. 5.2, Section II add definitions for "Annual Capacity Factor," "Equivalent Technology," "Existing affected source," and "New affected source" at new Subsections II(A), (F), (G), and (I), respectively, and remove the existing SIP-approved definition of "Tune-up," shifting and renumbering the existing SIP-approved subsections. Additional changes to Section II in the July 27, 2016, SIP revision clarify the definition of "Fuel" in subsection II(H). In its submittal, the State notes that Section II was amended "to strike obsolete definitions and add others to further clarify existing definitions."

In the current SIP, "Tune-up" is defined as "adjustments made to the combustion process to optimize combustion efficiency of the source in accordance with procedures provided by the manufacturer or in accordance with good engineering practices." The State's tune-up requirements in new Section IV and in Section VII require new affected sources, with certain exceptions,[48] and existing affected sources, respectively, to perform tune-ups in accordance with manufacturer's specifications or good engineering practices. Therefore, the EPA proposes to approve the removal of the definition of "Tune-up" from Standard No. 5.2 in the July 27, 2016, SIP revision, finding that the change is non-substantive and administrative in nature and therefore has no impact on air quality.

In the July 27, 2016, SIP revision, new subsection II(A) defines "Annual Capacity Factor" as "the ratio between the actual heat input to a combustion unit from the fuels during a calendar year and the potential heat input to the steam generating unit had it been operated for 8,760 hours during a calendar year at the maximum steady state design heat input capacity," generally consistent with the NSPS definition of "Annual capacity factor" for industrial-commercial-institutional steam generating units at 40 CFR 60.41b. This term is utilized in subsection I(B).

In the July 27, 2016, SIP revision, new subsection II(F) defines "Equivalent Technology" as "any item that is identical or functionally equivalent to the existing component" and states that "[t]his component may serve the same purpose or function as the replaced component, but may be different in some respects or improved in some ways." This term is utilized under the requirements for new and existing affected sources in Section III in the current SIP and subsection V(A), renumbered from subsection IV(A) in the current SIP, respectively. The addition of this definition helps to clarify the meaning of the phrase included in these sections.

In the July 27, 2016, SIP revision, new Subsections II(G) and (I) define "Existing

[48] Section IV exempts from tune-up requirements in Standard No. 5.2 boilers and internal combustion engines subject to tune-up requirements in 40 CFR part 63.

affected source" and "New affected source," respectively. New Subsection II(G) defines "Existing affected source" as a source "constructed on or before June 25, 2004," the Standard No. 5.2 effective date, and that meets the applicability criteria in paragraph I(A)(2), which specifies criteria for existing affected sources. New Subsection II(I) defines "New affected source" as "any affected source" constructed after June 25, 2004, or that meets the applicability criteria in paragraph I(A)(3), which specifies criteria for new affected sources transferred from a permitted facility to another permitted facility in-state after the regulation effective date, with certain exceptions, and clarifies that "[a] new affected source will not be considered an existing affected source at burner assembly replacement" under paragraph I(A)(2). These terms are utilized throughout Standard No. 5.2. New subsections II(A), (F), (G), and (I) in the July 27, 2016, SIP revision clarify the meaning of the terms of "Annual Capacity Factor," "Equivalent Technology," "Existing affected source," and "New affected source," respectively, as utilized in Standard No. 5.2. Therefore, the EPA proposes to approve the definitions added to Section II in the July 27, 2016, SIP revision.

In the July 27, 2016, SIP revision, changes to Subsection II(H) clarify the definition of "Fuel." The changes to subsection II(H) separate the existing definition into prefatory text at subsection II(H) and add six new paragraphs to separately define listed fuel types. In the current SIP, subsection II(H) defines "Fuel" as "the following or any combination of the following: virgin fuel, fossil fuel, waste, waste fuel, biomass fuel, biofuel, methanol, ethanol, biodiesel, landfill gas, digester gas, process liquid or gas, or any combustible material the Department determines to be a fuel." As revised, prefatory subsection II(H) and new paragraphs II(H)(1)-(6) define "Fuel" as "the following fuels, any combination of the following fuels or any combustible material the Department determines to be a fuel including, but not limited to" virgin fuel, waste, waste fuel, and clean wood (biomass fuel) as defined in Regulation 61-62.1; biodiesel; biofuel;

digester gas; fossil fuel; and landfill gas.[49]

In the July 27, 2016, SIP revision, new paragraphs II(H)(1)-(6) include added explanatory language. New paragraph II(H)(1) clarifies that "[v]irgin fuel, waste, waste fuel, and clean wood (biomass fuel)" in Standard No. 5.2 carry the same meanings as those terms in the State's definitions and general requirements in Regulation 61-62.1 in the SIP.

New paragraph II(H)(2) defines "Biodiesel" as a "mono-alkyl ester derived from vegetable oil and animal fat and conforming to [American Society for Testing and Materials] ASTM D6751," generally consistent with the definition of that term in regulations for the renewable fuel program under CAA section 211(o) at 40 CFR 80.2.[50]

New paragraph II(H)(3) defines "biofuel" as "any biomass-based solid fuel that is not a solid waste. This includes, but is not limited to, animal manure, including litter and other bedding materials; vegetative agricultural and silvicultural materials, such as logging residues (slash), nut and grain hulls and chaff (for example, almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds." This definition is consistent with the NESHAP definition of "biomass" for industrial, commercial, and institutional boilers at 40 CFR 63.11237.[51]

New paragraph II(H)(4) defines "Digester gas" as "any gaseous by-product of wastewater treatment typically formed through the anaerobic decomposition of organic waste materials and composed principally of methane and CO_2 [carbon dioxide]." This definition is consistent with the NSPS definition of that term for stationary spark ignition internal combustion engines at 40

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[49] As revised in the July 27, 2016, SIP revision, the definition of "Fuel" does not contain the following terms included in the definition in the EPA-approved SIP: "methanol, ethanol," and "process liquid or gas." However, the EPA believes these terms are captured under the definition of "Fuel" in the July 27, 2016, SIP revision.

[50] 40 CFR 80.12(c)(12) incorporates by reference ASTM D6751 for pure (100 percent) biodiesel, approved March 1, 2024.

[51] The definition of "biomass" at 40 CFR 63.11237 also includes "wood residue and wood products (*e.g.*, trees, tree stumps, tree limbs, bark, lumber, sawdust, sander dust, chips, scraps, slabs, millings, and shavings)." However, paragraph II(H)(1) includes "clean wood (biomass fuel) as defined in Regulation 61-62.1." In the EPA-approved SIP, Regulation 61-62.1 defines "clean wood" as "untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped)," not to include "yard waste…or construction, renovation, and demolition waste (including but not limited to railroad ties and telephone poles)," consistent with the definition of "clean wood" in performance standards for certain new small municipal waste combustion units at 40 CFR 60.1465.

CFR 60.4248.

New paragraph II(H)(5) defines "Fossil Fuel" as "natural gas, petroleum, coal, and any form of solid, liquid, or gaseous fuel derived from such material for the purpose of creating useful heat." It also defines "[p]etroleum for facilities constructed, reconstructed, or modified before May 4, 2011," as "crude oil or a fuel derived from crude oil, including, but not limited to, distillate oil and residual oil. For units constructed, reconstructed, or modified after May 3, 2011, petroleum means crude oil or a fuel derived from crude oil, including, but not limited to, distillate oil, residual oil, and petroleum coke." These definitions for "fossil fuel" and "petroleum" are consistent with the NSPS definitions of those terms for electric utility steam generating units at 40 CFR 60.41Da.

New paragraph II(H)(6) defines "Landfill Gas" as a "gaseous by-product of the land application of municipal refuse typically formed through the anaerobic decomposition of waste materials and composed principally of methane and CO_2." This definition is consistent with the NSPS definition of that term for stationary spark ignition internal combustion engines at 40 CFR 60.4248.

The changes to subsection II(H) in the July 27, 2016, SIP revision clarify the definition of "Fuel" as utilized in Standard No. 5.2 and the fuel types included within the definition and have no impact on air quality. Therefore, the EPA proposes to approve the changes to subsection II(H) in the July 27, 2016, SIP revision.

b. February 4, 2022, SIP Revision

In the February 4, 2022, SIP revision, the changes to Section II add a definition for "Non-routine maintenance" at new subsection II(J).[52] In its submittal, the State notes that Section II(J) was added "to define the term non-routine maintenance for clarification." In the February 4,

[52] The addition of subsection II(J) would shift subsequent subsection II(K), as revised through the February 4, 2022, SIP revision. However, as previously noted, on May 13, 2026, SC DES submitted to the EPA a letter stating that limited portions of the Standard No. 5.2 SIP revisions, including Subsection II(K) in the February 4, 2022, SIP revision, are not before the Agency.

2022, SIP revision, new Subsection II(J) defines "Non-routine maintenance" as "an unforeseen failure of a single burner assembly in an existing affected source with multiple burner application forcing an unplanned replacement of the existing burner." This term is utilized in subsection V(A) where existing affected sources as defined in paragraph I(A)(2) are exempt from requirements to replace an existing burner assembly with a low-NO_x burner assembly or equivalent technology and to achieve a 30 percent reduction from uncontrolled NO_x emission levels based on manufacturer's specifications when a single burner assembly at a source with multiple burners is replaced "due to non-routine maintenance."[53] New subsection II(J) in the February 4, 2022, SIP revision clarifies the meaning of the term "Non-routine maintenance" as utilized in Standard No. 5.2. Therefore, the EPA proposes to approve that definition added to Section II of Standard No. 5.2 in the February 4, 2022, SIP revision.

3. Section III—Standard Requirements for New Affected Sources

a. October 1, 2007, SIP Revision

In the October 1, 2007, SIP revision, a change to Section III in Table 1, which prescribes NO_x emission limits and/or control requirements for new affected boilers, internal combustion engines, gas turbines, and other sources subject to Standard No. 5.2, clarifies that process heaters not meeting the definition of "Boiler" in Regulation 61-62.1, Section I are an example of a fuel combustion source type not otherwise listed in Table 1 to which control requirements apply.[54] Table 1 provides separate standards for various new boilers subject to Standard No. 5.2. The clarifying change to Table 1 in Section III in the October 1, 2007, SIP revision are non-substantive and therefore have no impact on air quality. Therefore, the EPA proposes to approve the change to Section III in the October 1, 2007, SIP Revision.

b. July 27, 2016, SIP Revision

In the July 27, 2016, SIP revision, changes to Section III clarify and revise requirements

[53] The EPA discusses the changes to Section V in the July 27, 2016, SIP revision in Section IV.B.5. of this NPRM.
[54] In the SIP, Regulation 61-62.1, subsection I(13) defines "Boiler" as "an enclosed device using controlled flame combustion" that meets certain criteria described in that definition.

for new affected sources in subsections III(B) and(D) and Table 1.[55] In its submittal, the State notes that Section III is amended "to further explain the requirements for new affected sources," clarify existing requirements, "ensure internal consistency," and "cite items" pursuant to "the 2014 South Carolina Legislative Council's Standards Manual." In its submittal, the State also notes that Table 1 is amended to revise emission limit and/or control requirement measurement units to "ensure consistency" with Federal requirements, to clarify source types and existing requirements, and to "ensure internal consistency."

