

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- 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 Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 24, 2021.

**Debra Shore,**

*Regional Administrator, Region 5.*

[FR Doc. 2021–26148 Filed 12–3–21; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2021–0473; FRL– 8981–01–R4]

#### Air Plan Approval; North Carolina; Mecklenburg Monitoring, Recordkeeping, and Reporting Rule Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision to the Mecklenburg County portion of the North Carolina SIP,

hereinafter referred to as the Mecklenburg Local Implementation Plan (LIP). The revision was submitted by the State of North Carolina, through the North Carolina Division of Air Quality (NCDAQ), on behalf of Mecklenburg County Air Quality (MCAQ) via a letter dated April 24, 2020, and was received by EPA on June 19, 2020. The revision updates several Mecklenburg County Air Pollution Control Ordinance (MCAPCO) rules and adds three new rules for incorporation into the LIP. These rules cover general recordkeeping, monitoring, and reporting requirements. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before January 5, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2021–0473 at [www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://Regulations.gov). EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit [www2.epa.gov/dockets/commenting-epa-dockets](http://www2.epa.gov/dockets/commenting-epa-dockets).

#### FOR FURTHER INFORMATION CONTACT:

Evan Adams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9009. Mr. Adams can also be reached via electronic mail at [adams.evan@epa.gov](mailto:adams.evan@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Overview

The Mecklenburg County LIP was submitted to EPA on June 14, 1990, and EPA approved the plan on May 2, 1991.

See 56 FR 20140. Mecklenburg County prepared three submittals in order to modify the LIP for, among other things, general consistency with the North Carolina SIP.<sup>1</sup> The three submittals were submitted as follows: NCDAQ transmitted the October 25, 2017, submittal to EPA but later withdrew it from review through a letter dated February 15, 2019. On April 24, 2020, NCDAQ resubmitted the October 25, 2017, update to EPA and also submitted the January 21, 2016, and January 14, 2019, updates. Due to an inconsistency with public notice at the local level, these submittals were withdrawn from EPA through a letter dated February 15, 2019. Mecklenburg County corrected this error, and NCDAQ submitted the updates to EPA in a submittal dated April 24, 2020.<sup>2</sup>

##### II. What action is EPA proposing to take?

The April 24, 2020, submittal updates several MCAPCO rules incorporated into the LIP and adds several rules to more closely align the LIP with the SIP. The January 21, 2016, portion of this submission includes reorganization and updates to rules contained in MCAPCO Section 2.0600, including MCAPCO Rules 2.0601, *Purpose and Scope*; 2.0602, *Definitions*; 2.0604, *Exceptions to Monitoring and Reporting Requirements*; 2.0607, *Large Wood and Wood-Fossil Fuel Combination Units*; and 2.0610, *Delegation Federal Monitoring Requirements*.<sup>3</sup> Additionally, the submittal seeks to add MCAPCO Rules 2.0605, *General Recordkeeping and Reporting Requirements*; 2.0611, *Monitoring Emissions from Other Sources*; and 2.0613, *Quality Assurance Program* to the LIP. EPA is proposing to approve the updates and new rules because they improve alignment of the LIP and the SIP and will not interfere with any applicable CAA requirements. The remainder of this section discusses the proposed changes to the LIP.

##### A. Rule 2.0601, “Purpose and Scope”

The April 24, 2020, submittal includes updates to Rule 2.0601, *Purpose and Scope*. This rule outlines the purpose of this section and

<sup>1</sup> The Mecklenburg County, North Carolina revision that is dated April 24, 2020, and received by EPA on June 19, 2020, is comprised of three previous submittals—one dated January 21, 2016; one dated October 25, 2017; and one dated January 14, 2019.

<sup>2</sup> EPA notes that the April 24, 2020, submittal was received by EPA on June 19, 2020.

<sup>3</sup> The April 24, 2020, submittal contains changes to other Mecklenburg LIP-approved rules that are not addressed in this notice. EPA will be acting on those rules in separate actions.

references several other specific rules that may also include monitoring, recordkeeping, and reporting requirements for specific facilities and operations. The proposed changes to the LIP-approved version of this rule include the addition of references to Rules 2.1110, *National Emissions Standards for Hazardous Air Pollutants*, and 2.1111, *Maximum Achievable Control Technology*. The revisions also removed a reference to Rule 2.0525, *National Emission Standards for Hazardous Air Pollutants*, which was moved to Rule 2.1110 listed above. The changes more closely align the rule with the corresponding SIP-approved state rule at 15A NCAC 02D .0601, *Purpose and Scope*. EPA most recently approved updates to 15A NCAC 02D .0601 into the SIP on August 25, 2021. See 86 FR 47393. EPA is proposing to approve the updates to Rule 2.0601 because they better align the LIP with the SIP and will not interfere with any applicable CAA requirements.

