

NAAQS, Georgia seeks to remove subparagraph (13)(a)1. from the SIP.

Next, GA EPD revises the counties listed at subparagraph (a)2. to add the 13 counties removed from subparagraph (a)1. Sources in counties listed in this subparagraph that emit greater than 100 tpy of NO_x or VOCs may participate in the ERC program. Of these 13 added counties, six are part of the Atlanta 2015 8-hour Ozone Area. The remaining seven counties are part of the maintenance area for the 2008 8-hour ozone NAAQS. Georgia's SIP-approved rules require these counties to comply with requirements applicable to nonattainment areas. See Georgia Rule 391-3-1-.03(8)(c)(14). Because these 13 counties either are in a nonattainment area or must otherwise comply with GA EPD's nonattainment area requirements, EPA believes they are appropriately included in the State's ERC program at subparagraph (a)2.

Finally, subparagraph (13)(a)2. is further modified to remove the five counties that were previously part of the maintenance area for the 1997 8-hour ozone NAAQS and are not part of the maintenance area for the 2008 8-hour ozone NAAQS (*i.e.*, Barrow, Carroll, Hall, Spalding, and Rockdale counties). GA EPD adds these five counties to the list of counties determined to contribute to ambient levels of ozone within the nonattainment area at subparagraph (a)3. See Georgia Rules 391-3-1-.03(8)(c)15. and 391-3-1-.03(8)(e)1. The effect of this change is that EGUs with a PTE greater than 100 tpy of NO_x or VOCs in these counties are eligible to create and bank NO_x and VOC ERCs.

In sum, these revisions clarify eligibility for sources in certain counties to bank and create ERCs. These changes also make paragraph 391-3-1-.03(13)(a) consistent with current provisions under the State's Nonattainment New Source Review (NNSR) permitting program.⁷ EPA also notes that the ERC program is a flexibility tool used by States and affected sources to comply with otherwise applicable requirements and is not expected to impact emissions in the State. Therefore, EPA is preliminarily concluding that these changes are consistent with the CAA and applicable EPA regulations.⁸

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 Georgia Rule 391-3-1-.03(13), titled "Emission Reduction Credits," effective September 26, 2019, to clarify which sources in which areas of the State are eligible to create and bank 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).

IV. Proposed Action

EPA is proposing to approve the Georgia SIP revision with changes to Regulation 391-3-1-.03(13), *Emission Reduction Credits*, submitted October 18, 2019, to clarify which sources in which areas are eligible to create, bank, transfer, or use ERCs of NO_x and VOCs, corresponding to the counties that are either currently in nonattainment or contributing to the current nonattainment area. EPA has preliminarily concluded that the SIP revision is consistent with the CAA and EPA's federal 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, provided that they meet the criteria of the CAA. 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 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 (Pub. L. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, 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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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2020-0173; FRL-10009-01-Region 9]

Limited Approval, Limited Disapproval of Arizona Air Plan Revisions, Hayden Area; Sulfur Dioxide Control Measures—Copper Smelters

AGENCY: Environmental Protection Agency (EPA).

⁷ See 85 FR 2646 (January 16, 2020)

⁸ EPA has also preliminarily concluded that these changes are consistent with applicable guidance on emissions trading, including EPA's "Emissions Trading Policy Statement; General Principles for Creation, Banking and Use of Emission Reduction Credits." 51 FR 43814 (Dec. 4, 1986).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of revisions to the Arizona State Implementation Plan (SIP). This revision concerns sulfur dioxide (SO₂) emissions from the primary copper smelter in Hayden, Arizona. We are proposing action on a local rule submitted by the Arizona Department of Environmental Quality (ADEQ) that regulates these emissions under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before June 22, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2020–0173 at <http://www.regulations.gov>. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). The 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. The 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, 75 Hawthorne St., San Francisco, CA

94105. By phone: (415) 972–3073 or by email at gong.kevin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted and submitted by the ADEQ.

TABLE 1—SUBMITTED RULE

Rule #	Rule title	Effective date	Submitted
R18–2–B1302	Limits on SO ₂ Emissions from the Hayden Smelter	July 1, 2018	April 6, 2017.

On July 17, 2017, the EPA determined that the submittal for the rules and documents in Table 1 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.¹

B. Are there other versions of this rule?

There are no previous versions of R18–2–B1302 (“Rule B1302”) in the SIP.

C. What is the purpose of the submitted rule?

On June 22, 2010, the EPA promulgated a new 1-hour primary sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) of 75 parts per billion (ppb). On August 5, 2013, the EPA designated the Hayden area within Arizona as nonattainment for the 2010 SO₂ NAAQS. This designation became effective on October 4, 2013. Section 191(a) of the CAA directs states to submit SIPs for areas designated as nonattainment for the SO₂ NAAQS to the EPA within 18 months of the effective date of the designation, *i.e.*,

by no later than April 4, 2015, in this case. Under CAA section 192(a), these plans are required to have measures that will help their respective areas attain the NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of designation, which for the Hayden SO₂ NAA was October 4, 2018.

ADEQ submitted an attainment plan for the Hayden SO₂ nonattainment area on March 9, 2017 (“Hayden SO₂ Plan”) and submitted associated final rules, including Rule B1302, on April 6, 2017.² Rule R18–2–B1302 establishes control requirements for SO₂ emissions from the copper smelter located in the Hayden, AZ nonattainment area (“Hayden Smelter”).