Changes to the section title and Subsections II(B) and (D) clarify that subject sources are new "affected" sources. Changes throughout Section III also clarify that sources must meet emission standards in Table 1 by replacing "capable of achieving the limitations" with "shall achieve" under the various standards in Table 1.

In the July 27, 2016, SIP revision, clarifying changes to the Table 1 structure (1) remove "Control Technology and/or" from the first level table heading, so the table prescribes an "Emission Limit" that depends on the "Source Type"; (2) remove a second level "Boilers and Water Heaters" heading (which purported to cover various boilers, internal combustion engines, gas turbines, and other fuel-burning sources, *e.g.*, kilns),[56] and (3) add a third level "Other" heading, so the table is partitioned by source type under second level category headings into third level subcategories for various boilers, internal combustion engines, gas turbines, and other fuel-burning sources. The changes to Table 1 also move "Cement Kilns" from the "Combined Cycle - Distillate Oil Combustion" gas turbine subcategory to the "Other" category and replace language to clarify that other fuel combustion sources not otherwise specified are those "burning any non-specified fuel not listed" in Table 1.

Other clarifying changes to Table 1 in the July 27, 2016, SIP revision remove alternate

[55] The July 27, 2016, SIP revision also contains changes to subsection III(A). However, as previously noted, on May 13, 2026, SC DES submitted to the EPA a letter removing limited portions of the Standard No. 5.2 SIP revisions, including subsection III(A) in the July 27, 2016, SIP revision, from EPA consideration.
[56] Water heaters are not regulated under Standard No. 5.2.

equivalent emission limits, *e.g.*, changes to gas turbine standards remove emission limits in pounds per MMBtu (lb/MMBtu), leaving equivalent limits in parts per million by volume (ppmv) at 15 percent oxygen (O_2) dry basis; changes to landfill gas-fired turbine, recovery furnace, and lime kiln standards clarify that those sources are subject to emission limits prescribed in percent O_2 (oxygen) "Dry Basis"; and changes to standards for boilers burning multiple fuels clarify that the "combination of fuels not otherwise listed" in Table 1 will be addressed on a case-by-case basis. Additionally, in the July 27, 2016, SIP revision, a change to Table 1 corrects an emission limit for municipal refuse-fired boilers from 200 to 195 ppmv at 12 percent CO_2, consistent with the applicable equivalent 0.35 lb/MMBtu emission limit. The EPA is proposing to approve the clarifying changes and correction to Section III in the July 27, 2016, SIP revision, because these changes are non-substantive and administrative in nature and therefore have no impact on air quality. The EPA discusses its proposed action with respect to other changes to Section III revising subsection III(D) and Table 1 below.

In the July 27, 2016, SIP revision, a change to subsection III(D) removes the language "(April 1 through October 31)" describing "ozone season" from the provision, which, as revised, provides that affected sources required to install post-combustion NO_x control technology are required to use such technology during the ozone season. This change removes an inconsistency with the ozone monitoring season for South Carolina listed in 40 CFR part 58, appendix D, table D-3. Therefore, the EPA is proposing to approve the change to subsection III(D) in the July 27, 2016, SIP revision.

A change to Table 1 revises a second level heading for "Natural Gas-Fired Boilers" to cover "Propane and/or Natural Gas-Fired Boilers," expanding Standard No. 5.2 applicability by capturing new affected propane-fired boilers. This change is expected to have positive impact on air quality because the change expands the universe of sources subject to new affected source requirements to those that fire propane and those that fire a combination of propane and natural gas in addition to the natural gas-fired boilers under the current SIP. Therefore, the EPA

proposes to approve the revised Section III, Table 1 subheading in the July 27, 2016, SIP revision.

Other changes to Table 1 in the July 27, 2016, SIP revision revise standards for fluidized bed combustion (FBC) boilers to (1) categorize FBC boilers by design instead of fuel type, (2) revise FBC control requirements, and (3) increase an FBC emission limit. In the SIP, the entries under FBC boilers delineate those units by two fuel types, coal-fired and wood-fired. In the SIP, both coal-fired and wood-fired FBC boilers are required to use selective noncatalytic reduction-urea (SNCR-urea) "capable of achieving 51.8 parts per million (ppm) at 3 percent O_2 or an equivalent limit of 0.07 lb/MMBtu." In the July 27, 2016, SIP revision, the changes to those entries replace the existing FBC boiler entries delineated by fuel type with entries delineating FBC boilers by two different designs, "Bubbling Bed" and "Circulating Bed," irrespective of the fuel burned. Other changes revise the new entries for bubbling and circulating bed FBC boilers to allow subject boilers to select SNCR systems other than urea-based systems,[57] and to require those units to use SNCR to meet, for circulating bed units, the existing emission limit of 0.07 lb/MMBtu and, for bubbling bed units, an increased emission limit of 0.15 lb/MMBtu (equivalent emission limits prescribed in ppm are also removed).

SNCR is a post-combustion emissions control technology for reducing NO_x by injecting an ammonia-type reactant into a furnace at a determined location.[58] According to findings included in the seventh edition of the EPA Air Pollution Control Cost Manual discussing SNCR as a NO_x control, based on review of emission reductions for SNCR applications in a variety of industries, operating data indicates higher NO_x reductions occur with ammonia reagent. With respect to the revised emission limit for the new bubbling bed FBC boiler entry, in the State's March 23, 2020, letter, the State explains that it consulted the RACT/BACT/LAER

[57] *E.g.*, ammonia-based systems using ammonia, rather than urea, as a reagent.
[58] *See* 2019 Office of Air Quality Planning and Standards "EPA Air Pollution Control Cost Manual," seventh edition, Section 4, NO_x Controls, Chapter 1, "Selective Noncatalytic Reduction," revised April 24, 2019, available at *https://www.epa.gov/sites/default/files/2017-12/documents/sncrcostmanualchapter7thedition20162017revisions.pdf*.

Clearinghouse to set the 0.07 lb/MMBtu emission limit in 2004, but all new wood-fired bubbling bed units requested a case-by-case determination because those units could not meet the 0.07 lb/MMBtu emission limit.[59] In the 2020, letter, South Carolina notes that results from these case-by-case determinations led to the development of the higher 0.15 lb/MMBtu emission limit that the State is seeking to incorporate into its SIP under the revised standards for new affected bubbling bed FBC boilers. The State asserts that, in practice, the increased emission limit has not led to a relaxation in emission limits for wood-fired bubbling bed units and the revised limit therefore has no effect on existing sources or NO_x emissions within the State. The State also clarifies that any such new units would be regulated and their impacts assessed under the State's NSR program. New bubbling bed units subject to Standard No. 5.2 would be evaluated pursuant to the State's minor NSR program under Regulation 61-62.1, Section II. In the SIP, Regulation 61-62.1, paragraph II(A)(4) prohibits the issuance of any permit "to construct or modify a source…if emissions interfere with attainment or maintenance of any state or federal standard."[60] For these reasons, the changes to the Table 1 standards for FBC boilers in the July 27, 2016, SIP revision would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other CAA requirement. Therefore, the EPA proposes to approve the changes to the Table 1 standards in Section III for new affected FBC boilers in the July 27, 2016, SIP revision.

c. February 4, 2022, SIP Revision

In the February 4, 2022, SIP revision, changes to Section III revise the definition of a variable used to calculate certain emission limits for multiple fuel boilers in Table 1. The changes to the Table 1 multiple fuel boilers emission limit variable revise the definition of the variable "H_{ng}," used in the formula for calculating NO_x emission limits by adding language to

[59] In the March 23, 2020, letter, the State notes that, although the increased emission limit applies to all bubbling bed boilers, SC DES is not aware of any coal-fired FBC boilers in the State, including bubbling bed coal-fired units.
[60] In the August 17, 2017, NPRM, the EPA proposed to renumber Paragraph II(A)(4) to Paragraph II(A)(2) without making any changes to the provision. *See* 82 FR 39083.

specify that H_{ng} is the heat input from the combustion of natural gas "and/or propane." This change is consistent with changes to Table 1 in the July 27, 2016, SIP revision that expand Standard No. 5.2 applicability to capture new propane-fired boilers. The changes to Table 1 standards for multiple fuel boilers specify that the heat input from the combustion of propane must be accounted for in the listed calculation under the variable that also accounts for the heat input from the combustion of natural gas, consistent with previous changes to Table 1. The changes to the Table 1 standards for multiple fuel boilers are expected to have a neutral to positive impact on air quality. Therefore, the EPA proposes to approve the changes to Table 1 in the February 4, 2022, SIP revision.

4. Section IV — Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources

As previously noted in this NPRM, 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 currently before the EPA no later than one year after the EPA's conditional approval of South Carolina's submissions, should the EPA finalize this partial conditional approval as proposed.[61] Additionally, the supplemental materials include a CAA section 110(l) demonstration to support the corrective changes that the State intends to submit in a corrective SIP revision. 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 (as defined by CAA section 171), or any other

[61] As previously noted, on May 13, 2026, SC DES also submitted to the EPA a letter removing from EPA consideration limited portions of the State's NO_x control SIP revisions submitted on July 27, 2016, and February 4.2022, specifically subsection III(A), paragraph I(B)(3), and subsection II(K); that letter stated that "the specific text identified…is not before the EPA at this time." Subsequently, the State submitted a July 21, 2026, letter removing from the EPA's consideration one provision in Regulation 61-62.5, Standard No. 5.2 for which the State, in its May 13, 2026, letter, requested conditional approval. This letter supersedes the May 13, 2026 request for conditional approval of paragraph I(B)(2) in Regulation 61-62.5, Standard No. 5.2. The letter EPA received on July 21, 2026, also reiterated that paragraph I(B)(3), subsection II(K), and subsection III(A) in addition to paragraph I(B)(2) are "no longer before EPA."

applicable requirement of the CAA.[62] Sections IV.B.4.a.i.4.III., IV.B.4.b.i.3., and IV.B.4.b.ii.3. of this NPRM discuss South Carolina's CAA section 110(l) analysis supporting these changes. The EPA evaluates CAA section 110(l) non-interference demonstrations on a case-by-case basis considering the circumstances of each SIP revision.

