



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2024-0626; FRL-12934-01-R4]

Air Plan Approval; GA; Removal of Nonattainment Area New Source Review

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 (EPD) on June 27, 2024. The revision seeks to remove permitting requirements related to nonattainment, including nonattainment new source review (NNSR), from Georgia's SIP as obsolete, remove certain provisions related to the use of emission reduction credits (ERCs), and make other changes based upon the lack of any areas designated as nonattainment for the National Ambient Air Quality Standards (NAAQS) in Georgia. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2024-0626 at [regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.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: Nelsha Athauda, Multi-Air Pollutant Coordination 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) 562-9360. Ms. Athauda can also be reached via electronic mail at Athauda.Nelsha@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The New Source Review (NSR) program is a preconstruction permitting program that requires certain stationary sources of air pollution to obtain permits prior to beginning construction. The NSR permitting program applies to new construction and to modifications of existing sources. New construction and modifications that emit “regulated NSR pollutants” over certain thresholds are subject to major NSR requirements, while smaller emitting sources and modifications may be subject to minor NSR requirements.

Major NSR permits for sources that are located in attainment or unclassifiable areas are referred to as Prevention of Significant Deterioration (PSD) permits. Major NSR permits for sources located in nonattainment areas and that emit pollutants above the specified thresholds for which the area is in nonattainment are referred to as NNSR permits.

A new stationary source is subject to major NSR requirements if its potential to emit (PTE) a regulated NSR pollutant exceeds certain emission thresholds. If it exceeds the applicable threshold, the NSR regulations define it as a “major stationary source.” An existing major stationary source triggers major NSR permitting requirements when it undergoes a “major modification,” which occurs when a source undertakes a physical change or change in method of

operation (i.e., a “project”) that would result in (1) a significant emissions increase from the project, and (2) a significant net emissions increase from the source. *See, e.g.*, 40 CFR 51.166(b)(2)(i), (b)(3), and (b)(51).

Effective January 6, 1992, EPA designated 13 counties surrounding Atlanta, Georgia, as nonattainment for the 1-hour ozone NAAQS and classified them as a “serious” nonattainment area (hereinafter referred to as the Atlanta 1-hour Ozone Area).¹ *See* 56 FR 56694 (November 6, 1991). Effective January 1, 2004, the Atlanta 1-hour Ozone Area was reclassified as a “severe” nonattainment area. *See* 68 FR 55469 (September 26, 2003). This classification requires, among other things, that a “major source” and a “major stationary source” be defined to include certain sources that emit or have the potential to emit 25 tons or more of nitrogen oxides (NO_x) or volatile organic compounds (VOC) and that emissions offsets apply at a ratio of at least 1.3 or 1.2:1 (depending on the criteria in CAA section 182(d)(2)).² EPA redesignated the Atlanta 1-hour Ozone Area to attainment for the 1-hour ozone NAAQS, effective June 14, 2005. *See* 70 FR 34660 (June 15, 2005). Effective June 15, 2005, EPA revoked the 1-hour ozone NAAQS. *See* 69 FR 23951 (April 30, 2004) and 70 FR 44470 (August 3, 2005).

Effective June 15, 2004, 20 counties surrounding Atlanta were designated as nonattainment and classified as a “marginal” nonattainment area for the 1997 8-hour ozone NAAQS (hereinafter referred to as the Atlanta 1997 8-hour Ozone Area).³ *See* 69 FR 23858 (April 30, 2004). Effective April 7, 2008, the Atlanta 1997 8-hour Ozone Area was reclassified as a “moderate” nonattainment area. *See* 73 FR 12013 (March 6, 2008). This classification requires, among other things, that a “major source” and a “major stationary source” be defined to

¹ The Atlanta 1-hour Ozone Area consisted of the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. The 1-hour ozone NAAQS was set at 0.12 parts per million (ppm) with attainment defined when the expected number of days per calendar year, with maximum hourly average concentration greater than 0.12 ppm, is equal to or less than one.

² For ozone, the offset ratio is the ratio of the total emissions reductions of NO_x or VOCs to the total increased emissions of those pollutants.

