



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2020-0071; FRL-10009-07-Region 4]**

**Air Plan Approval; GA: Permit Requirements**

**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), on October 18, 2019. This SIP revision makes minor edits to Georgia's rule prescribing permitting requirements. EPA has evaluated Georgia's submittal and preliminarily determined that it meets the applicable requirements of the Clean Air Act (CAA) and EPA's 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. EPA-R04-OAR-2020-0071 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. 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:** Pearlene Williams, 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. Ms. Williams can also be reached via phone at (404) 562-9144 or via electronic mail at [williams.pearlene@epa.gov](mailto:williams.pearlene@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

EPA is proposing to approve a revision to the Georgia SIP to make clarifying and ministerial changes to its permitting regulations at Rule 391-3-1-.03(8), *Permit Requirements*. Georgia's October 18, 2019,<sup>1</sup> submittal changes the status of five counties under paragraph (e), which specifies counties that are contributing to the ambient air levels of the current nonattainment area, and makes other minor typographical edits to other subparagraphs for consistent formatting.

Georgia requires compliance with Nonattainment New Source Review (NNSR) requirements under paragraph (c) in nonattainment areas. The State has one current nonattainment area, which is in nonattainment for the 2015 8-hour ozone NAAQS.<sup>2</sup> At subparagraph (c)14., "Additional Provisions for Ozone Non-Attainment Areas," the State also requires NNSR for certain counties surrounding the current nonattainment area. Specifically,

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<sup>1</sup> EPA notes the Agency received the submittal on October 24, 2019.

<sup>2</sup> The current nonattainment area for the 2015 8-hour ozone NAAQS consists of the following Counties: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry.

these counties comprise the current maintenance area for the 2008 8-hour ozone NAAQS,<sup>3</sup> which was redesignated to attainment effective June 2, 2017. *See* 82 FR 25523.

In addition, paragraph (e) explains that the Director shall designate any counties that are contributing to the ambient air level of the nonattainment area. Under subparagraph (c)15., those contributing counties are required to carry out certain elements of NNSR for any new or modified electric generating units (EGU). Specifically, those counties must: define “major source” and “major stationary source” to include certain sources that emit or have the potential to emit at least 100 tons per year of volatile organic compounds or oxides of nitrogen;<sup>4</sup> identify the net emissions increase threshold triggering the permitting requirement as a result of a physical or operational change at a major stationary source; and require an emissions offset ratio of at least 1.1:1.<sup>5</sup>

In a January 16, 2020, action (85 FR 2646), EPA approved revisions to Georgia’s NNSR rules at Rule 391-3-1-.03(8). As relevant here, GA EPD removed five counties from the list of counties subject to NNSR requirements under subparagraph (c)14. and added these counties to the list of contributing counties subject to some NNSR requirements at Subparagraph (c)15.<sup>6</sup> Georgia’s October 18, 2019, SIP revision is intended to align paragraph (e) with the existing requirements in subparagraph (c)(15) by adding those five counties to the list at paragraph (e).

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

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<sup>3</sup> This area is defined at (c)14. as the following Counties: Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale.

<sup>4</sup> These pollutants are precursors to the formation of ozone.

<sup>5</sup> This paragraph also requires these areas to implement best available control technology, consistent with prevention of significant deterioration requirements, rather than the lowest achievable emission rate. Because NNSR is not required for these areas per federal rules, this requirement is appropriate for these projects.

<sup>6</sup> The five counties are Barrow, Carroll, Hall, Spalding, and Walton.

Georgia's October 18, 2019, submittal changes Rule 391-3-1-.03(e)1. to list Barrow, Carroll, Hall, Spalding, and Walton Counties among those determined by the Director to contribute to the ambient air level of ozone in a revised list of metropolitan Atlanta counties. As discussed above, EPA previously approved the removal of these counties from the list of counties subject to NNSR requirements at subparagraph (c)14. and, in the same action, approved adding these counties to the list of contributing counties at subparagraph (c)15. EPA does not believe that the corresponding change to subparagraph (e)1. requested in the current submittal will substantively impact implementation of Georgia's NNSR program. To the contrary, this change merely makes the list of counties at subparagraph (e)1. consistent with other SIP-approved requirements. In addition, EPA notes that Georgia's October 18, 2019, submittal makes other minor changes to Rule 391-3-1-.03(8), which EPA believes will not substantively impact the State's permitting program. Therefore, EPA is proposing to approve the SIP revision because EPA has preliminarily concluded it is consistent with the CAA and EPA's federal regulations.

### **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 the Georgia Rule 391-3-1-.03(8), titled "Permit Requirements" State effective September 26, 2019, which incorporates minor revisions to the State's permitting requirements. EPA has made and will continue to make the State Implementation Plan 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 Georgia SIP revision to Rule 391-3-1-.03(8) titled “Permit Requirements,” submitted on October 18, 2019, to update the status of five counties that are designated as attainment for the 2015 8-hour ozone NAAQS, but which the Director has determined to impact ambient ozone concentrations in the metropolitan Atlanta area, and therefore must comply with certain additional permitting requirements under subparagraph (8)(c)15. In addition, the October 18, 2019, submittal makes typographical edits to Rule 391-3-1.03(8). EPA has preliminarily concluded that the SIP revision is consistent with the CAA and EPA’s regulations.

#### **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, if 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, 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: May 12, 2020.

Mary Walker,  
Regional Administrator,  
Region 4.

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