As explained below, in this NPRM, the EPA is proposing to conditionally approve changes to the following provisions submitted by the State in the July 27, 2016; September 5, 2017; and February 4, 2022, SIP revision submittals: IV(A)(1), including IV(A)(1)(a)-(d); IV(A)(2)(a), (b), and (c); IV(B)(2)(a); IV(B)(2)(b); IV(C)(1), including IV(C)(1)(a)-(d); IV(C)(3)(c); IV(C)(3)(d); IV(D)—the second prefatory paragraph; IV(D)(2)(a); and IV(D)(2)(b). The EPA's analysis of the changes proposed for approval or conditional approval in the previously listed submittals is discussed below.

a. July 27, 2016, SIP Revision

In the July 27, 2016, SIP revision, the State adds to Standard No. 5.2 new Section IV, titled *Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources*, shifting and renumbering the existing, subsequent sections in the SIP. In the July 27, 2016, SIP revision, new Section IV establishes MRR and certain other, *e.g.*, testing, requirements for new affected boilers in subsection IV(A), internal combustion engines in subsection IV(B), turbines in subsection IV(C), and all other source types in subsection IV(D).

i. Monitoring Requirements

In the July 27, 2016, SIP revision, new Section IV includes language in the first prefatory paragraphs under subsections IV(A), IV(B), IV(C), and IV(D) to provide that, "[w]ith the exception of fuel certification and tune-up requirements," source compliance with NO_x monitoring requirements in 40 CFR part 60 constitutes compliance with monitoring requirements in those sections. New affected boilers, internal combustion engines, turbines, and all other

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

affected source types subject to Federal NSPS NO_x monitoring requirements in 40 CFR part 60 are not subject to the monitoring requirements in new Section IV but are required to comply with the new fuel certification and tune-up requirements in that section. The EPA is proposing to approve the first prefatory paragraphs under subsections IV(A), IV(B), IV(C), and IV(D) applicable to new affected boilers, internal combustion engines, turbines, and all other new affected source types, respectively, added in the July 27, 2016, SIP revision, because those paragraphs establish new Section IV applicability, *i.e.*, fuel certification and tune-up requirements, for sources subject to NO_x monitoring requirements in the Federal NSPS regulations.

Additional text in the second prefatory paragraphs under subsections IV(A), (B), and (C) provides that new affected boilers, internal combustion engines, and turbines, respectively, not subject to 40 CFR part 60 are required to comply with "applicable requirements" in those respective sections. Subsections IV(B) and IV(C) contain third prefatory paragraphs that require the owner or operator of an affected internal combustion engine or turbine, respectively, to comply with one of two alternative requirements. In the third subsection IV(B) prefatory paragraph, affected internal combustion engines are required to comply with either manufacturer's certification or periodic monitoring and/or source testing requirements in paragraphs IV(B)(1) or (2), respectively. In the third subsection IV(C) prefatory paragraph, affected turbines are required to comply with either continuous emissions monitoring system (CEMS) or parametric monitoring requirements in paragraphs IV(C)(1) or (2), respectively. The EPA is also proposing to approve the second prefatory paragraph under subsection IV(A) and the second and third prefatory paragraphs under subsections IV(B) and IV(C), added in the July 27, 2016, SIP revision, because those prefatory paragraphs establish Section IV applicability for subject boilers, internal combustion engines, and turbines not subject to NO_x monitoring requirements in the Federal NSPS regulations and certain applicable requirements for such internal combustion engines and turbines.

Subsection IV(D) applies to new affected sources not subject to Federal NSPS NO_x monitoring requirements that are not boilers, internal combustion engines, or turbines. The second subsection IV(D) prefatory paragraph states that, for all other new affected source types not required to comply with Federal NO_x monitoring requirements in 40 CFR part 60, monitoring requirements "shall be established on a case by case basis." The EPA is proposing to conditionally approve the second prefatory paragraph under subsection IV(D) for reasons explained below.

As previously described, the language in the second prefatory paragraph under subsection IV(D) provides that non-boiler, non-internal combustion engine, and non-turbine new affected sources not required to comply with NSPS NO_x monitoring requirements are subject to monitoring requirements, established on a case-by-case basis. Although the July 27, 2016, SIP revision adds monitoring requirements for such sources, *i.e.*, adds requirements that are SIP-strengthening, the EPA has concerns regarding the practicable enforceability of these requirements.

CAA section 110(a)(2)(A) requires SIPs to contain "enforceable emission limitations and other control measures, means, or techniques." 40 CFR 51.111 requires SIPs to "set forth a control strategy" that includes, in part, procedures for monitoring compliance with each of the selected control measures. Additionally, as previously noted, CAA section 110(l) prohibits the EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and RFP (as defined by CAA section 171), or any other applicable requirement of the CAA, and requires each SIP revision to undergo reasonable notice and public hearing at the state level. Under the second subsection IV(D) prefatory paragraph, which lacks specific monitoring procedures, it is unclear what monitoring requirements would apply for each subject source. Furthermore, the prefatory paragraph would allow the State to establish or change SIP requirements without fulfilling the public notice and hearing requirements of CAA section

110(l), and the EPA cannot evaluate in advance whether such changes would violate the noninterference requirements of that section.

As explained above, CAA section 110(k)(4) 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. On May 13, 2026, South Carolina submitted a supplemental letter to the Standard No. 5.2 SIP revisions submitted through February 4, 2022, requesting that the EPA conditionally approve portions of the State's SIP revisions to Standard No. 5.2 and committing to "specific enforceable changes" in "a good faith effort to resolve anticipated concerns with discretionary language." The changes to the second subsection IV(D) prefatory paragraph in the July 27, 2016, SIP Revision are affected by relevant administrative changes to subsection IV(D) in the February 4, 2022, SIP revision, which the EPA is proposing to conditionally approve for reasons explained above and as described in Section IV.B.4.b.ii. of this NPRM.

1. CEMS MRR Requirements

In the July 27, 2016, SIP revision, new Section IV establishes CEMS requirements for certain new affected boilers in paragraph IV(A)(1) and turbines in paragraph IV(C)(1). Subject boilers not required to use CEMS are required to comply with certain periodic monitoring and/or source testing requirements in paragraph IV(A)(2), and subject turbines not required to use CEMS are required to comply with certain parametric monitoring requirements in paragraph IV(C)(2) applicable to certain turbines, depending on source characteristics, *e.g.*, NO_x control technology, and periodic monitoring and/or source testing requirements in paragraph IV(C)(3).

With respect to CEMS requirements applicable to subject boilers and turbines, subparagraphs IV(A)(1)(a) and IV(C)(1)(a) require the owner or operator of a boiler rated 200 MMBtu/hr or greater permitted for solid fuel or a subject turbine, respectively, to "install, calibrate, maintain, and operate CEMS" to measure NO_x and O_2 or CO_2 emissions and record the system output, "[e]xcept as allowed by the Department." Subparagraphs IV(A)(1)(b) and

IV(C)(1)(b) require the CEMS to be operated and data recorded "during all periods of operation of the affected source," except during "CEMS breakdowns and repairs," and data to also be recorded during "calibration checks and zero and span adjustments." Subparagraphs IV(A)(1)(c) and IV(C)(1)(c) require that CEMS be "installed, calibrated, maintained, and operated in accordance with approved methods in Regulation 61-62.60 or 61-62.72," the State's designated facility plan and NSPS or acid rain regulations, respectively, "or as approved by the Department."

For the new affected boilers and turbines subject to CEMS requirements, excess emissions-related requirements are stipulated under subparagraphs IV(A)(1)(d) and IV(C)(1)(d). In subparagraphs (A)(1)(d) and (C)(1)(d), prefatory language states that "[e]xcess emissions and monitoring systems performance reports shall be submitted semiannually" and postmarked by the 30th day following the end of each six-month period.[63] The prefatory language in those subparagraphs requires written excess emissions reports to include the information contained in subparagraphs IV(A)(1)(d)(i)-(iv) and (C)(1)(d)(i)-(iv),[64] *e.g.*, the magnitude of excess emissions and the nature and cause of any malfunction, if known, etc. However, subsequent relevant changes to paragraph IV(A)(1) in the February 4, 2022, SIP revision, nullify a requirement for boilers required to use CEMS to specifically identify in their written excess emissions reports periods of excess emissions that occur during startup and shutdown. In the February 4, 2022, SIP revision, changes to the requirement for subject boilers to identify each period of excess emissions during startups, shutdowns, and malfunctions require subject boilers to identify each period of excess emissions during malfunctions. Therefore, with respect to the CEMS-related requirements for subject boilers in the July 27, 2016, SIP revision, the EPA is only evaluating the requirement to identify and report semiannually excess emissions during malfunctions. The

[63] In the February 4, 2022, SIP revision, the State renumbers subparagraphs (A)(1)(d)(i) and (C)(1)(d)(i) to prefatory paragraphs (A)(1)(d) and (C)(1)(d), respectively.
[64] In the February 4, 2022, SIP revision, the State renumbers subparagraphs IV(A)(1)(d)(i)(A)-(D) and (C)(1)(d)(i)(A)-(D) to subparagraphs IV(A)(1)(d)(i)-(iv) and IV(C)(1)(d)(i)-(iv), respectively.

February 4, 2022, SIP revision does not alter the requirement for turbines required to use CEMS to specifically identify each period of excess emissions during startups, shutdowns, and malfunctions. Subparagraph (A)(1)(d)(i) still requires that semiannual reports include "the date and time of commencement and completion of each time period of excess emissions, and the process operating time during the reporting period" as well as the magnitude of excess emissions. Thus, all periods of excess emissions must be reported for boilers.

The language in subparagraphs IV(A)(1)(a) and IV(C)(1)(a), *i.e.*, "[e]xcept as allowed by the Department," and subparagraphs IV(A)(1)(c) and IV(C)(1)(c), *i.e.*, "or as approved by the Department," provides the State with unbounded discretion to grant exceptions from CEMS MRR requirements. The discretionary language would allow the State to exempt from the requirements to install, calibrate, maintain, and operate CEMS as specified any boiler or turbine subject to new CEMS requirements under Standard No. 5.2. Any sources exempt from the requirements to install, calibrate, maintain, and operate CEMS under subparagraphs IV(A)(1)(a) and IV(C)(1)(a) would also be exempted from the requirement to submit excess emissions and monitoring systems performance reports semiannually. Although the July 27, 2016, SIP revision adds CEMS MRR requirements for certain subject boilers and turbines, *i.e.*, adds requirements that are SIP-strengthening, the EPA has concerns with the practicable enforceability of the CEMS-related requirements in these paragraphs under CAA section 110(a)(2)(A), which requires SIPs to contain "enforceable emission limitations and other control measures, means, or techniques," and under CAA section 110(l), which requires each SIP revision to undergo reasonable public notice and public hearing at the state level and for which the EPA cannot evaluate in advance whether these changes would violate the noninterference requirements of that section.

As explained above, CAA section 110(k)(4) 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. On May 13, 2026, South

Carolina submitted a supplemental letter to the Standard No. 5.2 SIP revisions submitted through February 4, 2022, requesting that the EPA conditionally approve portions of the State's SIP revisions to Standard No. 5.2 and committing to "specific enforceable changes" in "a good faith effort to resolve anticipated concerns with discretionary language."

In the February 4, 2022, SIP revision, the changes to paragraph IV(A)(1) are affected by relevant substantive and administrative changes to subsection IV(A), and the changes to paragraph IV(C)(1) are affected by relevant administrative changes to subsection IV(C), which the EPA is proposing to conditionally approve for reasons explained above and described in Section IV.B.4.b.i. of this NPRM.