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in a SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable

further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). CAA section 172(c)(1) requires that SIPs for nonattainment areas provide for the implementation of all reasonably available control measures (RACM), including any reasonably available control technology (RACT), in order to provide for attainment of the NAAQS, and CAA section 172(c)(6) requires that such SIPs “include enforceable emission limitations, and such other control measures means or techniques . . . as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of such standard in such area by the applicable attainment date”

Guidance and policy documents that we use to evaluate enforceability, revision and rule stringency requirements for the applicable criteria pollutants include the following:

- “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR

¹ Letter dated July 17, 2017 from Elizabeth Adams, Director, Air Division, EPA, Region IX to Timothy S. Franquist, Director, Air Quality Division, ADEQ.

² Letters dated March 8, 2017 and April 6, 2017 from Timothy S. Franquist, Director, Air Quality Division, ADEQ, to Alexis Strauss, Acting Regional Administrator, EPA, Region IX. Although the cover letter for the Hayden SO₂ Plan was dated March 8, 2017, the Plan was transmitted to the EPA on March 9, 2017.

13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

- “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

- “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).

- “Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions,” EPA Office of Air Quality Planning and Standards (April 23, 2014).

B. Does the rule meet the evaluation criteria?

Rule B1302 improves the SIP by establishing a more stringent SO₂ emission limit for the main stack at the Hayden smelter than the existing requirements in state law, as well as new operational standards and monitoring, recordkeeping and reporting requirements for the smelter. The rule is partly consistent with CAA requirements and relevant guidance regarding enforceability and SIP revisions. Rule provisions that do not meet the evaluation criteria are summarized below and discussed further in the technical support document (TSD) for this action.

C. What are the rule deficiencies?

These aspects of the rule do not satisfy the requirements of section 110 and 172(c)(6) of the Act and prevent full approval of the SIP revision:

1. The rule does not contain any numeric emission limit(s) or ongoing monitoring requirements corresponding to the levels of fugitive emissions that were modeled in the Hayden SO₂ Plan.³ Therefore, the rule does not fully satisfy CAA section 172(c)(6).

2. Rule subsection (E)(4) provides an option for alternative sampling points that could undermine the enforceability of the stack emission limit by providing undue flexibility to change sampling points without undergoing a SIP revision.

3. Rule subsection (E)(6) allows for just under 10% of total facility SO₂ emissions annually to be exempt from CEMS; this could compromise the enforceability of the main stack emission limit.

4. The rule lacks a method for measuring or calculating emissions from the shutdown ventilation flue; this could compromise the enforceability of the main stack emission limit.⁴

³ The EPA is proposing to partially approve and partially disapprove the Hayden SO₂ Plan in a separate rulemaking action.

⁴ Rule B1302, section (F)(2) contains a procedure for substituting emissions data for compliance

5. The rule lacks a method for calculating hourly SO₂ emissions, so it is unclear what constitutes a “valid hour” for purposes of allowing data substitution.

D. EPA Recommendations To Further Improve the Rule

In addition to detailing the rule deficiencies listed in the previous section, the TSD includes several other recommendations for improvement for the next time the State modifies the rule.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is proposing a limited approval and limited disapproval of the submitted rule. We will accept comments from the public on this proposal until June 22, 2020. If finalized, this action would incorporate the submitted rule into the SIP, including those provisions identified as deficient. This approval is limited because the EPA is simultaneously proposing a limited disapproval of the rule under section 110(k)(3).

Rule B1302 is relied upon by Arizona in the Hayden SO₂ Attainment State Implementation Plan, which is required under CAA title I, part D. Therefore, if finalized, this disapproval would trigger sanctions under CAA section 179 and 40 CFR 52.31, unless the EPA determines that a subsequent SIP revision corrects the rule deficiencies within 18 months of the effective date of the final action.

Note that the submitted rule has been adopted by ADEQ, and the EPA’s final limited disapproval would not prevent the State from enforcing it. The limited disapproval also would not prevent any portion of the rule from being incorporated by reference into the federally enforceable SIP.⁵

III. Incorporation by Reference

In this rule, the 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, the EPA is proposing to incorporate by reference the ADEQ rules described in Table 1 of this preamble. The EPA has made, and

demonstration purposes, “when no valid hour or hours of data have been recorded by a continuous monitoring system.” In the absence of a method for calculating hourly emissions, it is unclear when this procedure is to be used.

⁵ See Memorandum dated July 21, 1992 from John Calcagni, Director Air Quality Management Division, to EPA Regional Air Directors, Regions I–X, Subject: “Processing of State Implementation Plan (SIP) Submittals.”

will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: May 12, 2020.

John Busterud,

Regional Administrator, Region IX.

[FR Doc. 2020–10587 Filed 5–21–20; 8:45 am]

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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 June 22, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2020–0071 at

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.

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

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, 2019,¹ 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.² 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, these counties comprise the current maintenance area for the 2008 8-hour ozone NAAQS,³ 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;⁴ identify the net emissions increase threshold triggering the

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

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

³ 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.

⁴ These pollutants are precursors to the formation of ozone.