#### B. Rule 2.0602, “Definitions”

The April 24, 2020, submittal includes updates to Rule 2.0602, *Definitions*. This rule provides definitions that apply to Section 2.0600, *Monitoring: Recordkeeping: Reporting*. The proposed changes to the LIP-approved rule include the addition of the following definitions: Applicable requirement, Calendar quarters, Permit condition, and Petroleum refinery. Additionally, the rules are re-organized alphabetically, and the definitions of Distillate Oils and Fuel Oils are updated. These revisions more closely align the rule with the corresponding SIP-approved state rule at 15A NCAC 02D .0602, *Definitions*. EPA most recently approved updates to 15A NCAC 02D .0602 into the SIP on August 25, 2021. See 86 FR 47393. EPA is proposing to approve the updates to Rule 2.0602 because they better align the LIP with the SIP and will not interfere with any applicable CAA requirements.

#### C. Rule 2.0604, “Exceptions to Monitoring and Reporting Requirements”

The April 24, 2020, submittal rennumbers LIP-approved Rule 2.0607, *Exceptions to Monitoring and Reporting Requirements*, as Rule 2.0604 and updates the text of the rule as described below.<sup>4</sup> This rule outlines a limited

exception to monitoring if monitoring equipment malfunctions, provides an exemption to monitoring during short-term operation, and provides a general exception if a source is exempted from needing a permit by MCAPCO Rule 1.5211—*Applicability*. The proposed amendments update the requirements moved from Rule 2.0607 to this rule, adds language to clarify that malfunctions resulting from inadequate or poor operation and maintenance are not exempted and that records be maintained to show the source operated less than 30 days in a 12-month period, and adds language to require monitoring for sources exempted from permitting by Rule 1.5211, *Applicability*, if monitoring is required by a specific rule in another section or enforcement settlement. These changes more closely align the rule with the corresponding SIP-approved state rule at 15A NCAC 02D .0604, *Exceptions to Monitoring and Reporting Requirements*. EPA most recently approved updates to 15A NCAC 02D .0604 in the SIP on August 25, 2021. See 86 FR 47393. EPA is proposing to approve the updates to Rule 2.0604 because they better align the LIP with the SIP and will not interfere with any applicable CAA requirements.

#### D. Rule 2.0605, “General Recordkeeping and Reporting Requirements”

The April 24, 2020, submittal rennumbers LIP-approved Rule 2.0605—*Wood and Wood-Fossil Combination Units* as Rule 2.0607.<sup>5</sup> In its place, a new Rule 2.0605 is added with the title “*General Recordkeeping and Reporting Requirements*.” The new version of Rule 2.0605 outlines general requirements for monitoring, recordkeeping and reporting that owners and operators at specific facilities must follow. It further describes specific criteria that would trigger the retrieval of records by MCAQ from the subject facility. The changes more closely align the rule with the corresponding SIP-approved state rule at 15A NCAC 02D .0605, *General Recordkeeping and Reporting Requirements*. EPA most recently approved updates to 15A NCAC 02D .0605 in the SIP on October 31, 2007. See 72 FR 61531. EPA is proposing to approve the updates to Rule 2.0605 because they better align the LIP with

the SIP and will not interfere with any applicable CAA requirements.

#### E. Rule 2.0607, “Large Wood and Wood-Fossil Fuel Combination Units”

The April 24, 2020, submittal rennumbers LIP-approved Rule 2.0605 as Rule 2.0607, *Large Wood and Wood-Fossil Fuel Combination Units* and updates the text of the rule as described below. This rule outlines requirements for facilities that burn wood or wood-fossil fuel combinations that generate steam at a specific rate. These specified facilities may also fall under additional monitoring, recordkeeping, and reporting requirements outlined in additional LIP regulations noted within this rule. Mecklenburg made several revisions to the LIP-approved rule to reorganize the rule and to update requirements for quality assurance of monitoring data. These changes more closely align the rule with the corresponding SIP-approved state rule at 15A NCAC 02D .0607, *Large Wood and Wood-Fossil Fuel Combination Units*. EPA most recently approved updates to 15A NCAC 02D .0607 in the SIP on August 8, 2002. See 67 FR 51461. EPA is proposing to approve the updates to Rule 2.0607 because they better align the LIP with the SIP and will not interfere with any applicable CAA requirements.