2. Parametric Monitoring Requirements

In the July 27, 2016, SIP revision, under new Section IV, paragraph IV(C)(2) requires parametric monitoring for subject turbines not required to use CEMS, depending on source characteristics, *e.g.*, NO_x control technology. Parametric monitoring or a continuous parametric monitoring system measures one or more parameters that are a key indicator of system performance. The parameter(s) measured are generally operational parameters of the process or air pollution control device, *e.g.*, temperature, pressure, or flow rate, which are known to affect process emissions levels or the control efficiency of the air pollution control device. Under paragraph IV(C)(2), subparagraph IV(C)(2)(a) requires a source owner or operator "using water or steam injection to control NO_x" to "install, calibrate, maintain, and operate a continuous monitoring system to monitor and record the fuel consumption and the ratio of water or steam to fuel being fired in the turbine." Subparagraph IV(C)(2)(b) requires a source owner or operator "using a diffusion flame turbine without add-on selective catalytic reduction controls (SCR) to control NO_x" to "define at least four parameters indicative of the unit's NO_x formation characteristics" and monitor those parameters continuously. Subparagraph IV(C)(2)(c) requires the owner or operator of "any lean premix stationary combustion turbine" to "continuously monitor the appropriate parameters to determine whether the unit is operating in low-NO_x

mode." Subparagraph IV(C)(2)(d) requires the source owner or operator of "any turbine that uses SCR to reduce NO_x" to "continuously monitor appropriate parameters to verify the proper operation of the emission controls."

In the July 27, 2016, SIP revision, new paragraph IV(C)(2) adds monitoring and record keeping requirements applicable to subject turbines not required to use CEMS to verify and demonstrate compliance with the NO_x emission limits and/or control requirements in Standard No. 5.2. Therefore, the EPA is proposing to approve the added parametric monitoring requirements applicable to certain turbines in paragraph IV(C)(2) in the July 27, 2016, SIP revision.

3. Manufacturer's Certification Requirements

In the July 27, 2016, SIP revision, paragraph IV(B)(1) requires subject internal combustion engines that comply with manufacturer's certification requirements in lieu of periodic monitoring and/or source testing requirements to operate and maintain the internal combustion engine and control device "according to the manufacturer's emission-related written instructions" and to change only emission-related settings "that are permitted by the manufacturer." In the July 27, 2016, SIP revision, new paragraph IV(B)(1) adds alternative compliance requirements, in lieu of monitoring and record keeping requirements, applicable to subject internal combustion engines not subject to source testing. Therefore, the EPA is proposing to approve the added manufacturer's certification requirements applicable to certain internal combustion engines in paragraph IV(B)(1) in the July 27, 2016, SIP revision.

4. Periodic Monitoring and/or Source Testing Requirements

In the July 27, 2016, SIP revision, new Section IV establishes periodic monitoring and/or source testing requirements for certain new affected boilers, internal combustion engines, turbines, and all other affected source types. Under paragraph IV(A)(2), subparagraph IV(A)(2)(a) provides that, unless required to operate CEMS, testing requirements apply to boilers rated 30 MMBtu/hr or greater permitted for solid fuels and boilers rated greater than 100

MMBtu/hr permitted for any other fuels.[65] Under paragraph IV(C)(3), subparagraph IV(C)(3)(a) provides that testing requirements only apply to subject turbines not required to operate CEMS. Paragraphs IV(B)(2) and IV(D)(2) prescribe periodic monitoring and/or source testing requirements for internal combustion engines and all other affected source types, respectively. Paragraph IV(B)(2) applies to internal combustion engines, unless such engines comply with manufacturer's certification requirements in paragraph IV(B)(1) to operate and maintain the internal combustion engine and control device according to the manufacturer's emission-related written instructions and to change only emission-related settings as permitted by the manufacturer. Paragraph IV(D)(2) requires periodic monitoring and/or source testing for all other subject affected source types. Subparagraphs IV(A)(2)(b), IV(B)(2)(a), IV(C)(3)(c), and IV(D)(2)(a), applicable to subject new affected boilers, internal combustion engines, turbines, and all other subject new affected sources, respectively, require an initial source test for NO_x emissions to be conducted within 180 days after startup, "[e]xcept as allowed by the Department." Subparagraphs IV(A)(2)(c), IV(B)(2)(b), IV(C)(3)(d), and IV(D)(2)(b) require that, for the previously listed sources, periodic source tests for NO_x be conducted every 24 months, "or as determined by the Department on a case by case basis in the permit condition for the affected source," and state that source tests "will be used to show compliance with the NO_x standard." Subparagraphs IV(A)(2)(d), IV(B)(2)(d), IV(C)(3)(e), and IV(D)(2)(c) state that "[t]he Department reserves the right to require periodic source testing for any affected sources" and that all source testing must be conducted in accordance with the State's source testing requirements in Regulation 61-62.1, Section IV.

[65] In the September 5, 2017, SIP revision, subparagraph IV(A)(2)(a) is shown to require non-CEMS boilers rated 30 MMBtu/hr "or greater *or* permitted for solid fuels" (emphasis added) to comply with testing requirements and appears to remove the second instance of the word "or" preceding "permitted for solid fuels." However, the second "or" was not originally included in subparagraph IV(A)(2)(a) in the July 27, 2016, SIP revision; therefore, no action is required. Furthermore, in the February 4, 2022, SIP revision, the State explains that the second "or" in subparagraph IV(A)(2)(a) "was a preexisting error…identified and removed" in the State's 2016 "End of Year Revisions" that was inadvertently included in subsequent amendments and then corrected (the 2022 SIP revision is a resubmittal of the April 24, 2020, state-effective version of Standard No. 5.2 reflecting that correction).

In the July 27, 2016, SIP revision, for subject internal combustion engines opting to comply with periodic monitoring and/or source testing requirements in lieu of manufacturer's certification requirements, additional unique periodic monitoring and/or source testing requirements apply. Subparagraph IV(B)(2)(c) requires that an engine owner or operator "operate the affected source(s) within the parameter(s) established during the most recent compliant source tests." The provision also requires that a copy of the most recent Department-issued "source test summary letter(s) that established the parameter(s)" be maintained with a "required permit."

Similarly, in the July 27, 2016, SIP revision, for subject turbines required to comply with periodic monitoring and/or source testing requirements in lieu of operating CEMS, additional unique periodic monitoring and/or source testing requirements apply. Subparagraph IV(C)(3)(b) requires that the "steam or water to fuel ratio or other parameters that are continuously monitored as described" in the section be monitored during the performance test "to establish acceptable values and ranges." The provision allows a source owner or operator to supplement performance test data "with engineering analyses, design specifications, manufacturer's recommendations, and other relevant information to define the acceptable parametric ranges more precisely." Subparagraph IV(C)(3)(b) also requires a source owner or operator to "develop and keep on-site a parameter monitoring plan which explains the procedures used to document proper operation of the NO_x emission controls" which includes "the parameter(s) monitored and the acceptable range(s) of the parameter(s) as well as the basis for designating the parameter(s) and acceptable range(s)" and "[a]ny supplemental data such as engineering analyses, design specifications, manufacturer's recommendations, and other relevant information."

The EPA is proposing to approve portions and conditionally approve portions of the added periodic monitoring and/or source testing requirements applicable to subject boilers, internal combustion engines, turbines, and all other new affected sources, as described individually below. The EPA is proposing to approve portions of the added periodic monitoring

and/or source testing requirements applicable to subject internal combustion engines, turbines, and all other new affected sources that do not contain the discretionary language described above Specifically, the EPA is proposing to approve the paragraph IV(A)(2) title ("Periodic Monitoring and/or Source Test"); subparagraph IV(A)(2)(d); the paragraph IV(B)(2) title; subparagraphs IV(B)(2)(c) and (d); the paragraph IV(C)(3) title; subparagraphs IV(C)(3)(a), (b), and (e); the paragraph IV(D)(2) title; and subparagraph IV(D)(2)(c) in the July 27, 2016, SIP Revision. Subparagraph IV(B)(2)(c) specifies that subject internal combustion engines must operate within parameter(s) established during most recent compliant source tests and that a State-issued source test summary letter(s) establishing such parameters must be maintained with the required permit; subparagraph IV(C)(3)(a) states that testing requirements apply to subject turbines not required to operate CEMS; subparagraph IV(C)(3)(b) specifies parametric monitoring requirements during performance testing and parameter monitoring plan requirements for subject turbines; and subparagraphs IV(A)(2)(d), IV(B)(2)(d), IV(C)(3)(e), and IV(D)(2)(c) state that the State "reserves the right to require" periodic source testing "for any affected sources" and that all source testing must be conducted in accordance with the State's source testing requirements. These provisions add to Standard No. 5.2 periodic monitoring and/or source testing and related requirements relevant to subject internal combustion engines, turbines, and other affected sources for the purposes of demonstrating compliance with the NO_x emission limits and/or control requirements in Standard No. 5.2.

As previously described, subparagraphs IV(A)(2)(b), IV(B)(2)(a), IV(C)(3)(c), and IV(D)(2)(a) require subject boilers, internal combustion engines, turbines, and other affected sources to conduct initial source tests for NO_x emissions within 180 days of startup, and subparagraphs IV(A)(2)(c), IV(B)(2)(b), IV(C)(3)(d), and IV(D)(2)(b) require the previously listed sources to conduct periodic source tests every 24 months to show compliance with NO_x standards applicable to subject sources in Standard No. 5.2. Although these requirements are SIP-strengthening, the EPA has concerns with the practicable enforceability of these provisions

under CAA section 110(a)(2)(A), which requires SIPs to contain "enforceable emission limitations and other control measures, means, or techniques," and under CAA section 110(l), which requires each SIP revision to undergo reasonable public notice and public hearing at the state level and for which the EPA cannot evaluate in advance whether these changes would violate the noninterference requirements of that section.

I. Aspects of Source Testing Provisions Proposed for Conditional Approval

As explained previously, CAA section 110(k)(4) 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. On May 13, 2026, South Carolina submitted a supplemental letter to the Standard No. 5.2 SIP revisions submitted through February 4, 2022, requesting that the EPA conditionally approve portions of the State's SIP revisions to Standard No. 5.2 and committing to "specific enforceable changes" in "a good faith effort to resolve anticipated concerns with discretionary language."

In this NPRM, the EPA is proposing to conditionally approve subparagraph IV(A)(2)(a), which requires certain boilers not subject to CEMS to comply with testing requirements in that paragraph,[66] and subparagraphs IV(A)(2)(b) and (c); IV(B)(2)(a) and (b); IV(C)(3)(c) and (d); and IV(D)(2)(a) and (b), which set source testing requirements for certain subject sources and provide that the State may exercise discretion as to whether, or when, source testing is required, submitted in the State's SIP revisions through February 4, 2022,[67] based on the State's commitment in its May 13, 2026, letter, 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 action on South Carolina's submissions, should the EPA finalize this

[66] Although SC DES submitted corrective changes to subparagraphs IV(A)(2)(b) and (c), those subparagraphs are integral to, and not severable from, subparagraph IV(A)(2)(a). With the corrective changes to subparagraphs IV(A)(2)(b) and (c), the State also anticipates renumbering those subparagraphs to IV(A)(2)(a)(i) and (ii), under subparagraph IV(A)(2)(a).

[67] As previously noted in this NPRM, in the February 4, 2022, SIP revision, changes to Standard No. 5.2 include non-substantive administrative and clarifying edits, including, in part, adjusting punctuation and correcting typographical errors, including typographical rule reference, language, and punctuation errors.

partial conditional approval as proposed. Additionally, the State's supplemental materials include a CAA section 110(l) demonstration to support these anticipated corrections that the State intends to submit in a final corrective SIP revision to address the provisions currently before the EPA, for which the State requests conditional approval.