³ The Atlanta 1997 8-hour Ozone Area 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. The 1997 8-hour ozone NAAQS was set at 0.08 ppm based on an annual fourth-highest daily maximum 8-hour average concentration averaged over three years.

include certain sources that emit or have the potential to emit 100 tons or more of NO_x or VOC and that emissions offsets apply at a ratio of at least 1.15:1. The Atlanta 1997 8-hour Ozone Area was redesignated to attainment, effective January 1, 2014. *See* 78 FR 72040 (December 2, 2013). Effective April 6, 2015, EPA revoked the 1997 8-Hour Ozone NAAQS. *See* 80 FR 12264 (March 6, 2015).

Effective July 20, 2012, 15 counties surrounding Atlanta were designated as nonattainment and classified as a “marginal” nonattainment area for the 2008 8-hour ozone NAAQS (hereinafter referred to as the Atlanta 2008 8-hour Ozone Area).⁴ *See* 77 FR 30088 (May 21, 2012). This classification requires, among other things, that a “major source” and a “major stationary source” be defined to include certain sources that emit or have the potential to emit 100 tons or more of NO_x or VOC and that emissions offsets apply at a ratio of at least 1.1:1. The Atlanta 2008 8-hour Ozone Area was redesignated to attainment, effective June 2, 2017. *See* 82 FR 25523 (June 2, 2017).

Approximately one year later, EPA designated seven counties in and around metropolitan Atlanta as nonattainment and classified them as a “marginal” nonattainment area for the 2015 8-hour ozone NAAQS (hereinafter referred to as the Atlanta 2015 8-hour Ozone Area).⁵ *See* 83 FR 25776 (June 4, 2018). As discussed above, the “marginal” classification requires that a “major source” and a “major stationary source” be defined to include certain sources that emit or have the potential to emit 100 tons or more of NO_x or VOC and that emissions offsets apply at a ratio of at least 1.1:1. In 2022, EPA redesignated the Atlanta 2015 8-hour Ozone Area to attainment for the 2015 8-hour ozone standard. *See* 87 FR 62733 (October 17, 2022).

⁴ The Atlanta 2008 8-hour Ozone Area consisted of the following counties: Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale. The 2008 8-hour ozone NAAQS is set at 0.075 ppm based on an annual fourth-highest daily maximum 8-hour average concentration averaged over three years.

⁵ The Atlanta 2015 8-hour Ozone Area consists of the following counties: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry. The 2015 8-hour ozone NAAQS is set at 0.070 ppm based on an annual fourth-highest daily maximum 8-hour average concentration averaged over three years.

As a result of EPA's redesignation of the Atlanta 2015 8-hour Ozone Area to attainment, there are no longer any areas within Georgia that are currently designated as nonattainment for any of the NAAQS. Therefore, Georgia is no longer required to include regulations pertaining to NNSR in its SIP. Georgia's June 27, 2024, revision, as discussed in more detail below, thus requests removal of NNSR requirements from Georgia's SIP as obsolete. Georgia's submittal also requests the removal of other provisions related to nonattainment from the SIP. Georgia's submittal includes a demonstration, pursuant to CAA section 110(l), that the proposed revisions would not interfere with any applicable requirement concerning attainment of the NAAQS and reasonable further progress or any other applicable requirement of the CAA. EPA's analysis of Georgia's June 27, 2024, SIP revision and the Agency's rationale for proposing to approve these changes are provided below.

II. EPA's Analysis of the State's Submittal

EPA is proposing to approve changes to the Georgia SIP submitted by the State on June 27, 2024, that would remove NNSR requirements from Georgia's SIP, remove certain provisions related to the use of ERCs, and makes other changes based upon the lack of any areas designated as in nonattainment of the NAAQS in Georgia. Specifically, the changes address Rules 391-3-1-.02(1), *General Requirement*; 391-3-1-.02(2)(nnn), *NO_x Emissions from Large Stationary Gas Turbines*; 391-3-1-.03(1), *Construction (SIP) Permit*;⁶ 391-3-1-.03(6)(j), *Construction Permit Exemption for Pollution Control Projects*; 391-3-1-.03(8), *Permit Requirements*; and 391-3-1-.03(13), *Emission Reduction Credits*.⁷

⁶ As discussed later in this notice, although Georgia submitted a revision to Rule 391-3-1-.03(1) that includes the removal of a phrase within this rule, the language that EPD proposes to remove is not presently included as part of the SIP. Thus, although Rule 391-3-1-.03(1) is discussed in this notice, EPA is not proposing to act on any revisions to this rule.

