



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2022-0592; FRL-11872-01-R4]

### Air Plan Approval; Georgia; Gasoline Dispensing Facilities

**AGENCY:** Environmental Protection Agency.

**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 Department of Natural Resources (GA DNR), Environmental Protection Division (EPD), via a letter dated May 24, 2022. The revision seeks to remove the requirement for Enhanced Stage I Gasoline Vapor Recovery Systems (i.e., Stage 1 EVR) at existing gasoline dispensing facilities (GDFs) in Catoosa, Richmond, and Walker counties. EPA is proposing to approve this change pursuant to the Clean Air Act (CAA or Act).

**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-2022-0592 at <https://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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Weston Freund of 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. The telephone number for Mr. Freund is (404) 562-8773. Mr. Freund can also be reached via electronic mail at [freund.weston@epa.gov](mailto:freund.weston@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On March 3, 1978, EPA designated the Atlanta area<sup>1</sup> as nonattainment for the 1979 1-hour ozone National Ambient Air Quality Standards (NAAQS). *See* 43 FR 8962. This designation required Georgia to revise its ozone SIP for the Atlanta area pursuant to the Part D requirements of the CAA as amended in 1977 (1977 Act). To meet this requirement, Georgia submitted revisions for its ozone SIP and EPA approved them on November 24, 1981. *See* 46 FR 57486. Although Georgia calculated that it would achieve the ozone standard in the Atlanta area by December 31, 1982, the control strategy for ozone that EPA approved did not result in attainment. Consequently, on May 3, 1984, EPA notified the Governor of Georgia that pursuant to CAA section 110(a)(2)(H) of the 1977 Act the SIP was inadequate to achieve the ozone NAAQS and issued a SIP call. *See* 49 FR 18827. Georgia responded by submitting a final SIP revision to EPA on November 21, 1985. Georgia later submitted a modified SIP submittal to EPA on October 1, 1987, to resolve several deficiencies EPA identified in the November 21, 1985, submission. Although the modified submittal resolved many of the issues, several remained with respect to Georgia's volatile organic compounds (VOC) reasonably available control technology (RACT) rules that would require further submittals.

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<sup>1</sup> The 11-county metro Atlanta area identified for the 1979 1-hour ozone NAAQS was comprised of Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry, Spaulding, and Rockdale counties in Georgia.

During the same time period that EPA reviewed Georgia's latest submittals to correct its ozone SIP deficiencies, Congress enacted the CAA Amendments of 1990 (November 15, 1990). The amended CAA section 182(b)(2) requires states to adopt RACT rules for VOC sources into their SIPs for all areas in ozone nonattainment areas that were classified as moderate or above. Specifically, CAA section 182(b)(2) requires RACT for: (1) sources covered by an existing control techniques guideline (CTG) (i.e., a CTG issued prior to enactment of the 1990 amendments to the CAA); (2) sources covered by a post-enactment CTG; and (3) all major sources of VOCs not covered by a CTG (i.e., non-CTG sources). Further, section 182(a)(2)(A) requires that all pre-enactment ozone nonattainment areas classified as marginal or above that retained the nonattainment designation fix any deficient RACT rules for ozone within 6 months of the date of classification under section 7511(a) of the CAA. For the areas in Georgia that were already classified as ozone nonattainment areas prior to promulgation of the CAA Amendments, this date was May 15, 1991.

Georgia submitted several SIP revisions to EPA on January 3, 1991, April 3, 1991, and September 30, 1991, to correct VOC RACT deficiencies. Included in these submittals was a revision to Rule 391-3-1-.02(2)(rr), *Gasoline Dispensing Facility*, changing it to comply with the RACT established in a 1975 CTG for addressing the control of VOC emissions from gasoline dispensing facilities.<sup>2</sup> EPA approved these revisions into the SIP on October 13, 1992. *See* 57 FR 46780. Prior to this approval however, EPA classified the Atlanta area as serious ozone nonattainment for the 1979 1-hour ozone NAAQS on November 6, 1991.<sup>3</sup> *See* 56 FR 56694. EPA added Cherokee and Forsyth counties to the 11 counties which were previously classified as nonattainment for the Atlanta area. *Id.* As a result, Georgia submitted further SIP revisions that included additional changes to Rule 391-3-1-.02(2)(rr) on November 15, 1993, and June 17,

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<sup>2</sup> *See* "Design Criteria for Stage I Vapor Control Systems Gasoline Service Stations" U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards Emission Standards and Engineering Division Research Triangle Park, EPA-450 (November 1975), available at: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=20013S56.txt>.