Specifically, consistent with South Carolina's May 13, 2026, request, the EPA is proposing to conditionally approve the following text into the SIP under subparagraph IV(A)(2)(a).

(a) Unless required to operate a CEMS, testing requirements apply to boilers rated thirty (30) MMBtu/hr or greater permitted for solid fuels and boilers rated greater than one hundred (100) MMBtu/hr permitted for any other fuels.

Additionally, the EPA is proposing to conditionally approve the following text into the SIP under subparagraph IV(A)(2)(b).

(b) Except as allowed by the Department, an initial source test for NO_x emissions shall be conducted within one hundred and eighty (180) days after startup.

The EPA is also proposing to conditionally approve the following text into the SIP under subparagraphs IV(B)(2)(a) and IV(D)(2)(a).

(a) Except as allowed by the Department, an initial source test for NO_x shall be conducted within one hundred eighty (180) days after startup.

Furthermore, the EPA is also proposing to conditionally approve the following text into the SIP under subparagraph IV(C)(3)(c).

(c) Except as allowed by the Department, an initial source test for NO_x emissions shall be conducted within one hundred eighty (180) days after startup.

Finally, the EPA is proposing to conditionally approve the following text into the SIP under subparagraphs IV(A)(2)(c), IV(B)(2)(b), IV(C)(3)(d), and IV(D)(2)(b).

Periodic source tests for NO_x shall be conducted every twenty-four (24) months,[68] or as determined by the Department on a case by case basis in the permit condition for the affected source. Source tests will be used to show compliance with the NO_x standard.

[68] The February 4, 2022, SIP revision adds a comma to subparagraph IV(C)(3)(d) following "every twenty-four (24) months."

As noted previously, although the incorporation of these provisions adds source testing requirements for sources subject to the NO_x control regulation, *i.e.*, adds requirements that are SIP-strengthening, the EPA has concerns regarding the practicable enforceability of these requirements under CAA section 110(a)(2)(A), which requires SIPs to contain "enforceable emission limitations and other control measures, means, or techniques," and under CAA section 110(l), which requires each SIP revision to undergo reasonable public notice and public hearing at the state level and for which the EPA cannot evaluate in advance whether these changes would violate the noninterference requirements of that section.

II. South Carolina's May 13, 2026, Conditional Approval Request

As noted above, on May 13, 2026, SC DES submitted a supplemental letter to the SIP revisions submitted through February 4, 2022, requesting that the EPA conditionally approve portions of the State's SIP revisions to Standard No. 5.2. Specifically, the State requested conditional approval of subparagraphs IV(A)(2)(b) and (c); IV(B)(2)(a) and (b); IV(C)(3)(c) and (d); and IV(D)(2)(a) and (b) and committed to "making specific enforceable changes to regulatory text in Standard No. 5.2" that include "establishment of specific terms to govern," in part, "periodic source testing" and "removal of various discretionary provisions," which the State frames as changes that "are clarifying and SIP-strengthening in nature."

With the May 13, 2026, letter, South Carolina included draft regulatory changes to subparagraphs IV(A)(2)(b) and (c); IV(B)(2)(a) and (b); IV(C)(3)(c) and (d); and IV(D)(2)(a) and (b) that it committed to submit in a corrective SIP revision. Specifically, SC DES commits to removing the discretionary phrase "[e]xcept as allowed by the Department" from the requirements pertaining to initial source tests in subparagraphs IV(A)(2)(b), IV(B)(2)(a), IV(C)(3)(c), and IV(D)(2)(a). At the same time, the State commits to revise its initial source test requirements to add clarifying language requiring an initial source test to be conducted within 180 "*operating* days after startup," *i.e.*, to indicate the 180-day timeframe refers to *operating* days (emphasis added). The State also commits to revising the discretionary language in the

requirements pertaining to periodic source tests in subparagraphs IV(A)(2)(c), IV(B)(2)(b), IV(C)(3)(d), and IV(D)(2)(b) by removing the phrase "in the permit condition"–which provides that periodic source tests must be conducted every 24 months or on a case-by-case basis at the State's discretion as established in a permit condition—and replacing it with "not to exceed sixty (60) months," *i.e.*, with a sixty-month upper bound, providing that periodic source tests for NO_x emissions must be conducted every 24 months or on a case-by-case basis at the State's discretion "not to exceed" 60 months. With the changes to subparagraphs IV(A)(2)(b) and (c), the State also anticipates renumbering those subparagraphs to subparagraphs IV(A)(2)(a)(i) and (ii) under subparagraph IV(A)(2)(a), which requires certain boilers not subject to CEMS to comply with testing requirements in that paragraph, and renumbering subparagraph IV(A)(2)(d) to IV(A)(2)(b). As noted above, the EPA is also proposing to conditionally approve subparagraph IV(A)(2)(a), because it is not severable from subparagraphs IV(A)(2)(b) and (c).

If South Carolina fulfills its commitment in line with the May 13, 2026, commitment letter and supplement and the EPA approves the corrective SIP revision, subparagraphs IV(A)(2)(b), IV(B)(2)(a), IV(C)(3)(c), and IV(D)(2)(a) would no longer function to allow the State to modify the requirements to conduct initial source tests for NO_x, and subparagraphs IV(A)(2)(c), IV(B)(2)(b), IV(C)(3)(d), and IV(D)(2)(b) would no longer allow the State to modify the requirements to conduct periodic source tests for NO_x without any upper bound. Instead, initial source tests would be required within 180 operating days of startup, and periodic source tests would be required every 24 months, subject to the State's discretion, on a case-by-case basis not exceeding a 60-month upper bound. If the State fails to meet its commitment within one year of the final conditional approval, should the EPA finalize this partial conditional approval as proposed, the conditional approval of the source testing provisions in subparagraphs IV(A)(2)(a), (b), and (c); IV(B)(2)(a) and (b); IV(C)(3)(c) and (d); and IV(D)(2)(a) and (b), as submitted in the State's SIP revisions through February 4, 2022, will be treated as a disapproval.

III. The State's CAA Section 110(l) Demonstration

With its May 13, 2026, letter and supplement, SC DES submitted a CAA section 110(l) demonstration in support of its corrections to the Standard No. 5.2 provisions requested for partial conditional approval. South Carolina's CAA section 110(l) demonstration asserts that the specific enforceable changes to which the State has committed and which form the basis for the EPA's proposed conditional approval in this NPRM "will not interfere with South Carolina's continued, longstanding attainment of the [NAAQS]" but instead "strengthen the SIP." Further, the State notes that it "does not expect any emission increases as a result of the changes," and that, "to the contrary," its corrections to the provisions requested for partial conditional approval "will enhance transparency" and the State's ability to evaluate compliance with Standard No. 5.2.

The State's CAA section 110(l) demonstration asserts that its anticipated corrections remove "open-ended discretionary language" from its MRR and testing requirements in changes that "bound or entirely remove Department discretion" and add, for its source testing and monitoring requirements, "increased clarity and specificity," and, as such, strengthen the SIP and ensure practicable enforceability.[69] With respect to subparagraphs IV(A)(2)(b) and (c), IV(B)(2)(a) and (b), IV(C)(3)(c) and (d), and IV(D)(2)(a) and (b), in South Carolina's CAA section 110(l) demonstration, the State explains that it is "bounding the timeframes for initial and periodic source testing, and, therefore, strengthening the SIP." Finally, regarding the changes before the EPA for conditional approval, in the May 13, 2026, letter, the State clarifies that it "has not previously implemented" its discretion and commits not to do so "while the regulatory revisions are pending."

IV. Summary of the EPA's Proposed Partial Conditional Approval for Source Testing Provisions

The EPA finds that the added provisions requiring initial and periodic source testing for subject sources to demonstrate compliance with the NO_x emission limits and/or control

[69] The State clarifies the Standard No. 5.2, in the current SIP, does not specify monitoring requirements.

requirements in Standard No. 5.2 are SIP-strengthening and, based on the State's May 13, 2026, commitment and supplement, the EPA is proposing to conditionally approve Standard No. 5.2, subparagraphs IV(A)(2)(a), (b), and (c), IV(B)(2)(a) and (b), IV(C)(3)(c) and (d), and IV(D)(2)(a) and (b), submitted through the February 4, 2022, SIP revision, contingent on the State's commitment under CAA section 110(k)(4) to adopt and submit corrective SIP revisions to those provisions no later than one year after the EPA's conditional approval of South Carolina's submissions, should the EPA finalize this partial conditional approval as proposed.

ii. Tune-Up Requirements

In the July 27, 2016, SIP revision, new Section IV establishes tune-up requirements for new affected sources subject to Standard No. 5.2, including those sources subject to NO_x monitoring requirements in 40 CFR part 60, except for affected boilers and internal combustion engines subject to 40 CFR part 63. In prefatory text, paragraphs IV(A)(4) and IV(B)(3) provide that, if the owner or operator of a boiler or internal combustion engine is required to comply with Federal tune-up requirements in 40 CFR part 63, compliance with the Federal requirements constitutes compliance with the tune-up requirements in those paragraphs. Paragraphs IV(A)(4)(a), IV(B)(3)(a), IV(C)(4)(a), and IV(D)(1)(a), which apply to subject boilers and internal combustion engines and turbines and all other affected source types, respectively, require a source owner or operator to perform tune-ups every 24 months in accordance with manufacturer's specifications or with good engineering practices. Paragraphs IV(A)(4)(b), IV(B)(3)(b), IV(C)(4)(b), and IV(D)(1)(b) require all tune-up records to be maintained on-site and available for inspection by SC DES for five years "from the date generated." Paragraphs IV(A)(4)(c), IV(B)(3)(c), IV(C)(4)(c), and IV(D)(1)(c) require a source owner or operator to develop and retain a tune-up plan on file. These tune-up requirements, applicable to new affected sources with the exceptions of new affected boilers and internal combustion engines subject to tune-up requirements in 40 CFR part 63, are consistent with tune-up requirements in the current SIP.

Section VI, in the current SIP sets forth tune-up requirements applicable to sources subject to Standard No. 5.2 and requires the following: (1) combustion source owners or operators are required to perform tune-ups every two years in accordance with manufacturer's specifications or good engineering practices; all tune-up records must be maintained on-site and available for inspection by the State for a period of five years; and the facility must develop and retain a tune-up plan on file. For more information and a description of changes to those requirements in the State's SIP revisions submitted through February 4, 2022, *see* Section IV.B.7. of this NPRM. To the extent that certain new affected boilers and internal combustion engines are required to comply with Federal tune-up requirements in 40 CFR part 63 instead of the tune-up requirements under Section IV, the EPA believes that applicable NESHAP tune-up requirements in 40 CFR part 63 are comparable, *e.g.*, tune-up requirements for industrial, commercial, and institutional area source boilers at 40 CFR 63.11223(b). The EPA is proposing to approve the added tune-up and related record keeping requirements for new affected subject boilers and internal combustion engines and turbines and all other affected source types in paragraphs IV(A)(4), IV(B)(3), IV(C)(4), and IV(D)(1) in the July 27, 2016, SIP revision because these provisions establish tune-up requirements applicable to new affected sources, consistent with or comparable to the tune-up requirements for such sources in the existing SIP.

iii. Other MRR Requirements

In the July 27, 2016, SIP revision, new Section IV establishes fuel certification requirements in paragraphs IV(A)(3), IV(B)(4), IV(C)(5), and IV(D)(3) for new affected sources subject to Standard No. 5.2, including sources subject to NO_x monitoring requirements in 40 CFR part 60. These paragraphs require owners or operators of new affected boilers, internal combustion engines, turbines, and other affected sources to record the amounts and types of each fuel combusted by the affected sources and maintain monthly records of such on site. The EPA is proposing to approve the added fuel certification requirements for the previously listed sources in paragraphs IV(A)(3), IV(B)(4), IV(C)(5), and IV(D)(3) in the July 27, 2016, SIP revision

because they add to the regulation certain fuel-related record keeping requirements applicable to subject sources.