⁷ The June 27, 2024, submittal also contains changes to Rules 391-3-1-.02(6)(a), *Specific Monitoring and Reporting Requirements for Particular Sources*, and 391-3-1-.03(11)(b)(7), *Coating and/or Gluing Operations*. On July 9, 2025, EPD provided EPA with a clarification letter confirming that Georgia does not intend to submit the language "or enforceable as a practical matter limiting the source to below Part 70 or Part 63 major source thresholds" in Georgia Rule 391-3-1-.03(11)(b)7.(i) as part of the June 27, 2024, SIP revision. This letter is included in the docket for this rulemaking, however, EPA will address the changes to these two rules in a separate rulemaking.

A. *Rule 391-3-1-.02(1), General Requirement*

The State requests that EPA revise Rule 391-3-1-.02(1), *General Requirement*, to change the word “nonattainment” to “non-attainment” in Rule 391-3-1-.02(1)(d) for internal consistency. This is a minor typographical change that does not alter the meaning of any terms or provisions. EPA is therefore proposing to revise Rule 391-3-1-.02(1) in the Georgia SIP because the proposed revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act.

B. *Rule 391-3-1-.02(2)(nnn), NOx Emissions from Large Stationary Gas Turbines*

The State requests that EPA revise Rule 391-3-1-.02(2)(nnn), *NOx Emissions from Large Stationary Gas Turbines*. The purpose of this Rule is to establish NOx emission limits for stationary gas turbines with nameplate capacities greater than 25 megawatts (MWe). There are two main revisions proposed within this rule, as discussed below.

First, SIP-approved Rule 391-3-1-.02(2)(nnn)(1)(ii) contains a NOx emission limit for large stationary gas turbines permitted prior to April 1, 2000, located at a stationary source with no natural gas. The updated version of this subparagraph would read “[reserved].” Georgia removed this subparagraph from its rule and replaced it with the word “[reserved]” in 2006 because Georgia determined that it was no longer applicable to any source in Georgia, as there were no longer any existing stationary sources to which this limitation applied. Additionally, because the provision only applied to large stationary gas turbines permitted before April 1, 2000, no future, new, or modified gas turbines would be subject to this regulation.

Second, Rule 391-3-1-.02(2)(nnn)(4) as currently approved into the SIP exempts large stationary gas turbines constructed on or after April 1, 2000, from the 6 ppm @ 15% O₂, dry basis NOx emission limit contained in Rule 391-3-1-.02(2)(nnn)(1)(iii) if the turbine is otherwise

subject to Rule 391-3-1-.03(8)(c)(14)⁸ or Rule 391-3-1-.03(8)(c)(15).⁹ As discussed later in this notice, Georgia has requested that EPA remove Rule 391-3-1-.03(8)(c)(14) and Rule 391-3-1-.03(8)(c)(15) from Georgia’s SIP. Because Rule 391-3-1-.02(2)(nnn)(4) contains cross-references to these two rules identified for removal, Georgia’s submittal also includes revised language for Rule 391-3-1-.02(2)(nnn)(4). The revised language states that the emission limit in Rule 391-3-1-.02(2)(nnn)(1)(iii) “shall not apply to stationary gas turbines subject to NOx emission limits established between April 1, 2000, and February 21, 2023.” According to EPD’s submittal, the February 21, 2023, date is simply a date chosen prior to when the rule revisions were submitted to the Georgia Department of Natural Resources Board for briefing and subsequent adoption.¹⁰

Minor changes were also made within Rule 391-3-1-.02(2)(nnn) for internal consistency to update labels (i.e., subparagraphs, paragraphs, sections, and subsections) used to cite or refer to various referenced portions of the rules, per Georgia’s State-only procedural Rule 590-2-1-.02, *Numbering System*.