<sup>3</sup> The revised 1979 Atlanta nonattainment area consisted of the following thirteen counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties.

1996, that were approved into the SIP on March 26, 1999. *See* 64 FR 20186. Despite the approval, the 13-county area failed to attain the 1979 1-hour ozone NAAQS by November 15, 1999, the CAA deadline for serious ozone nonattainment areas.

EPA issued a final rulemaking action on September 26, 2003, to reclassify the Atlanta area to severe ozone nonattainment for the 1979 1-hour ozone NAAQS. *See* 68 FR 55469. Subsequently, based on monitoring data for the three-year period of 2002-2004, the Atlanta area attained the 1-hour ozone NAAQS and EPA redesignated the area to attainment. *See* 70 FR 34660 (June 15, 2005). Additionally, on April 30, 2004, EPA issued a final rulemaking action to revoke the 1979 1-hour ozone NAAQS, effective June 15, 2005. *See* 69 FR 23951.

On July 18, 1997, EPA established an 8-hour ozone NAAQS and subsequently designated areas. *See* 62 FR 38856. On April 30, 2004, EPA designated a 20-county area in and around metropolitan Atlanta as a marginal ozone nonattainment area for the 1997 8-hour ozone NAAQS.<sup>4</sup> *See* 69 FR 23858. Additionally, EPA identified counties in Georgia that were close to achieving the new standard and could do so sooner than mandated through additional control measure implementation. *Id.* These counties entered into an Early Action Compact (EAC), an agreement between State, local governments, and EPA to defer the effective date of a nonattainment designation in exchange for implementing measures in these counties not necessarily required by the Act to achieve cleaner air as soon as possible. Georgia submitted revisions to the SIP to accelerate attainment of the 1997 8-hour ozone NAAQS for the EAC counties. *See* 70 FR 50195 (August 26, 2005) and 70 FR 50199 (August 26, 2005). These actions included revisions to Rule 391-3-1-.02(2)(rr) that adopted Stage I vapor control measures for Richmond County (*See* 70 FR 50195) and Catoosa and Walker Counties (*See* 70 FR 50199) as a part of the Lower Savannah EAC and Chattanooga EAC, respectively.

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<sup>4</sup> The nonattainment area for the 1997 8-hour ozone standard consisted of the following counties: Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, and Walton.

Stage I vapor recovery requires the control of hydrocarbon gasoline vapors, such as VOCs, when dispensing gasoline from tanker trucks into gasoline storage tanks. Stage I vapor recovery systems capture vapors displaced from storage tanks at the GDFs during gasoline cargo truck deliveries. When gasoline is delivered into an above ground or underground storage tank, vapors that were taking up space in the storage tank are displaced by the gasoline entering the storage tank. The Stage I vapor recovery systems route these displaced vapors into the tank of the delivery truck. Some vapors are vented when the storage tank exceeds a specified pressure threshold; however, the Stage I vapor recovery systems greatly reduce the possibility of these displaced vapors being released into the atmosphere.

A Stage I EVR system in Georgia is a gasoline vapor recovery system that has a demonstrated efficiency of 98 percent vapor collection. *See* Rule 391-3-1-.02(2)(rr)15.(iv)(I). One way a system can meet this threshold is to be properly certified as meeting the currently applicable California Air Resources Board (CARB) Executive order for a Stage I EVR system. *Id.* In contrast, a basic Stage I vapor recovery system in Georgia must have a demonstrated efficiency of 95 percent vapor collection. *See* Rule 391-3-1-.02(2)(rr)15.(x)(II). The greater collection ability for Stage I EVR comes from improved pressure/vacuum vent valves.