In the July 27, 2016, SIP revision, under new Section IV, paragraphs IV(A)(5), IV(B)(5), and IV(C)(6) contain other record keeping requirements for subject boilers, internal combustion engines, and turbines, respectively. These provisions require owners or operators of new affected sources not subject to 40 CFR part 60 to maintain records documenting the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected source; any air pollution control equipment malfunction; and/or any periods during which a continuous monitoring system or monitoring device is inoperative.

However, changes to paragraphs IV(A)(5), IV(B)(5), and IV(C)(6) in the February 4, 2022, SIP revision nullify the requirements for such sources to maintain records documenting the occurrence and duration of any startup or shutdown in affected source operation. Therefore, the EPA is only evaluating the added requirements to document malfunction occurrences and durations during affected source operation, as well as any air pollution control equipment malfunction, and/or any periods during which a continuous monitoring system or monitoring device is inoperative. The EPA discusses its proposed action with respect to the relevant changes to paragraphs IV(A)(5), IV(B)(5), and IV(C)(6) in the February 4, 2022, SIP revision below, in Section IV.B.4.b.iv. of this NPRM.

b. February 4, 2022, SIP Revision

i. CEMS MRR Requirements

As previously described, the July 27, 2016, SIP revision adds CEMS MRR requirements at subparagraphs IV(A)(1) and IV(C)(1) for certain subject boilers and turbines. In the February 4, 2022, SIP revision, a change to Section IV under paragraph IV(A)(1), as added in the July 27, 2016, SIP revision, revises CEMS MRR requirements for certain boilers not subject to 40 CFR part 60. Specifically, in the February 4, 2022, SIP revision, a change to subparagraph IV(A)(1)(d)(ii) revises excess emissions reporting requirements, which, in the July 27, 2016, SIP

submittal, require written reports of excess emissions to specifically identify each period of excess emissions during affected source startup, shutdown, and malfunction to require such reports to only identify each period of excess emissions during malfunctions. Taken together, the net changes to subparagraph IV(A)(1)(d)(ii) in the July 27, 2016, and February 4, 2022, SIP revisions would require owners or operators of certain boilers subject to CEMS requirements in the regulation to submit to the State written excess emissions reports identifying, in part, each period of excess emissions during affected source malfunction (as opposed to the requirement for turbines required to use CEMS to specifically identify each period of excess emissions during startups, shutdowns, and malfunctions). Overall, these provisions add to Standard No. 5.2, CEMS MRR requirements applicable to certain boilers and turbines subject to NO_x emission limits and/or control requirements in the regulation.

As previously described, paragraphs IV(A)(1) and IV(C)(1) require subject boilers and turbines to install, calibrate, maintain, and operate CEMS to measure NO_x and O_2 or CO_2 emissions and to undertake related record keeping and reporting. Although these requirements are SIP-strengthening, the EPA has concerns with the practicable enforceability of these provisions under CAA section 110(a)(2)(A), which requires SIPs to contain "enforceable emission limitations and other control measures, means, or techniques," and under CAA section 110(l), which requires each SIP revision to undergo reasonable public notice and public hearing at the state level and for which the EPA cannot evaluate in advance whether these changes would violate the noninterference requirements of that section.

1. Paragraphs IV(A)(1) and IV(C)(1) Proposed for Conditional Approval

In this NPRM, the EPA is proposing to conditionally approve paragraphs IV(A)(1) and IV(C)(1) submitted in the State's SIP revisions through February 4, 2022,[70,71] which set CEMS

[70] As previously noted in this NPRM, in the February 4, 2022, SIP revision, changes to Standard No. 5.2 include non-substantive administrative and clarifying edits, including, in part, restructuring edits.

[71] Although SC DES submitted corrective changes to subparagraphs IV(A)(1)(a) and (c) and IV(C)(1)(a) and (c), rather than paragraphs IV(A)(1) and IV(C)(1) in their entireties, subparagraphs IV(A)(1)(a) and (c) and IV(C)(1)(a) and (c) are integral to, and not severable from, paragraphs IV(A)(1) and IV(C)(1). Therefore, the EPA is proposing to conditionally approve paragraphs IV(A)(1) and IV(C)(1) in their entireties.

MRR requirements for certain subject boilers and turbines and provide that the State may exercise discretion to modify the requirements to install, calibrate, maintain, and operate CEMS. The EPA is proposing to conditionally approve these paragraphs based, in part, on the State's commitment in its May 13, 2026, letter, 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 conditional approval of South Carolina's submissions should the EPA finalize this partial conditional approval as proposed. Additionally, the State's supplemental materials include a CAA section 110(l) demonstration to support these anticipated corrections that the State intends to submit in a final corrective SIP revision to address the provisions currently before the EPA, for which the State requests conditional approval.

Specifically, consistent with South Carolina's May 13, 2026, request, the EPA is proposing to conditionally approve the following text into the SIP under paragraph IV(A)(1).

> (1) CEMS
>
> (a) Except as allowed by the Department, the owner or operator of a boiler rated two hundred (200) MMBtu/hr or greater permitted for solid fuel, shall install, calibrate, maintain, and operate CEMS for measuring NO_x, and Oxygen (O_2) or Carbon Dioxide (CO_2) emissions discharged to the atmosphere, and shall record the output of the system.
>
> (b) The CEMS required under this section shall be operated and data recorded during all periods of operation of the affected source except for CEMS breakdowns and repairs. Data is to be recorded during calibration checks and zero and span adjustments.
>
> (c) The CEMS required under this section shall be installed, calibrated, maintained, and operated in accordance with approved methods in Regulation 61-62.60 or 61-62.72, or as approved by the Department.
>
> (d) Excess Emissions
>
> Excess emissions and monitoring systems performance reports shall be submitted semiannually. All reports shall be postmarked by the thirtieth (30th) day following the end of each six (6) month period. Written reports of excess emissions shall include the following information:
>
> (i) The magnitude of excess emissions, any conversion factor(s) used, the date and time of commencement and completion of each time period of excess emissions, the process operating time during the reporting period.
>
> (ii) Specific identification of each period of excess emissions that occurs during malfunctions of the affected source. The nature and cause of any

malfunction (if known), the corrective action taken, or preventative measures adopted.

(iii) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.

(iv) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the reports.

Additionally, the EPA is proposing to conditionally approve the following text into the SIP under paragraph IV(C)(1).

(1) CEMS

(a) Except as allowed by the Department, the owner or operator shall install, calibrate, maintain, and operate CEMS on the turbine for measuring NO_x, and Oxygen (O_2) or Carbon Dioxide (CO_2) emissions discharged to the atmosphere, and shall record the output of the system.

(b) The CEMS required under this section shall be operated and data recorded during all periods of operation of the affected source except for CEMS breakdowns and repairs. Data is to be recorded during calibration checks and zero and span adjustments.

(c) The CEMS required under this section shall be installed, calibrated, maintained, and operated in accordance with approved methods in Regulation 61-62.60 or 61-62.72, or as approved by the Department.

(d) Excess Emissions

Excess emissions and monitoring systems performance reports shall be submitted semiannually. All reports shall be postmarked by the thirtieth (30th) day following the end of each six (6) month period. Written reports of excess emissions shall include the following information:

(i) The magnitude of excess emissions, any conversion factor(s) used, the date and time of commencement and completion of each time period of excess emissions, and the process operating time during the reporting period.

(ii) Specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected source. The nature and cause of any malfunction (if known), the corrective action taken, or preventative measures adopted.

(iii) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.

> (iv) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the reports.

The EPA has concerns with the practicable enforceability of these provisions under CAA section 110(a)(2)(A), which requires SIPs to contain "enforceable emission limitations and other control measures, means, or techniques" and under CAA section 110(l), which requires each SIP revision to undergo reasonable public notice and public hearing at the state level, and for which the EPA cannot evaluate in advance whether these changes would violate the noninterference requirements of that section.

2. South Carolina's May 13, 2026, Conditional Approval Request

As noted above, on May 13, 2026, SC DES submitted a supplemental letter to the SIP revisions submitted through February 4, 2022, requesting that the EPA conditionally approve portions of the State's SIP revisions to Standard No. 5.2. Specifically, the State requested conditional approval of subparagraphs IV(A)(1)(a) and (c) and IV(C)(1)(a) and (c) and committed to "making specific enforceable changes to regulatory text in Standard No. 5.2" that include "establishment of specific terms to govern," in part, "specific alternative monitoring provisions" "and removal of various discretionary provisions," which the State frames as changes that "are clarifying and SIP-strengthening in nature."

With the May 13, 2026, letter, South Carolina submitted anticipated corrective revisions to subparagraphs IV(A)(1)(a) and (c) and IV(C)(1)(a) and (c). Specifically, SC DES commits to removing the discretionary phrase "[e]xcept as allowed by the Department" from the requirements applicable to certain subject boilers and turbines to install, calibrate, maintain, and operate CEMS in subparagraphs IV(A)(1)(a) and IV(C)(1)(a). At the same time, the State commits to revise those requirements for subject boilers at subparagraph IV(A)(1)(a) to add language providing that, on request, in lieu of CEMS, the State may require Predictive Emissions Monitoring System (PEMS), if a source demonstrates that its use is warranted based on site-specific circumstances. Additionally, the State commits to removing the discretionary phrase "or

as approved by the Department" from the requirements to install, calibrate, maintain, and operate CEMS in accordance with approved methods in Regulation 61-62.60 or 61-62.72 in subparagraphs IV(A)(1)(c) and IV(C)(1)(c). At the same time, the State commits to revise those requirements for subject boilers at subparagraph IV(A)(1)(c) to add language providing that sources using PEMS must install, calibrate, maintain, and operate PEMS in accordance with approved methods in Regulation 61-62.60, the State's regulation incorporating by reference designated facility plan and NSPS regulations.