In support of its submittal, Georgia provided an analysis pursuant to CAA section 110(l). Georgia explains that “[t]he large stationary gas turbines that were subject to requirements under Rules 391-3-1-.03(8)(c)14. and 391-3-1-.03(8)(c)15. are the same as the large stationary gas turbines that had NOx emission limits established between April 1, 2000, and February 21, 2023.” Thus, Georgia states that its proposed revision “does not change or broaden the NOx emission limit exemption for Rule 391-3-1-.02(2)(nnn)1.” Georgia notes its intent with this

⁸ Rule 391-3-1-.03(8)(c)(14), *Additional Provisions for Ozone Non-Attainment Areas*, contains permitting requirements for major sources in the 2008 8-Hour Ozone marginal nonattainment area. These permitting requirements include a 1.15 to 1.00 emission offset requirement for VOCs and NOx.

⁹ Rule 391-3-1-.03(8)(c)(15), *Additional Provisions for Electrical Generating Units Located in Areas Contributing to the Ambient Air Level of Ozone in the Metropolitan Atlanta Ozone Nonattainment Area*, contains permitting requirements for certain electrical generating units in Banks, Barrow, Butts, Carroll, Chattooga, Clarke, Dawson, Floyd, Gordon, Hall, Haralson, Heard, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pickens, Pike, Polk, Putnam, Spalding, Troup, Upson, and Walton counties. EPD determined that these counties contributed to ozone levels in the Atlanta 2008 8-hour Ozone Area. Rule 391-3-1-.03(8)(c)(15) requires sources containing EGUs subject to this rule to apply a 1.10 to 1.00 emission offset requirement for NOx. This rule also requires application of Best Available Control Technology (BACT) to these sources.

¹⁰ These rules were adopted by the Georgia Department of Natural Resources on May 23, 2023, were filed with the Secretary of State’s office on May 30, 2023, and became effective on June 19, 2023.

change is to “leave the already established [Lowest Achievable Emission Rate and Best Available Control Technology] limits in place for the affected turbines.”

EPA agrees that the proposed revisions to Rule 391-3-1-.02(2)(nnn) would preserve the status quo. EPA additionally notes that 40 CFR 51.160 requires each state’s SIP to contain enforceable procedures that prevent the permitting of new sources or modifications that would interfere with the attainment or maintenance of a NAAQS, and Georgia’s SIP contains such a provision at Rule 391-3-1-.03(8)(a). This permitting provision provides an additional backstop to ensure that future permitting of new sources will not interfere with attainment or maintenance of the NAAQS. EPA is therefore proposing to revise Rule 391-3-1-.02(2)(nnn) in the Georgia SIP because the proposed revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act.

C. Rule 391-3-1-.03(1), Construction (SIP) Permit

The State requests that EPA revise Rule 391-3-1-.03(1), *Construction (SIP) Permit*, to remove a requirement for any person applying for a permit for construction or modification of a facility to include information on any ERCs on which the permit applicant intends to rely. The ERC program allows eligible sources that voluntarily reduce emissions to certify and “bank” these reductions as ERCs for future use. By its terms, the ERC program only applies in counties in a nonattainment area or in counties determined by EPD to contribute to ambient air quality in the nonattainment area.¹¹ The banked ERCs hold their value for ten years, at which point they begin devaluing ten percent per year until they have reached 50 percent of their original value. The ERC program was intended to help the Atlanta metropolitan region achieve compliance with federal standards for ground-level ozone. The program does not allow for any increase in emissions of NO_x or VOC in the area to which it is applicable.¹²

Although EPD has requested that EPA remove the phrase “information regarding any

¹¹ EPD’s submittal also proposes to preserve the ERC program but to disallow use of ERC credits, as discussed in Section II.F of this notice.

¹² For more information on the ERC program, see 85 FR 31112 (May 22, 2020).

Emission Reduction Credits on which the applicant intends to rely” from Rule 391-3-1-.03(1)(b), this phrase is not in the SIP. Therefore, EPA is taking no action on EPD’s request to revise Rule 391-3-1-.03(1).

