



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2013-0223; FRL-9912-82-Region-4]**

**Approval and Promulgation of Implementation Plans for Georgia: State  
Implementation Plan Miscellaneous Revisions**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve the portions of revisions to the Georgia State Implementation Plan (SIP), submitted by the Georgia Environmental Protection Division (GA EPD), on September 15, 2008, and August 30, 2010, that incorporate changes to the state rules reflecting the 2006 national ambient air quality standards (NAAQS) for particulate matter (PM). EPA approved the remaining portions of Georgia's September 15, 2008, and August 30, 2010, SIP revisions in a previous rulemaking.

**DATES:** This rule will be effective on [insert 30 days after date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2013-0223. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not

publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through

[www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Nacosta Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9140. Ms. Ward can be reached via electronic mail at [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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##### **I. This Action**

EPA is taking final action to approve the portions of Georgia's September 15, 2008, and August 30, 2010, SIP revisions related to the PM<sub>2.5</sub> and PM<sub>10</sub> NAAQS (collectively referred to as the "PM NAAQS"). On May 16, 2013, EPA published a direct final rule approving the portions of Georgia's September 15, 2008, August 30, 2010 (two submittals), and December 15, 2011, SIP submissions, that incorporate amendments to Georgia Rules 391-3-1-.02(4)(b), (c), (e), (f), and (g) reflecting the NAAQS for sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), ozone, lead, and PM in effect at the time of submittal. *See* 78 FR 28744.

EPA published an accompanying proposed approval to the May 16, 2013, direct final rule in the event that EPA received adverse comment and withdrew the direct final rule. *See* 78 FR 28776. In the direct final rule, EPA stated that if adverse comments were received by June 17, 2013, the rule would be withdrawn and not take effect, the proposed rule would remain in effect, and an additional public comment period would not be instituted.

On May 17, 2013, EPA received comments from a single commenter solely on the portions of the rulemaking related to the PM NAAQS; therefore, EPA withdrew the PM portions of the direct final rule. *See* 78 FR 41851 (July 12, 2013). The withdrawal of the PM portions did not affect EPA's May 16, 2013, direct final action on Georgia's SIP revisions related to the SO<sub>2</sub>, NO<sub>2</sub>, ozone, and lead NAAQS. EPA is now taking

action to approve only the portions of the September 15, 2008, and August 30, 2010, SIP revisions related to the PM NAAQS. EPA has reviewed the changes to GA EPD's rule reflecting the PM NAAQS and determined that these changes are consistent with federal regulations in effect at the time of SIP submission; thus, EPA is approving these revisions to the Georgia SIP.

## II. Background

EPA approved a Georgia SIP revision on February 9, 2010, that adopted the 1997 24-hour PM<sub>2.5</sub> NAAQS and 1997 annual PM<sub>2.5</sub> NAAQS set at 65 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) and 15  $\mu\text{g}/\text{m}^3$ , respectively. *See* 75 FR 6309. On October 17, 2006, EPA revised the 24-hour PM<sub>2.5</sub> NAAQS to 35  $\mu\text{g}/\text{m}^3$  and retained the annual PM<sub>2.5</sub> NAAQS at 15  $\mu\text{g}/\text{m}^3$ .<sup>1</sup> *See* 71 FR 61144. Accordingly, Georgia submitted three SIP revisions one dated September 15, 2008,<sup>2</sup> and two dated August 30, 2010,<sup>3</sup> that, among other things, incorporate changes to Georgia Rule 391-3-1-.02(4)(c) - "Particulate Matter" - that update the rule for consistency with the 2006 PM<sub>2.5</sub> NAAQS.

EPA approved Georgia's SIP revision on December 14, 1992, that adopted the initial 1987 24-hour PM<sub>10</sub> NAAQS and 1987 annual PM<sub>10</sub> NAAQS set at 150  $\mu\text{g}/\text{m}^3$  and 50  $\mu\text{g}/\text{m}^3$ , respectively. *See* 57 FR 58989. On October 17, 2006, EPA retained the 24-hour PM<sub>10</sub> NAAQS at 150  $\mu\text{g}/\text{m}^3$  and revoked the annual PM<sub>10</sub> NAAQS. *See* 71 FR 61144. Accordingly, in the August 30, 2010, SIP revision, GA EPA incorporated

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<sup>1</sup> On December 14, 2012, EPA strengthened the primary annual PM<sub>2.5</sub> NAAQS to 12.0  $\mu\text{g}/\text{m}^3$  and retained the 24-hour PM<sub>2.5</sub> NAAQS at 35  $\mu\text{g}/\text{m}^3$ . *See* 78 FR 3086 (January 15, 2013).