If South Carolina fulfills its commitment in line with the May 13, 2026, commitment letter and supplement and the EPA approves the corrective SIP revision, subparagraphs IV(A)(1)(a) and (c) and IV(C)(1)(a) and (c) would no longer function to allow the State to modify the requirements to install, calibrate, maintain, and operate CEMS for certain subject boilers and turbines. Instead, subject boilers would be required to use CEMS, unless a source demonstrates that the use of PEMS, in lieu of CEMS, is warranted, based on site-specific circumstances, and subject boilers would be required to install, calibrate, maintain, and operate such CEMS or PEMS in accordance with State-approved methods in Regulation 61-62.60 or 61.62.72, as applicable. Similarly, subject turbines not using parametric monitoring would be required to use CEMS and to install, calibrate, maintain, and operate such CEMS in accordance with State- approved methods in Regulation 61-62.60 or 61.62.72.

The changes to which the State has committed would allow subject boilers to elect to use CEMS or PEMS, *i.e.*, parametric monitoring. As previously described, parametric monitoring or a continuous parametric monitoring system measures one or more parameters that are a key indicator of system performance, *i.e.*, generally operational parameters of the process or air pollution control device which are known to affect process emissions levels or the control efficiency of the air pollution control device. The use of PEMS provides for monitoring of key emissions-related parameters that can be correlated with emissions, rather than direct measurement of pollutant emissions. The use of parametric monitoring can provide more flexible

and less expensive options than CEMS for demonstrating compliance of regulated sources, while providing reasonable assurance of compliance.[72] CEMS and PEMS are each designed to assess continuous compliance, and possible considerations a source could factor into account when requesting PEMS in lieu of CEMS include cost and space. Additionally, allowing facilities with subject boilers to possibly monitor compliance with CEMS or PEMS requirements is consistent with the requirements in Standard No. 5.2 for subject turbines, which, if not required to use CEMS, are required to use parametric monitoring. This committed change would bound the exercise of discretion by the State such that any subject boiler will have continuous monitoring requirements, either via CEMS or PEMS.

If the State fails to meet its commitment within one year of the final conditional approval, should the EPA finalize this partial conditional approval as proposed, the conditional approval of the CEMS MRR provisions in paragraphs IV(A)(1) and IV(C)(1), as submitted in the State's SIP revisions through February 4, 2022, will be treated as a disapproval.

3. The State's CAA Section 110(l) Demonstration

For a description of the State's May 13, 2026, letter and CAA section 110(l) demonstration as it supports the specific enforceable changes to which the State has committed overall, *see* Section III.B.4.a.i.4.III. in this NPRM. With respect to subparagraphs IV(A)(1)(a) and IV(A)(1)(c), in South Carolina's CAA section 110(l) demonstration, the State explains that the changes to subparagraph IV(A)(1)(a) "remove discretionary language" to clarify that the subject boilers "may request a specific alternative" to CEMS, rather than leaving the alternative option "open-ended," noting that, specifically, the State is clarifying that a source may request the use of PEMS, in lieu of CEMS, "if the source demonstrates that site-specific circumstances warrant its use." Similarly, SC DES explains that the changes to subparagraph IV(A)(1)(c) remove the State's discretion and clarify "approved methods" for monitoring system installation,

[72] Musatti, Daniel C., et al. "4.3: Parametric Monitoring." *EPA Air Pollution Control Cost Manual*. EPA/452/B-02-001, 2000. Available via: *https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution.*

calibration, maintenance, and operation, by "specifying that all PEMS…be installed, calibrated, maintained, and operated in accordance with approved methods in Regulation 61-62.60." With respect to subparagraphs IV(C)(1)(a) and IV(C)(1)(c), the State explains that those subparagraphs "are also being revised to remove discretionary language and specify the use of CEMS" and "approved methods for installation, calibration, maintenance, and operation."

The monitoring procedures at subparagraphs IV(A)(1) and IV(C)(1) are expected to cover a small universe of sources subject to Standard No. 5.2, as the first prefatory paragraphs under subsection IV(A) and IV(C) include language stating that, with the exception of fuel certification and tune-up requirements, "compliance with required NO_x monitoring in 40 CFR Part 60 shall constitute compliance with the monitoring requirements in this section." Finally, regarding the changes before the EPA for conditional approval, in the May 13, 2026, letter, the State clarifies that it "has not previously implemented" its discretion and commits not to do so "while the regulatory revisions are pending."

4. Summary of the EPA's Proposed Conditional Approval for Paragraphs IV(A)(1) and IV(C)(1)

The EPA finds that the added provisions containing CEMS MRR requirements applicable to subject boilers and turbines are SIP-strengthening and, based on the State's May 13, 2026, commitment and supplement, the EPA is proposing to conditionally approve Standard No. 5.2, paragraphs IV(A)(1) and IV(C)(1), submitted through the February 4, 2022, SIP revision, contingent on the State's commitment under CAA section 110(k)(4) to adopt and submit corrective SIP revisions to those provisions no later than one year after the EPA's conditional approval of South Carolina's submissions, should the EPA finalize this partial conditional approval as proposed.

ii. Monitoring Requirements—Subsection IV(D)

As previously described, the July 27, 2016, SIP revision adds language in the second prefatory paragraph under subsection IV(D) which provides that non-boiler, non-internal

combustion engine, and non-turbine new affected sources not subject to NSPS NO_x monitoring requirements are subject to case-by-case monitoring requirements. As previously noted, subject boilers, internal combustion engines, and turbines not subject to 40 CFR part 60 are required to comply with applicable requirements in subsections IV(A), (B), and (C), respectively. Overall, the second prefatory paragraph under subsection IV(D) submitted in the State's SIP revisions through February 4, 2022, adds to Standard No. 5.2., discretionary language allowing the State to set, on a case-by-case basis, monitoring requirements for the subject sources.

As previously described, the second prefatory paragraph under subsection IV(D) contains language allowing SC DES to exercise director's discretion to set monitoring requirements for subject sources on a case-by-case basis. Although this provision is SIP-strengthening, it lacks any specific monitoring procedures and would allow the State to set monitoring requirements for the subject sources outside the SIP. The EPA has concerns with the practicable enforceability of these provisions under CAA section 110(a)(2)(A), which requires SIPs to contain "enforceable emission limitations and other control measures, means, or techniques" and under CAA section 110(l), which requires each SIP revision to undergo reasonable public notice and public hearing at the state level, and for which the EPA cannot evaluate in advance whether these changes would violate the noninterference requirements of that section.

1. Aspects of IV(D) Proposed for Conditional Approval

In this NPRM, the EPA is proposing to conditionally approve the second prefatory paragraph under subsection IV(D) submitted in the State's SIP revisions through February 4, 2022,[73] which contains discretionary language allowing the State to set, on a case-by-case basis, monitoring requirements for subject sources, based on the State's commitment in its May 13, 2026, letter, 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 conditional

[73] As previously noted in this NPRM, in the February 4, 2022, SIP revision, changes to Standard No. 5.2 include non-substantive administrative and clarifying edits, including, in part, correcting citations to the CFR by adding the words "Parts" and "Part," *e.g.*, "40 CFR Part 60."

approval of South Carolina's submissions, should the EPA finalize this partial conditional approval as proposed. Additionally, the State's supplemental materials include a CAA section 110(l) demonstration to support these anticipated corrections that the State intends to submit in a final corrective SIP revision to address the provisions currently before the EPA, for which the State requests conditional approval.

Specifically, consistent with South Carolina's May 13, 2026, request, the EPA is proposing to conditionally approve the following text into the SIP under subsection IV(D) in the second prefatory paragraph.

> If the owner or operator is not required to comply with federal requirements in 40 CFR Part 60 for monitoring NO_x, then the monitoring requirements for the affected source shall be established on a case by case basis.

As noted above, the EPA has concerns with the practicable enforceability of this provision under CAA section 110(a)(2)(A) which requires SIPs to contain "enforceable emission limitations and other control measures, means, or techniques," and under CAA section 110(l), which requires each SIP revision to undergo reasonable public notice and public hearing at the state level and for which the EPA cannot evaluate in advance whether these changes would violate the noninterference requirements of that section.

2. South Carolina's May 13, 2026, Conditional Approval Request

As noted above, on May 13, 2026, South Carolina submitted a supplemental letter to the SIP revisions submitted through February 4, 2022, requesting that the EPA conditionally approve portions of the State's SIP revisions to Standard No. 5.2. Specifically, the State requested conditional approval of the second prefatory paragraph under subsection IV(D) and committed to "making specific enforceable changes to regulatory text in Standard No. 5.2" that include "establishment of specific terms to govern," in part, "specific alternative monitoring provisions" "and removal of various discretionary provisions," which the State frames as changes that "are clarifying and SIP-strengthening in nature."

With the May 13, 2026, letter, South Carolina included draft regulatory changes to the second prefatory paragraph under subsection IV(D) that it committed to submit in a corrective SIP revision. SC DES commits to replacing the discretionary language providing that monitoring requirements for all other affected source types not required to comply with NSPS NO_x monitoring requirements will be established on a case-by-case basis with language modifying the case-by-case procedures for such sources requiring that the monitoring must be established "by a permit condition after public notice and opportunity for comment."

If the State fulfills its commitment in line with the May 13, 2026, commitment letter and supplement and the EPA approves the corrective SIP revision, the second prefatory paragraph under subsection IV(D) would no longer provide the State with insufficiently bounded discretion to set monitoring requirements for the subject sources. Instead, any subject non-boiler, non-internal combustion engine, non-turbine new affected sources that would not trigger any NO_x monitoring requirements under 40 CFR part 60 would be subject to monitoring requirements established in a permit condition having undergone public notice and the opportunity for public comment. If the State fails to meet its commitment within one year of the final conditional approval, should the EPA finalize this partial conditional approval as proposed, the conditional approval of the added monitoring provision in the second prefatory paragraph under Subsection IV(D), as submitted in the State's SIP revisions through February 4, 2022, will be treated as a disapproval.

3. The State's CAA Section 110(l) Demonstration

For a description of the State's May 13, 2026, letter and CAA section 110(l) demonstration as it supports the specific enforceable changes to which the State has committed overall, *see* Section III.B.4.a.i.4.III. in this NPRM. With respect to the changes to Subsection IV(D), in South Carolina's CAA section 110(l) demonstration, the State explains that the changes to that subsection "clarify and ensure monitoring constraints on sources not subject to 40

CFR Part 60 NO_x monitoring by requiring the affected source monitoring requirements to be included in a permit condition that will undergo public notice and opportunity for comment."

Because subsection IV(D) is intended to capture sources that the State may not reasonably anticipate as belonging to the universe of new affected sources subject to Standard No. 5.2 which would not trigger any relevant NO_x monitoring requirements under 40 CFR part 60 and that fraction of subject sources is expected to be small, South Carolina anticipates needing to evaluate the NO_x monitoring requirements at the time the facility is undergoing permitting for the subject source. The revised language requires an opportunity for public participation on the State's establishment of these monitoring requirements, which will not change the underlying requirements applicable to those sources in Section III to install low-NO_x burners or equivalent technology that achieves 30 percent reduction in NO_x from uncontrolled levels. Finally, regarding the changes before the EPA for conditional approval, in the State's May 13, 2026, letter, the State clarifies that it "has not previously implemented" its discretion and commits not to do so "while the regulatory revisions are pending."