#### F. Rule 2.0610, “Delegation Federal Monitoring Requirements”

The April 24, 2020, revision modifies Rule 2.0610, *Delegation Federal Monitoring Requirements*, by making updates to references. Rule 2.0610 was most recently approved by EPA on October 22, 2002 (67 FR 64999) and establishes applicability of specific monitoring requirements for sources subject to New Source Performance Standards (NSPS) under 40 CFR part 60, National Emission Standards for Hazardous Air Pollutants (NESHAPs) under for 40 CFR part 61 and 63, and Acid Rain regulations under 40 CFR part 75. The rule further specifies that sources not subject to monitoring, recordkeeping, and reporting under these programs shall comply with Rule 2.0611—*Monitoring Emissions from Other Sources*, which is discussed below. These revisions to Rule 2.0610 more closely align the rule with the corresponding SIP-approved state rule, 15A NCAC 02D .0610, *Federal Monitoring Requirements*. EPA most recently incorporated updates to the state rule in North Carolina’s SIP on August 8, 2002. See 67 FR 51461. EPA is proposing to approve the updates to Rule 2.0610 because they better align the LIP with the SIP and will not

<sup>4</sup> Additionally, the SIP revision seeks to move LIP-Approved Rule 2.0604—*Sources Covered by Implementation Requirements* to Rule 2.0606. EPA is not proposing to act on that move in this notice. Unless EPA acts on this move, LIP-Approved Rule 2.0604 (as approved on 5/2/1991 at 56 FR 20140

with a local effective date of 06/14/1990) will remain in the LIP alongside Rule 2.0604, *Exceptions to Monitoring and Reporting Requirements* as proposed for approval in this notice.

<sup>5</sup> The new version of Rule 2.0607—*Large Wood and Wood-Fossil Fuel Combination Units*, is discussed below.

interfere with any applicable CAA requirements.

*G. Rule 2.0611, "Monitoring Emissions from Other Sources"*

The April 24, 2020, submittal adds Rule 2.0611, *Monitoring Emissions from Other Sources*. This rule is proposed for adoption into the LIP to add certain monitoring, recordkeeping, and reporting requirements for sources not covered by other rules. The rule includes certain recordkeeping requirements applicable to such sources and specifies that the Director of MCAQ may require additional monitoring and recordkeeping for such sources. Adding this rule would more closely align the LIP with the corresponding SIP-approved state rule at 15A NCAC 02D .0611, *Monitoring Emissions from Other Sources*. EPA most recently approved updates to 15A NCAC 02D .0611 in the SIP on August 8, 2002. See 67 FR 51461. EPA is proposing to approve Rule 2.0611 into the LIP because the approval will strengthen the LIP's overall monitoring, recordkeeping, and reporting requirements by ensuring that sources not subject to monitoring, recordkeeping, and reporting requirements under other rules are nonetheless subject to the requirements of this rule, will better align the LIP with the SIP, and will not interfere with any applicable CAA requirements.

*H. Rule 2.0613, "Quality Assurance Program"*

The April 24, 2020, submittal adds Rule 2.0613, *Quality Assurance Program*. This rule is proposed for adoption into the LIP to require facilities that operate a monitoring device to develop a quality assurance program (QAP). The proposed rule additionally allows the Director to require the QAP to be submitted when certain conditions are met, lists the components of a QAP, lists QAP requirements for gaseous continuous emissions monitoring system (CEMS), defines certification procedures, references 40 CFR part 58 for QAP for ambient monitors, requires QAP be available for inspection within 30 days of monitor certification, and requires the Director to approve QAP within 30 days. Adding this rule would more closely align the LIP with the corresponding SIP-approved state rule at 15A NCAC 02D .0613, *Quality Assurance Program*. EPA most recently approved updates to 15A NCAC 02D .0613 in the SIP on August 8, 2002. See 67 FR 51461. EPA is proposing to approve Rule 2.0613 into the LIP because the approval will establish uniform standards for quality assurance

at sources required to operate a monitoring device, will better align the LIP with the SIP, and will not interfere with any applicable CAA requirements.

**III. Incorporation by Reference**

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to approve MCAPCO Rules 2.0601, *Purpose and Scope*; 2.0602, *Definitions*; 2.0604, *Exceptions to Monitoring and Reporting Requirements*; 2.0605, *General Recordkeeping and Reporting Requirements*; 2.0607, *Large Wood and Wood-Fossil Fuel Combination Units*; 2.0610, *Delegation Federal Monitoring Requirements*; 2.0611, *Monitoring Emissions from Other Sources*; and 2.0613, *Quality Assurance Program*, all of which have an effective date of December 15, 2015, into the Mecklenburg County portion of the North Carolina SIP. EPA has made and will continue to make these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the For **FURTHER INFORMATION CONTACT** section of this preamble for more information).

**IV. Proposed Action**

EPA is proposing to approve the aforementioned revisions and additions to the Mecklenburg LIP. Specifically, EPA is proposing to approve revisions to MCAPCO Rules 2.0601, *Purpose and Scope*; 2.0602, *Definitions*; 2.0604, *Exceptions to Monitoring and Reporting Requirements*; 2.0607, *Large Wood and Wood-Fossil Fuel Combination Units*; and 2.0610, *Delegation Federal Monitoring Requirements*. EPA is also proposing to approve the addition of Rules 2.0605, *General Recordkeeping and Reporting Requirements*; 2.0611, *Monitoring Emissions from Other Sources*; and 2.0613, *Quality Assurance Program* into the Mecklenburg LIP. EPA is proposing to approve these revisions because they are consistent with the CAA.