<sup>2</sup> The September 15, 2008 SIP revision includes changes to Georgia Rule 391-3-1-.02(4)(c) that update the 24-hr PM<sub>2.5</sub> NAAQS to 35  $\mu\text{g}/\text{m}^3$ . These changes were state effective on June 25, 2008.

<sup>3</sup> The August 20, 2010 SIP revision related to PM<sub>2.5</sub> includes changes to Georgia Rule 391-3-1-.02(4)(c) that align the significant digits for the annual PM<sub>2.5</sub> NAAQS with the federal standard. These changes were state effective on December 20, 2009.

changes to state rule 391-3-1-.02(4)(c) that update the rule for consistency with the 2006 PM<sub>10</sub> NAAQS.<sup>4</sup>

### **III. Response to Comments**

On May 17, 2013, EPA received a comment from one member of the general public. While the comment was generally in support of EPA's action, EPA withdrew the direct final rule because the comment could be interpreted as adverse. A summary of the comment and EPA's response is provided below.

**Comment:** The Commenter noted that EPA revised the PM<sub>2.5</sub> NAAQS in 2012, and he recommended that "the particulate matter SIP for Georgia be conditionally approved, the condition being that a revised SIP reflecting the new standard be submitted within a reasonable amount of time as determined by" EPA.

**Response:** Although EPA recently updated the annual PM<sub>2.5</sub> NAAQS, the State submitted the SIP revisions prior to the December 14, 2012, promulgation of the new standard, published on January 15, 2013 (*see* 78 FR 3086). As mentioned above, GA EPD submitted its SIP revisions to update the PM NAAQS on September 15, 2008, and August 30, 2010, in response to EPA's promulgation of the 2006 PM NAAQS. EPA believes that it is appropriate to approve Georgia's September 15, 2008, and August 30 2010, SIP revisions as they relate to the PM NAAQS because they reflect the PM NAAQS in effect at that time, these NAAQS remain in effect, and the 2012 PM<sub>2.5</sub>

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<sup>4</sup> The August 20, 2010 SIP revision related to PM<sub>10</sub> includes changes to Georgia Rule 391-3-1-.02(4)(c) that repeal the annual PM<sub>10</sub> NAAQS. These changes were state effective on July 20, 2009.

NAAQS was not promulgated at that time. EPA notes that today's action does not relieve Georgia of any current or future requirements regarding the 2012 PM<sub>2.5</sub> NAAQS and that EPA is committed to working with Georgia to update its SIP to reflect the 2012 PM<sub>2.5</sub> NAAQS.

#### **IV. Final Action**

EPA is approving the portions of Georgia's September 15, 2008, and August 30, 2010, SIP revisions that relate to the PM NAAQS because they are consistent with the PM NAAQS in effect at the time of submittal.

#### **V. Statutory and Executive Order Reviews**

Under the Clean Air Act (CAA or Act), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 16, 2014.

Heather McTeer Toney,  
Regional Administrator,  
Region 4.

40 CFR part 52 is amended as follows:

**PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart L – Georgia**

2. Section 52.570 is amended by revising the entry for “391-3-1-.02(4),” under Emission Standards, in the table titled “EPA APPROVED GEORGIA REGULATIONS” in paragraph (c), to read as follows:

**§52.570 Identification of plan.**

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(c) \* \* \*

**EPA APPROVED GEORGIA REGULATIONS**

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
<b>Emission Standards</b>				
**	**	*	*	*
391-3-1-.02(4)	Ambient Air Standards	9/13/2011	[Insert date of publication in <u>Federal Register</u> ] [Insert <u>Federal Register</u> citation]	
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[FR Doc. 2014-14876 Filed 06/25/2014 at 8:45 am; Publication Date: 06/26/2014]