D. Rule 391-3-1-.03(6)(j), Construction Permit Exemption for Pollution Control Projects

The State requests that EPA revise Rule 391-3-1-.03(6)(j), *Construction Permit Exemption for Pollution Control Projects* to remove the phrase “or the non-attainment new source review permitting requirements of subparagraph 391-3-1-.03(8)(c).” Because EPD’s submittal requests the removal of all of the existing language within subparagraph 391-3-1-.03(8)(c), the cross-reference in Rule 391-3-1-.03(6)(j) to this subparagraph would be obsolete. Removal of the existing language within subparagraph 391-3-1-.03(8)(c) is discussed below. EPA is therefore proposing to revise subparagraph 391-3-1-.03(6)(j) in the Georgia SIP. The proposed revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act.

E. Rule 391-3-1-.03(8), Permit Requirements

The State requests that EPA revise Rule 391-3-1-.03(8), *Permit Requirements*. The purpose of Rule 391-3-1-.03(8) is to provide permit requirements for stationary sources. The proposed revision would primarily remove permitting requirements related to nonattainment from this rule within Georgia’s SIP. The State’s submittal requests the removal of subparagraphs (c), (d), (e), and (g) and minor revisions to subparagraphs (a), (b), and (f) of Rule 391-3-1-.03(8).

The State is seeking to remove subparagraph (c), which provides permit requirements for new or modified major stationary sources in areas of the State designated by EPA or the State as not attaining a NAAQS, or in areas contributing to the ambient air levels of such pollutants in such areas of nonattainment.¹³ Provisions proposed for removal include NNSR requirements,

¹³ As EPA has previously noted, “NSR only applies to new sources and to existing sources that undergo a physical change or change in the method of operation (i.e., it is a prospective permitting program).” 84 FR 47213, 47215

such as requiring proposed sources to comply with the Lowest Achievable Emission Rate (LAER). EPA is also proposing to remove the additional provisions for ozone areas in Rule 391-3-1-.03(8)(c)14¹⁴ and provisions contained within Rule 391-3-1-.03(8)(c)15.¹⁵ If these nonattainment-related permitting provisions are removed, the PSD permitting program will continue to apply to major stationary sources within areas classified as in attainment with the NAAQS or unclassifiable and ensure that a new or modified major source will not cause or contribute to a violation of a NAAQS. *See* 40 CFR 51.166(k). Additionally, 40 CFR 51.160 requires each state's SIP to contain enforceable procedures that prevent the permitting of new sources or modifications that would interfere with the attainment or maintenance of a NAAQS, and Georgia's SIP contains such a provision at Rule 391-3-1-.03(8)(a). These permitting provisions provide an adequate backstop to ensure that future permitting of new sources will not interfere with attainment or maintenance of the NAAQS.

The State is also seeking to remove subparagraph (d), a placeholder subparagraph that had been reserved for numbering purposes in the rule. Removal of this provision from the SIP is non-substantive.

The State is further seeking to remove subparagraph (e), which provides that the Director shall determine and designate areas of the State which are not attaining any NAAQS and any areas contributing to the ambient air level of pollutants in these nonattainment areas to "meet the requirements of Title 1, Part D of the Federal Act" (i.e., the Act's nonattainment provisions).

(September 9, 2019). Therefore, even if the permitting requirements related to nonattainment are removed from the SIP, the "conditions" issued pursuant to these permits "along with any associated emissions offsets, will remain in effect." *Id.*

¹⁴ Rule 391-3-1-.03(8)(c)(14), *Additional Provisions for Ozone Non-Attainment Areas*, contains permitting requirements for major sources in the 2008 8-Hour Ozone marginal nonattainment area. These permitting requirements include a 1.15 to 1.00 emission offset requirement for VOCs and NOx.

¹⁵ Rule 391-3-1-.03(8)(c)(15), *Additional Provisions for Electrical Generating Units Located in Areas Contributing to the Ambient Air Level of Ozone in the Metropolitan Atlanta Ozone Nonattainment Area*, contains permitting requirements for certain electrical generating units in Banks, Barrow, Butts, Carroll, Chattooga, Clarke, Dawson, Floyd, Gordon, Hall, Haralson, Heard, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pickens, Pike, Polk, Putnam, Spalding, Troup, Upson, and Walton counties. EPD determined that these counties contribute to ozone levels in the Atlanta 2008 8-hour Ozone Area. Rule 391-3-1-.03(8)(c)(15) requires sources containing EGUs subject to this rule to apply a 1.10 to 1.00 emission offset requirement for NOx. This rule also requires application of BACT to these facilities.