EPA reclassified the Atlanta area as a moderate ozone nonattainment area on March 6, 2008 (73 FR 12013), because the area failed to attain the 1997 8-hour ozone NAAQS by the required attainment date of June 15, 2007. As a result of this reclassification, Georgia was required to amend its SIP to comply with the moderate area requirements under section 182(b) of the CAA. Georgia therefore submitted several SIP revisions to EPA that established RACT requirements for those major sources of VOC located in the Atlanta 8-hour ozone nonattainment area which EPA approved into the SIP on September 28, 2012. *See* 77 FR 59554. Included in these revisions were changes to Rule 391-3-1-.02(2)(rr) that expanded the applicability of the rule to seven additional counties (i.e., Barrow, Bartow, Carroll, Hall, Newton, Spalding, and Walton) and also established a requirement for all existing and new GDFs to upgrade to, or

install Stage I EVR. The amendment requiring Stage I EVR for existing facilities included a compliance date of May 1, 2012, for all of the counties in the Atlanta area as well as the seven new counties. Existing GDFs<sup>5</sup> in Catoosa, Richmond, and Walker counties were required to install a Stage I EVR system by May 1, 2023. Finally, any newly constructed or reconstructed facilities would be required to meet Stage I EVR requirements upon startup of the GDF. *See* Rule 391-3-1-.02(2)(rr)16.(vii) and (viii).

Since the SIP revision was finalized on September 28, 2012, the Atlanta area attained the 1997 8-hour ozone standard, and on December 2, 2013 (78 FR 72040), EPA redesignated the area to attainment. On March 12, 2008, EPA revised the 8-hour ozone NAAQS. *See* 73 FR 16436 (March 27, 2008). EPA designated a 15-county area in and around metropolitan Atlanta as a marginal ozone nonattainment area for the 2008 8-hour ozone NAAQS on April 30, 2012 (effective July 20, 2012).<sup>6</sup> *See* 77 FR 30088 (May 21, 2012). EPA reclassified the 2008 Atlanta area as a moderate ozone nonattainment area on May 4, 2016 (effective June 3, 2016), because the area failed to attain the 2008 8-hour ozone NAAQS by the required attainment date of July 20, 2015. *See* 81 FR 26697 (May 4, 2016). Subsequently, the area attained the 2008 8-hour ozone standard and EPA redesignated the area to attainment. *See* 82 FR 25523 (June 2, 2017).

On October 1, 2015, EPA again revised the 8-hour ozone NAAQS. *See* 80 FR 65292. EPA designated a 7-county area in and around metropolitan Atlanta as a marginal ozone nonattainment area for the 2015 8-hour ozone NAAQS on April 30, 2018 (effective August 3, 2018).<sup>7</sup> *See* 83 FR 25776 (June 4, 2018). Subsequently, the area attained the 2015 8-hour ozone standard and EPA redesignated the area to attainment. *See* 87 FR 62733 (October 17, 2022).

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<sup>5</sup> Existing gasoline dispensing facility is defined as "...any applicable gasoline dispensing facility with an approved Stage I Gasoline Vapor Recovery System that was in operation on or before April 30, 2008." *See* Rule 391-3-1-.02(2)(rr)15.(iv)(I).

<sup>6</sup> The nonattainment area for the 2008 8-hour ozone standard consisted of the following counties: Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale.

<sup>7</sup> The nonattainment area for the 2015 8-hour ozone standard consisted of the following counties: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry.

GA DNR submitted a SIP revision to EPA on May 24, 2022, seeking to remove the requirements for Stage 1 EVR at existing GDFs in Catoosa, Richmond, and Walker counties, as found in Georgia Rule 391-3-1-.02(2)(rr)16.(x), “Gasoline Dispensing Facility – Stage I,” from the Georgia SIP.<sup>8</sup>

Georgia’s May 24, 2022, SIP revision contains a technical demonstration showing that removing Catoosa, Richmond, and Walker counties from the Stage I EVR requirements will not interfere with any applicable requirement concerning attainment of any NAAQS<sup>9</sup> or with any other applicable requirement of the CAA. EPA’s rationale for proposing to remove Catoosa, Richmond, and Walker counties from the requirements for Stage I EVR at existing gasoline dispensing facilities is discussed in section II, below.