4. Summary of the EPA's Proposed Conditional Approval for Paragraph IV(D)

The EPA finds that the added provision providing for the establishment of monitoring requirements for subject non-boiler, non-internal combustion engine, and non-turbine sources is SIP-strengthening and, based on the State's May 13, 2026, commitment and 110(l) demonstration, the EPA is proposing to conditionally approve, in Standard No. 5.2, the second prefatory paragraph under subsection IV(D), submitted through the February 4, 2022, SIP revision, contingent on the State's commitment under CAA section 110(k)(4) to adopt and submit corrective SIP revisions to those provisions no later than one year after the EPA's conditional approval of South Carolina's submissions, should the EPA finalize this partial conditional approval as proposed.

ii. Tune-up Requirements

In the February 4, 2022, SIP revision, changes under paragraphs IV(A)(4) and IV(B)(3) clarify tune-up requirements applicable to new affected boilers and internal combustion engines, respectively, that are not required to comply with NESHAP tune-up requirements in 40 CFR part 63. In paragraphs IV(A)(4) and IV(B)(3), added prefatory language clarifies that, if a boiler or internal combustion engine, respectively, is not subject to Federal tune-up requirements in 40 CFR part 63, the subsequent requirements apply. In paragraph IV(A)(4), new subparagraph IV(A)(4)(a) is added, shifting the original subparagraphs, as submitted in the July 27, 2016, SIP revision, and clarifies that, for the subject boilers, an initial tune-up must be conducted no more than 24 months from operation startup. The EPA is proposing to approve the changes to the prefatory language under paragraphs IV(A)(4) and IV(B)(3) and the addition of subparagraph IV(A)(4)(a) in the February 4, 2022, SIP revision because the changes to paragraphs IV(A)(4) and IV(B)(3) clarify tune-up requirements applicable to subject new affected boilers and internal combustion engines, respectively.

iii. Other MRR Requirements

In the February 4, 2022, SIP revision, changes to Section IV in paragraphs IV(A)(5), IV(B)(5), and IV(C)(6) revise the requirements to maintain certain other records applicable to subject new affected boilers, internal combustion engines, and turbines, respectively, that are not subject to 40 CFR part 60. The paragraphs, introduced in the July 27, 2016, SIP revision, require a subject source owner or operator to maintain records of the occurrence and duration of any source operation startup, shutdown, or malfunction and, as revised in the February 4, 2022, SIP revision, require such records to document the occurrence and duration of malfunctions only. Taken together, the addition of paragraphs IV(A)(5), IV(B)(5), and IV(C)(6) in the July 27, 2016, SIP revision and the subsequent changes to those paragraphs in the February 4, 2022, SIP revision require owners or operators of subject boilers, internal combustion engines, and turbines, respectively, to maintain records to document each occurrence and the duration of any source malfunction. The EPA is proposing to approve the addition of these other record keeping

requirements for the previously listed sources in paragraphs IV(A)(5), IV(B)(5), and IV(C)(6) in the July 27, 2016, SIP revision and the changes to those paragraphs in the February 4, 2022, SIP revision because these provisions add to the regulation certain operation, air pollution control equipment, and/or monitoring system or device malfunction-related recordkeeping requirements applicable to subject sources.

Lastly, in the February 4, 2022, SIP revision, under subsection IV(D), applicable to all other subject new affected sources, new paragraph IV(D)(4) adds requirements to maintain other records that mirror analogous requirements for subject boilers, internal combustion engines, and turbines in paragraphs IV(A)(5), IV(B)(5), and IV(C)(6), respectively. For all other affected source types not subject to NSPS NO_x monitoring requirements in 40 CFR part 60, new paragraph IV(D)(4) requires the owner or operator to maintain records documenting the occurrence and duration of any malfunction in the operation of an affected source, any air pollution control equipment malfunction, or any periods during which a continuous monitoring system or monitoring device is inoperative. In its submittal, the State notes that subsection IV(D) is revised to describe recordkeeping requirements for an affected source during malfunction conditions. The EPA is proposing to approve the addition of the other recordkeeping requirements for all other affected source types not subject to 40 CFR part 60 in new paragraph IV(D)(4) in the February 4, 2022, SIP revision because this provision adds certain recordkeeping requirements for the subject sources, consistent with the recordkeeping requirements applicable to subject boilers, internal combustion engines, and turbines in paragraphs IV(A)(5), IV(B)(5), and IV(C)(6), respectively.

5. Section V — Standard Requirements for Existing Affected Sources

In the July 27, 2016, SIP revision, changes to Section V clarify requirements for existing affected sources, as defined in paragraph I(A)(2), subject to Standard No. 5.2 in subsections V(A), V(B), and V(C). In its submittal, the State notes that Sections IV, V, and VI are relocated at the end of Standard No. 5.2, as Sections V, VI, and VII, respectively, “for ease of use and

clarity," and revised and retitled. Changes to the section title and subsections V(A) and V(C) clarify that subject sources are existing "affected" sources. Another change to subsection V(A) replaces "capable of achieving" with "shall achieve." According to the State, this change clarifies the standard requirements for existing affected sources. In subsection V(A) as revised, when an existing burner assembly is replaced after the regulation effective date, the replacement low-NO_x burner assembly or equivalent technology "shall achieve" a 30 percent reduction from uncontrolled NO_x emission levels based on manufacturer's specifications. A change to subsection V(B) updates the cross-reference to the burner assembly replacement notification requirements for existing affected sources in Standard 5.2 to reflect the relocation of those requirements. These changes to Section V strengthen the standard requirements for existing affected sources and will have a neutral to positive impact on air quality. Therefore, the EPA is proposing to approve the changes to Section V in the July 27, 2016, SIP revision.

6. Section VI — Notification Requirements for Existing Affected Sources

In the July 27, 2016, SIP revision, changes to Section VI clarify notification requirements for existing affected sources subject to Standard No. 5.2 in paragraphs VI(A)(1) and VI(A)(5). Changes to the Section title and paragraphs VI(A)(1) and VI(A)(5) clarify that Section VI and the notification requirements within apply to existing affected sources. New subsection VI(A) adds the subheading, "Burner Assembly Replacement Notifications for Existing Affected Sources," which clarifies that the notification requirements in Section VI describe burner assembly replacement notification requirements applicable to existing affected sources, shifting and renumbering the existing subsections in the SIP to paragraphs VI(A)(1)-(5). A change to paragraph VI(A)(5) clarifies that affected sources must submit a permit application "prior to replacement of the burner assembly(s)" to receive an emission reduction credit for a control device, if desired. These clarifying changes to Section VI are non-substantive and have no impact on air quality. Therefore, the EPA is proposing to approve the changes to Section VI in the July 27, 2016, SIP revision.

7. Section VII — Tune-Up Requirements for Existing Sources

a. July 27, 2016, SIP Revision

In the July 27, 2016, SIP revision, changes to Section VII revise tune-up requirements applicable to new and existing affected sources subject to Standard No. 5.2, with substantive changes made to paragraph VII(A). A change to the section title reflects that the Section VII tune-up requirements are revised to apply to existing sources, consistent with changes in the July 27, 2016, SIP revision to paragraph I(A)(2) clarifying existing affected source applicability, discussed in Section IV.B.1.a.ii. of this NPRM, and with added tune-up requirements applicable to certain new affected sources in new Section IV, which are comparable to the tune-up requirements formerly applicable to all sources subject to the regulation in the SIP, discussed in Sections IV.B.4.a.ii. and IV.B.4.b.iii. of this NPRM.[74]

The changes to subsection VII(A) require new affected sources to conduct an initial tune-up no more than 24 months from operation startup and existing affected sources to conduct an initial tune-up no more than 24 months from burner assembly replacement. Changes to subsection VII(A) also clarify that each subsequent tune-up must be conducted no more than 24 months after the previous tune-up. Although changes to Subsection VII(A) in the July 27, 2016, SIP revision clarify initial and subsequent tune-up timeframes for new affected sources, those provisions were added to subsection VII(A) in error and subsequent relevant changes to Section VII in the February 4, 2022, SIP revision remove the added tune-up provision specific to new affected sources in the July 27, 2016, SIP revision. Therefore, the EPA is only evaluating the added tune-up requirements applicable to existing affected sources and discusses its proposed action with respect to the relevant changes to Section VII in the February 4, 2022, SIP revision below, in Section IV.B.7.b. of this NPRM. The changes to tune-up requirements for existing affected sources are non-substantive and have no impact on air quality. Therefore, the EPA is

[74] As previously described, new Section IV adds tune-up requirements applicable to new affected boilers and internal combustion engines not subject to Federal tune-up requirements in 40 CFR part 63, as well as turbines and all other new affected source types.

proposing to approve the changes to Section VII with respect to the tune-up requirements for existing affected sources in the July 27, 2016, SIP revision in subsection VII(A), because those changes clarify tune-up requirements applicable to existing affected sources.

b. February 4, 2022, SIP Revision

In the February 4, 2022, SIP revision, a change to Section VII revises tune-up requirements to remove language applicable to new affected sources in subsection VII(A), added in the July 27, 2016, SIP revision. In its submittal, the State notes that Section VII was amended to remove "language addressing the deadline for the first tune-up for new affected sources to avoid duplication and to correct for text error." The change to subsection VII(A) removes the previously described language requiring new affected sources to conduct the first tune-up no more than 24 months from operation startup. Taken together, the addition of language clarifying timeframes for new affected sources in Section VII(A) in the July 27, 2016, SIP revision and the subsequent removal of that language in the February 4, 2022, SIP revision would remove requirements applicable to new affected sources from the tune up requirements for existing affected sources in Standard No. 5.2, which require existing affected sources to conduct initial tune-ups within 24 months of the replacement of a burner assembly and each subsequent tune-up to be conducted no more than 24 months after the previous tune-up. As discussed above, tune-up requirements for new affected sources subject to Standard No. 5.2 are addressed in new Section IV, added in the July 27, 2016, SIP revision. For these reasons, the EPA is proposing to approve the changes to Section VII in the February 4, 2022, SIP revision.

V. Incorporation by Reference

In this document, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section**s** I through III of this preamble, the EPA is proposing to incorporate by reference Regulation 61-62.1, Section IV, *Source Tests*, state effective April 24, 2020. The EPA is also proposing to incorporate by reference Regulation 61-62.5, Standard No. 5.2, *Control of*

Oxides of Nitrogen (NO_x), state effective April 24, 2020, except for paragraphs I(B)(2) and I(B)(3), subsection II(K),[75] and subsection III(A).[76] 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).

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. 42 U.S.C. 7410(k); 40 CFR 52.02(a). 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 proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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);

[75] If the EPA finalizes this proposed action, the August 26, 2005, state-effective version of the definition of "Source" under Standard No. 5.2, Section II, will remain in the SIP, unnumbered, and the Agency will note this exception in Table 1 to 40 CFR 52.2120(c).

[76] If the EPA finalizes this proposed action, the August 26, 2005, state-effective version of subsection III(a) will remain in the SIP, and the Agency will note this exception in Table 1 to 40 CFR 52.2120(c).

- 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 proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law, this proposed action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this proposed action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Reporting and record keeping requirements.

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

Dated: August 14, 2026

Kristy Eubanks,
Deputy Regional Administrator performing the functions and duties of the Regional Administrator,
Region 4.

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