**V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- 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; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

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

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

Dated: November 26, 2021.

**John Blevins,**

Acting Regional Administrator, Region 4.

[FR Doc. 2021–26142 Filed 12–3–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R10–OAR–2017–0031; FRL–9177–01–R10]

### Air Plan Approval; AK; Removal of Excess Emissions Provision

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Alaska, through the Alaska Department of Environment Conservation, on January 9, 2017. The revision was submitted by Alaska in response to a finding of substantial inadequacy and SIP call published on June 12, 2015, for a provision in the Alaska SIP related to excess emissions during startup, shutdown, and malfunction (SSM) events. EPA is proposing approval of the SIP revision and proposing to determine that such SIP revision corrects the deficiency identified in the June 12, 2015, SIP call.

**DATES:** Comments must be received on or before January 5, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R10–OAR–2017–0031 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](https://www.regulations.gov). EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information, the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or

multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Randall Ruddick, EPA Region 10, 1200 Sixth Avenue (Suite 155), Seattle, WA 98101, (206) 553–1999; or email [ruddick.randall@epa.gov](mailto:ruddick.randall@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we” or “our” is used, it refers to EPA.

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#### I. Background

On February 22, 2013, a **Federal Register** notice of proposed rulemaking was published outlining EPA’s policy at the time with respect to SIP provisions related to periods of SSM. EPA analyzed specific SSM SIP provisions and explained how each one either did or did not comply with the CAA with regard to excess emission events.<sup>1</sup> For each SIP provision that EPA determined to be inconsistent with the CAA, EPA proposed to find that the existing SIP provision was substantially inadequate to meet CAA requirements and thus proposed to issue a SIP call under CAA section 110(k)(5). On September 17, 2014, EPA issued a document supplementing and revising what the Agency had previously proposed on February 22, 2013, in light of a D.C. Circuit decision that determined the CAA precludes authority of the EPA to create affirmative defense provisions applicable to private civil suits. EPA outlined its updated policy that affirmative defense SIP provisions are not consistent with CAA requirements. EPA proposed in the supplemental proposal document to apply its revised interpretation of the CAA to specific affirmative defense SIP provisions and proposed SIP calls for those provisions where appropriate (79 FR 55920, September 17, 2014).

On June 12, 2015, pursuant to CAA section 110(k)(5), EPA finalized “State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls

To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction,” (80 FR 33839, June 12, 2015), hereafter referred to as the “2015 SSM SIP Action.” The 2015 SSM SIP Action clarified, restated, and updated EPA’s interpretation that SSM exemption and affirmative defense SIP provisions are inconsistent with CAA requirements. The 2015 SSM SIP Action found that certain SIP provisions in 36 states were substantially inadequate to meet CAA requirements and issued a SIP call to those states to submit SIP revisions to address the inadequacies. EPA established an 18-month deadline by which the affected states had to submit such SIP revisions. States were required to submit corrective revisions to their SIPs in response to the SIP calls by November 22, 2016. The detailed rationale for issuing the SIP call to Alaska can be found in the 2015 SSM SIP Action and preceding proposed actions.

EPA issued a Memorandum in October 2020 (2020 Memorandum), which stated that certain provisions governing SSM periods in SIPs could be viewed as consistent with CAA requirements.<sup>2</sup> Importantly, the 2020 Memorandum stated that it “did not alter in any way the determinations made in the 2015 SSM SIP Action that identified specific state SIP provisions that were substantially inadequate to meet the requirements of the Act.” Accordingly, the 2020 Memorandum had no direct impact on the SIP call issued to Alaska in 2015. The 2020 Memorandum did, however, indicate EPA’s intent at the time to review SIP calls that were issued in the 2015 SSM SIP Action to determine whether EPA should maintain, modify, or withdraw particular SIP calls through future agency actions.

On September 30, 2021, EPA’s Deputy Administrator withdrew the 2020 Memorandum and announced EPA’s return to the policy articulated in the 2015 SSM SIP Action (2021 Memorandum).<sup>3</sup> As articulated in the 2021 Memorandum, SIP provisions that contain exemptions or affirmative defense provisions are not consistent with CAA requirements and, therefore, generally are not approvable if

<sup>2</sup> October 9, 2020, memorandum “Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans,” from Andrew R. Wheeler, Administrator.

<sup>3</sup> September 30, 2021, memorandum “Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy,” from Janet McCabe, Deputy Administrator.

<sup>1</sup> State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction, 78 FR 12460 (February 22, 2013).