## **II. What is EPA’s Analysis of Georgia’s Submittal?**

Section 110(l) of the CAA requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA. EPA evaluates section 110(l) non-interference demonstrations on a case-by-case basis considering the circumstances of each SIP revision. EPA interprets section 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated but for which EPA has not yet made designations. The degree of analysis focused on any NAAQS in a non-interference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision. In connection with this May 24, 2022, SIP revision, Georgia submitted a non-interference demonstration.

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<sup>8</sup> EPA notes that the May 24, 2022, SIP revision was received by the Regional Office on May 25, 2022. For clarity, EPA will reference the submission by its letter date of May 24, 2022, throughout this document.

<sup>9</sup> The total suite of CAA criteria pollutants are ozone (nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs) are ozone precursors), carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), particulate matter (PM) (NO<sub>x</sub>, VOCs, ammonia, and SO<sub>2</sub> are PM precursors), lead (Pb), and nitrogen dioxide (NO<sub>2</sub>).

At the time of the development of the May 24, 2022, SIP revision, the estimated number of “Existing GDFs” in Catoosa, Richmond, and Walker counties was 180.<sup>10</sup> All existing GDFs in Catoosa, Richmond, and Walker counties were required to adopt Stage I EVR by May 1, 2023. The State consulted with the EPD Mobile and Area Sources Program (Compliance Unit) and the EPD Underground Storage Tank Management Program to understand what removal of the Stage I EVR would entail if the requirement for it was removed. The State found that there is no incentive for existing GDFs to switch back to basic Stage I vapor control technology as it would require these facilities to spend additional money and halt business to access underground tanks to switch back to equipment that is becoming increasingly outdated in the industry. With no economic advantage for doing so, Georgia stated there would not be an increase in the number of facilities using basic Stage I vapor control technologies, and therefore, emissions will not increase as a result of removing this requirement for existing GDFs in these counties. EPA has evaluated the State’s analysis and agrees with its findings and conclusions. Furthermore, the CAA does not require Stage I EVR for existing GDFs in these three counties because they are all in attainment for the ozone NAAQS, and the revision does not impact the Stage I EVR requirements for any newly constructed or reconstructed facilities.

Based on the analysis above, EPA is proposing to find that removal of the Stage I EVR requirements for existing GDFs in Catoosa, Richmond, and Walker counties meets the requirements of CAA section 110(l).

### **III. Incorporation by Reference**

In this document, EPA is proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in sections I and II of this preamble, EPA is proposing to incorporate by reference Georgia Rule 391-3-1-.02(rr), *Gasoline Dispensing Facility – Stage I*, state effective on October 25, 2021.

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<sup>10</sup> GA EPD estimated the number of existing GDFs using the Land Environmental Management Information Repository ([https://geos.epd.georgia.gov/GA/LEMIR/Public/Doc/LEMIR\\_User\\_Guide\\_v3.0\\_20160205.pdf](https://geos.epd.georgia.gov/GA/LEMIR/Public/Doc/LEMIR_User_Guide_v3.0_20160205.pdf)).

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 Georgia’s May 24, 2022, SIP revision. Specifically, EPA is proposing to approve the removal of the Stage I EVR requirements for existing GDFs in Catoosa, Richmond, and Walker Counties at Rule 391-3-1-.02(2)(rr).

#### **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 CAA 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. Accordingly, 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 14094 (88 FR 21879, April 11, 2023);
- 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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 rulemaking 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).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

EPD did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of

the action being proposed here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

**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: April 5, 2024.

**Jeananne Gettle,**  
*Acting Regional Administrator,*  
*Region 4.*

[FR Doc. 2024-07703 Filed: 4/11/2024 8:45 am; Publication Date: 4/12/2024]