



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2024-0006; FRL-12050-02-R4]

Air Plan Approval; SC; Updates to the Cross-State Air Pollution Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted through the South Carolina Department of Health and Environmental Control (SC DHEC) on September 26, 2023, regarding updates to the State's Cross-State Air Pollution Rule (CSAPR) emissions trading programs. The SIP revision incorporates by reference (IBRs) certain amendments EPA has made to the regulations for the Federal CSAPR trading programs for annual emissions of nitrogen oxides (NO_x) and sulfur dioxide (SO₂) for large electric generating units (EGUs). EPA is approving South Carolina's September 26, 2023, SIP revision because it is consistent with EPA's good neighbor CSAPR trading programs and the Clean Air Act (CAA or Act).

DATES: This rule is 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-2024-0006. All documents in the docket are listed on the 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 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: Josue Ortiz Borrero, 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. Mr. Ortiz can be reached via phone number (404) 562-8085 or via electronic mail at ortizborrero.josue@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On September 26, 2023, SC DHEC¹ transmitted a SIP revision to update their State's CSAPR emissions trading programs to IBR certain amendments EPA has made to the regulations for the Federal CSAPR trading programs for annual emissions of NO_x and SO₂ for EGUs. EPA created these Federal trading programs in 2011 as market-based mechanisms for South Carolina and certain other States to address their obligations to downwind States under the CAA's good neighbor provision with respect to the national ambient air quality standards (NAAQS) for fine particulate matter (PM_{2.5}).

Through a notice of proposed rulemaking (NPRM) published on December 10, 2024 (89 FR 99180), EPA proposed to approve the portions of South Carolina's September 26, 2023, SIP submission that update Regulation 61-62.97 by incorporating the amendments to the Federal

¹ On July 1, 2024, SC DHEC was restructured into a health agency, the Department of Public Health, and an environmental agency, the Department of Environmental Services (DES). In a letter dated June 20, 2024, South Carolina represented to EPA that all the functions, powers, and duties of the environmental divisions, offices, and programs of DHEC, including the authority to administer and enforce state implementation plans, are retained and continued in full force and effect under DES. The letter is in the docket for this rulemaking. The state agency will simply be referred to as the State or South Carolina for the remainder of this notice.

CSAPR NO_x Annual and SO₂ Group 2 trading programs at 40 CFR part 97, subparts AAAAA and DDDDD, respectively, promulgated in the Revised CSAPR Update² and the Recordation Rule³ and by making technical corrections to cross-references.⁴ These changes make the State CSAPR trading program regulations more consistent with the current Federal CSAPR trading program regulations by incorporating amendments that EPA made to the Federal trading program regulations after the Agency had previously approved South Carolina's CSAPR trading program regulations into the SIP and by correcting cross-references. EPA therefore is approving the portions of South Carolina's September 26, 2023, SIP submission that revise Regulation 61-62.97.

In this rulemaking, EPA is finalizing its approval of these portions of the SIP submission as they are consistent with the Federal CSAPR NO_x Annual and SO₂ Group 2 trading program regulations and the implementing provisions that govern a full CSAPR SIP revision, and the SIP as revised will continue to satisfy the State's good neighbor obligation pursuant to CAA section 110(a)(2)(D)(i)(I). The details of the South Carolina submission and the rationale for EPA approving these changes are explained in the December 10, 2024, NPRM. Comments on the December 10, 2024, NPRM were due on or before January 9, 2025. No comments were received on the December 10, 2024, NPRM, adverse or otherwise.

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, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of South Carolina Regulation 61-62.97, state effective August 25, 2023, which adopts and incorporates by reference Federal

² Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 86 FR 23054 (Apr. 30, 2021).

³ Deadlines for Submission and Recordation of Allowance Allocations Under the Cross-State Air Pollution Rule (CSAPR) Trading Programs and the Texas SO₂ Trading Program, 87 FR 52473 (Aug. 26, 2022).

⁴ EPA is not taking action on changes reflected in this submittal to South Carolina Regulation 61-62.60, subpart XXX, subpart IIII, subpart JJJJ, and South Carolina Regulation 61-62.63, subpart C, subpart AAAA, subpart YYYY, subpart ZZZZ, subpart DDDDD, subpart GGGGG, subpart IIIII, and subpart HHHHHH, since these rules are not part of the SIP.

amendments to 40 CFR part 97, subpart AAAAAA — CSAPR NO_x Annual Trading Program and subpart DDDDD — CSAPR SO₂ Group 2 Trading Program promulgated after October 26, 2016, through August 26, 2022. 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). 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.⁵

III. Final Action

EPA is approving the September 26, 2023, South Carolina SIP revision consisting of changes to Regulation 61-62.97, CSAPR Trading Program, in the South Carolina SIP for the reasons discussed above.

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 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 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

⁵ *See* 62 FR 27968 (May 22, 1997).

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 rule 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).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 21, 2025.

Jeanne Gettle,
Acting Regional Administrator,
Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 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 PP – South Carolina

2. In § 52.2120(c), amend table 1 by revising entry for “Regulation No. 62.97” to read as follows:

§ 52.2120 Identification of plan.

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(c) * * *

Table 1 to Paragraph (c) - EPA-Approved South Carolina Laws and Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
Regulation No. 62.97	Cross-State Air Pollution Rule (CSAPR) Trading Program	8/25/2023	[Insert date of publication in Federal Register], [Insert first page of Federal Register citation]	

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[FR Doc. 2025-03609 Filed: 3/6/2025 8:45 am; Publication Date: 3/7/2025]