



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0071; FRL- 10013-22-Region 4]

Air Plan Approval; Georgia: Permit Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action 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 the Georgia rule prescribing permitting requirements. EPA has evaluated Georgia's submittal and determined that it meets the applicable requirements of the Clean Air Act (CAA or Act) and applicable regulations.

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-2020-0071. All documents in the docket are listed on the 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 can either be retrieved electronically via 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: 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.

SUPPLEMENTARY INFORMATION:

I. Background

Through a letter dated October 18, 2019,¹ GA EPD submitted a SIP revision for EPA's approval. The revision makes clarifying and ministerial changes to permitting regulations at Rule 391-3-1-.03(8), *Permit Requirements*. This 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 for the 2015 8-hour ozone National Ambient Air Quality Standard (NAAQS)² and makes other minor typographical edits to other subparagraphs for consistent formatting.

In a notice of proposed rulemaking (NPRM) published on May 22, 2020 (85 FR 31116), EPA proposed to approve revisions to Georgia Rule 391-3-1-.03(8), to list Barrow, Carroll, Hall,

¹ EPA notes the Agency received the submittal on October 24, 2019.

² The Atlanta nonattainment area for the 2015 8-hour ozone NAAQS consists of the following counties: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry.

Spalding, and Walton Counties among those determined by the GA EPD Director to contribute to the ambient air level of ozone in a revised list of metropolitan Atlanta counties. EPA does not believe that the corresponding change to subparagraph (e)1. proposed in the NPRM will substantively impact implementation of Georgia's nonattainment new source review program. EPA provided further analysis of these changes, as well as the Agency's rationale for approving the changes, in its May 22, 2020, NPRM. Comments on the May 22, 2020, NPRM were due on or before June 22, 2020. EPA received no comments on the proposed action. EPA is now taking final action to approve the above-referenced revision.

II. Incorporation by Reference

In this rule, 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-.03(8), titled "Permit Requirements," effective September 26, 2019, which incorporates minor revisions to the State's permitting requirements. 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 by the Director of the Federal Register in the next update to the SIP compilation.³

³ See 62 FR 27968 (May 22, 1997).

III. Final Action

EPA is approving the Georgia SIP revision to Rule 391-3-1-.03(8) titled “Permit Requirements,” submitted on October 18, 2019. This revision updates 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. These counties therefore must comply with certain additional permitting requirements under Rule 391-3-1-.03(8), subparagraph (8)(c)15. In addition, the October 18, 2019, submittal makes typographical edits to Rule 391-3-1.03(8). EPA has concluded that the SIP revision is consistent with the CAA and applicable regulations.

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 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 subject to this action 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 12, 2020.

Mary Walker,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, the 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 L – Georgia

2. In § 52.570, the table in paragraph (c) is amended by revising the entry for “391-3-1-.03(8)” to read as follows:

§ 52.570 Identification of plan.

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(c) * * *

EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
391-3-1-.03(8)	Permit Requirements	9/26/2019	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	
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[FR Doc. 2020-18108 Filed: 9/15/2020 8:45 am; Publication Date: 9/16/2020]