



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2018-0819; FRL-10001-49-Region 4]

### Air Plan Approval;

### Georgia; Revisions to Sulfur Dioxide Ambient Air Quality Standards

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

**ACTION:** Final rule

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Georgia through the Georgia Environmental Protection Division (EPD) through a letter dated July 31, 2018. EPA is approving into the SIP a modification to Georgia's Ambient Air Quality Standards regulation. The SIP revision updates Georgia's air quality standards for sulfur dioxide (SO<sub>2</sub>) to be consistent with the National Ambient Air Quality Standards (NAAQS). EPA is approving the SIP revision because the change is consistent with the Clean Air Act (CAA or Act) and Federal regulations.

**DATES:** This rule will be effective **[Insert date 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-2018-0819. 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 may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9088. Ms. Bell can also be reached via electronic mail at [bell.tiereny@epa.gov](mailto:bell.tiereny@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On June 22, 2010, EPA promulgated a revised primary SO<sub>2</sub> NAAQS. The revised SO<sub>2</sub> NAAQS is an hourly standard of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. The June 22, 2010 action that promulgated the revised primary SO<sub>2</sub> NAAQS also addressed revocation of the 1971 24-hour and annual primary SO<sub>2</sub> NAAQS. *See* 75 FR 35520. Pursuant to the June 22, 2010 action and 40 CFR 50.4, the 1971 primary SO<sub>2</sub> annual and 24-hour NAAQS will continue to apply in an

area until one year after the effective date of the designation of that area for the 2010 SO<sub>2</sub> NAAQS. *See* 42 USC. 7407; 40 CFR 50.17.<sup>1</sup>

Accordingly, in the July 31, 2018,<sup>2</sup> SIP submittal, Georgia revised Rule 391-3-1-.02(4)(b) to provide clarity that the 1971 standard continues to apply in Georgia.<sup>3</sup> Specifically, the changes reflect the historical and current NAAQS for SO<sub>2</sub> and update the former primary SO<sub>2</sub> NAAQS for the 1971 annual and 24-hour ambient air quality standards to be consistent with the Federal regulations. The SIP submission can be found in the docket for this rulemaking at [www.regulations.gov](http://www.regulations.gov).

In a notice of proposed rulemaking (NPRM) published on July 2, 2019 (84 FR 31540), EPA proposed to approve the revision to the Georgia air quality rules addressing Rule 391-3-1-.02(4), *Ambient Air Standards*, into the Georgia SIP.<sup>4</sup> Comments on the NPRM were due on or before August 1, 2019. EPA received no comments on the proposed action. Consistent with the NPRM, which contains additional detail on the submittal, EPA's analysis, and EPA's rationale for approval, EPA is now taking final action to approve the above-referenced revision.

## **II. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rule 391-3-1-.02(4), *Ambient Air Standards*, paragraph (b) *Sulfur*

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<sup>1</sup> *See* 75 FR at 35581. No areas in Georgia were designated as nonattainment for the 1971 standards at the time of promulgation of the 2010 1-hour SO<sub>2</sub> annual and 24-hour SO<sub>2</sub> standards. *See id.*

<sup>2</sup> EPA received the SIP revision on August 2, 2018.

<sup>3</sup> *See* 40 CFR 81.311 for designated areas in the State of Georgia for the 2010 SO<sub>2</sub> standard. EPA notes that Floyd County is the only county in Georgia that has not yet been designated for the 2010 SO<sub>2</sub> standard, and thus is still subject to the 1971 annual and 24-hour SO<sub>2</sub> standards. *See* 81 FR 45039 (July 12, 2016); 83 FR 1098 (January 9, 2018).

<sup>4</sup> As discussed in the NPRM, EPA received several SIP revisions from Georgia through the July 31, 2018, letter and is considering action on the additional SIP revisions in separate actions.

*Dioxide*, State-effective July 23, 2018, which updates the former primary SO<sub>2</sub> NAAQS for the 1971 annual and 24-hour ambient air quality standards to be consistent with the Federal regulations. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>5</sup>

### **III. Final Action**

EPA is taking final action to approve the State of Georgia's July 31, 2018, SIP submission revising Rule 391-3-1-.02(4), *Ambient Air Standards*, paragraph (b) *Sulfur Dioxide*. This revision is consistent with the CAA.

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

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

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<sup>5</sup> *See* 62 FR 27968 (May 22, 1997).

- 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.

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 **[Insert date 60 days after date of publication 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, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 10, 2019.

Mary S. Walker,  
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(c), is amended under Emission Standards by revising the entry for “391-3-1-.02(4)” to read as follows:

**§52.570 Identification of plan.**

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(c) \* \* \*

**EPA APPROVED GEORGIA REGULATIONS**

<b>State citation</b>	<b>Title/subject</b>	<b>State effective date</b>	<b>EPA approval date</b>	<b>Explanation</b>
**	**	*	*	*
391-3-1-.02(4)	Ambient Air Standards	7/23/2018	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	Except paragraphs (a), (c), (d), (e), (f), (g), and (h), approved on 12/4/2018 with a State-effective date of 7/20/2017.
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[FR Doc. 2019-23376 Filed: 10/28/2019 8:45 am; Publication Date: 10/29/2019]