This provision also designated Banks, Barrow, Butts, Carroll, Chattooga, Clarke, Dawson, Floyd, Gordon, Hall, Haralson, Heard, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pickens, Pike, Polk, Putnam, Spalding, Troup, Upson, and Walton counties as areas contributing to the ambient air level of ozone in the Atlanta 2008 8-hour Ozone Area. Finally, this provision applies the nonattainment permitting provisions of Rule 391-3-1-.03(8)(c) to the construction of electric generating units at new or modified stationary sources “in this area.” Subparagraph (e) of subparagraph 391-3-1-.03(8) is not needed because there are currently no nonattainment areas in the State.

The State is also seeking to remove subparagraph (g), which provides a list of provisions from Rule 391-3-1-.02(7), *Prevention of Significant Deterioration of Air Quality*, which would apply to projects subject to the nonattainment permitting provisions of Rule 391-3-1-.03(8)(c). If the nonattainment permitting provisions of Rule 391-3-1-.03(8)(c) are removed from the SIP, there is no need to retain 391-3-1-.03(8)(g).

Minor changes were also made within subparagraphs (a), (b), and (f) of Rule 391-3-1-.03(8) for internal consistency to update labels (i.e., subparagraphs, paragraphs, sections, subsections) used to cite or refer to various referenced portions of rules, per Georgia Rule 590-2-1-.02, *Numbering System*. Subparagraph (f) would also be re-numbered to subparagraph (c) due to the removal of the other subparagraphs mentioned above.

As there are no nonattainment areas in Georgia, permitting provisions related to nonattainment are no longer required in Georgia’s SIP. EPA is therefore proposing to revise Rule 391-3-1-.03(8) in the Georgia SIP because the proposed revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act.

F. Rule 391-3-1-.03(13), Emission Reduction Credits

The State requests that EPA revise Rule 391-3-1-.03(13), *Emission Reduction Credits*, to remove wording that allows or refers to the use of ERCs. As noted above, the ERC program

only applies in counties in a nonattainment area, or in counties determined by EPD to contribute to ambient air quality in the nonattainment area. Because Georgia no longer has any nonattainment areas or areas contributing to ambient air quality in nonattainment areas, the rationale that use of these credits will help the Atlanta metropolitan region “achieve compliance with federal standards for ground-level ozone” no longer applies.¹⁶ The State’s requested changes only apply to the use of ERCs and do not remove the mechanism to create, bank, or transfer ERCs. Other ERC provisions not related to use of the ERCs are being retained in the SIP. Wording within Rule 391-3-1-.03(13) has also been revised for internal consistency to update labels (i.e., subparagraphs, paragraphs, sections, subsections) and to correct grammatical errors. EPA agrees with the State’s rationale and is therefore proposing to revise Rule 391-3-1-.03(13) because the proposed revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act.

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, and as discussed in Sections I and II of this preamble, EPA is proposing to incorporate by reference the following rules into Georgia’s SIP with a state effective date of June 19, 2023: Rule 391-3-1-.02(1), *General Requirement*; Rule 391-3-1-.02(2)(nnn), *NO_x Emissions from Large Stationary Gas Turbines*; Rule 391-3-1-.03(6)(j), *Construction Permit Exemption for Pollution Control Projects*; Rule 391-3-1-.03(8), *Permit Requirements*; and Rule 391-3-1-.03(13), *Emission Reduction Credits*. EPA has made, and will continue to make, the State Implementation Plan 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).

¹⁶ See 85 FR 31112 (May 22, 2020).

IV. Proposed Action

For the reasons discussed above, EPA is proposing to approve the June 27, 2024, Georgia SIP revision consisting of changes to Georgia's SIP for Rule 391-3-1-.02(1), *General Requirement*; Rule 391-3-1-.02(2)(nnn), *NOx Emissions from Large Stationary Gas Turbines*; Rule 391-3-1-.03(6)(j), *Construction Permit Exemption for Pollution Control Projects*; Rule 391-3-1-.03(8), *Permit Requirements*; and Rule 391-3-1-.03(13), *Emission Reduction Credits*.

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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 (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).

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: August 11, 2025.

Kevin McOmber,
Regional Administrator,
Region 4.

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