



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2019-0462; FRL-10001-09-Region 4]

#### Air Plan Approval; Georgia: Revisions to Cross-State Air Pollution Rule

**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 Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, via a letter dated July 31, 2018. Specifically, EPA is proposing to approve typographical changes to Georgia's SIP-approved regulations regarding its Cross-State Air Pollution Rule (CSAPR) state trading programs. This action is being proposed pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

**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. at EPA-R04-OAR-2019-0462 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from 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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Steven Scofield, 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) 562-9034. Mr. Scofield can also be reached via electronic mail at [scofield.steve@epa.gov](mailto:scofield.steve@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

GA EPD submitted a SIP revision through a letter dated July 31, 2018,<sup>1</sup> to EPA for review and approval that revises Georgia's SIP-approved rules regarding its CSAPR<sup>2</sup> state trading programs at Rule 391-3-1-.02(12) – “*Cross State Air Pollution Rule NOx Annual Trading*

---

<sup>1</sup> EPA received the SIP revision on August 2, 2018. EPA received several other SIP revisions from Georgia through GA EPD's July 31, 2018, letter. These other revisions have been or will be addressed in separate EPA actions.

<sup>2</sup> CSAPR is a Federal rule that requires 27 Eastern states to limit their statewide emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) from electric generating units (EGUs) that significantly contribute to downwind nonattainment of the 1997 Annual fine particulate matter (PM<sub>2.5</sub>) and 8-hour ozone national ambient air quality standards (NAAQS), 2006 24-hour PM<sub>2.5</sub> NAAQS, and the 2008 8-hour ozone NAAQS. Through its CSAPR rulemakings, EPA determined that air pollution transported from EGUs in Georgia would unlawfully affect other states' ability to attain or maintain the 1997 8-hour ozone NAAQS, the 1997 Annual PM<sub>2.5</sub> NAAQS, and the 2006 24-hour PM<sub>2.5</sub> NAAQS, and included Georgia in the CSAPR ozone season NO<sub>x</sub> trading program and the annual SO<sub>2</sub> and NO<sub>x</sub> trading programs. In 2017, EPA approved Georgia's state trading programs for annual NO<sub>x</sub>, annual SO<sub>2</sub>, and ozone season NO<sub>x</sub> emissions and incorporated Georgia Rules 391-3-1-.02(12), .02(13), and .02(14) into the SIP. See 82 FR 47930 (October 13, 2017) for more information on CSAPR and Georgia's CSAPR state trading programs.

*Program,” Rule 391-3-1-.02(13) – “Cross State Air Pollution Rule SO<sub>2</sub> Annual Trading Program,” and Rule 391-3-1-.02(14) – “Cross State Air Pollution Rule NO<sub>x</sub> Ozone Season Trading Program.”*

## **II. Analysis of State’s Submittal**

Georgia’s submittal makes several typographical edits to Rule 391-3-1-.02(12) – “*Cross State Air Pollution Rule NO<sub>x</sub> Annual Trading Program,*” Rule 391-3-1-.02(13) – “*Cross State Air Pollution Rule SO<sub>2</sub> Annual Trading Program,*” and Rule 391-3-1-.02(14) – “*Cross State Air Pollution Rule NO<sub>x</sub> Ozone Season Trading Program.*” Specifically, the revision to subparagraph 391-3-1-.02(12)(a) changes the brackets around the Federal Register reference and date to parentheses; the revision to subparagraph 391-3-1-.02(13)(a) changes the brackets around the Federal Register reference and date to parentheses, and changes the reference to “40 CFR Part 97.402” to the correct reference of “40 CFR Part 97.702;” and the revision to subparagraph 391-3-1-.02(14)(a) changes the brackets around the Federal Register reference and date to parentheses, and changes the reference to “40 CFR Part 97.402” to the correct reference of “40 CFR Part 97.502.”

## **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 incorporate by reference Georgia Rule 391-3-1-.02(12) – “*Cross State Air Pollution Rule NO<sub>x</sub> Annual Trading Program,*” Rule 391-3-1-.02(13) – “*Cross State Air Pollution Rule SO<sub>2</sub> Annual Trading Program,*” and Rule 391-3-1-.02(14) – “*Cross State Air Pollution Rule NO<sub>x</sub> Ozone Season Trading Program,*” state effective July 23, 2018. 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).

#### **IV. Proposed Action**

EPA is proposing to approve the aforementioned changes to Georgia’s SIP at Rule 391-3-1-.02(12) – “*Cross State Air Pollution Rule NO<sub>x</sub> Annual Trading Program*,” Rule 391-3-1-.02(13) – “*Cross State Air Pollution Rule SO<sub>2</sub> Annual Trading Program*,” and Rule 391-3-1-.02(14) – “*Cross State Air Pollution Rule NO<sub>x</sub> Ozone Season Trading Program*.” These changes 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 that they meet the criteria of the CAA. This 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted 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 (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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: September 25, 2019.

Mary S. Walker,  
Regional Administrator,  
Region 4.