Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.


Daniel Blackman,
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

§ 52.569 [Removed and Reserved]

2. Remove and reserve § 52.569;

EPA-APPROVED GEORGIA REGULATIONS

<table>
<thead>
<tr>
<th>State citation</th>
<th>Title/subject</th>
<th>State effective date</th>
<th>EPA approval date</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>391–3–1–02(7)</td>
<td>Prevention of Significant Deterioration of Air Quality (PSD).</td>
<td>7/29/2020</td>
<td>5/9/2022, [Insert citation of publication].</td>
<td>Except for the automatic rescission clause at 391–3–1–02(7)(a)(2)(iv), which EPA disapproved on March 4, 2016. Except for portions of Rule 391–3–1–02(7) incorporating by reference 40 CFR 52.21(b)(2)(vi), and 40 CFR 52.21(b)(3)(iii)(c), because those CFR provisions were indefinitely stayed by the Fugitive Emissions Rule in the March 30, 2011 rulemaking and have not been approved into the Georgia SIP.</td>
</tr>
</tbody>
</table>

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

<table>
<thead>
<tr>
<th>Name of nonregulatory SIP provision</th>
<th>Applicable geographic or nonattainment area</th>
<th>State submittal date/effective date</th>
<th>EPA approval date</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>110(a)(1) and (2) Infrastructure Requirements for the 2015 8-Hour Ozone NAAQS.</td>
<td>Georgia</td>
<td>September 1, 2020</td>
<td>5/9/2022, [Insert citation of publication].</td>
<td>Addressing the PSD provisions related to major sources under sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3), and 110(a)(2)(U) only.</td>
</tr>
</tbody>
</table>

[FR Doc. 2022–09706 Filed 5–6–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Air Plan Approval; NC; Great Smoky Mountains National Park, Raleigh-Durham-Chapel Hill and Rocky Mount Areas Limited Maintenance Plans for the 1997 8-Hour Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve state implementation plan (SIP) revisions submitted by the State of North Carolina, through the North Carolina Department of Environment and Natural Resources, Division of Air Quality (NCDAQ), in a letter dated September 22, 2020. The SIP revisions include the 1997 8-hour ozone national ambient air quality standards (NAAQS) Limited Maintenance Plans (LMPs) for the Great Smoky Mountains National Park (GSMNP), Raleigh-Durham-Chapel Hill (Triangle) and Rocky Mount, North Carolina Areas (collectively, “Areas”). EPA is finalizing approval of the LMPs for the Areas because each LMP provides for the maintenance of the 1997 8-hour ozone NAAQS within each of the Areas through the end of the second 10-year portion of the maintenance period. This action makes certain commitments related to maintenance of the 1997 8-hour ozone NAAQS in the Areas federally-enforceable as part of the North Carolina SIP.

DATES: This rule is effective June 8, 2022.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2021–0062. All documents in the docket are listed on the www.regulations.gov website. 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: Dianna Myers, 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 is (404) 562–9207. Ms. Myers can also be reached via electronic mail at myers.diana@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Clean Air Act (CAA or Act), EPA is approving the Areas’ LMPs for the 1997 8-hour ozone NAAQS, adopted and submitted by NCDAQ as revisions to the North Carolina SIP on September 22, 2020. On April 15, 2004, EPA published a final rule designating the GSMNP, Triangle and Rocky Mount Areas nonattainment for the 1997 8-hour ozone NAAQS. The GSMNP nonattainment area included portions of Haywood and Swain Counties. The Triangle nonattainment area included Durham, Franklin, Granville, Johnston, Orange, Person and Wake Counties in their entirety and the Townships of Baldwin, Center, New Hope and Williams in Chatham County. The Rocky Mount nonattainment area included Edgecombe and Nash Counties in their entirety. Subsequently, EPA approved the maintenance plans for the GSMNP, Triangle and Rocky Mount Areas and redesignated the Areas to attainment for the 1997 8-hour ozone NAAQS.

The Areas’ LMPs for the 1997 8-hour ozone NAAQS, submitted by NCDAQ on September 22, 2020, are designed to maintain the 1997 8-hour ozone NAAQS within the GSMNP, Triangle and Rocky Mount Areas through the end of the second 10-year portion of the maintenance period beyond redesignation. As a general matter, the Areas’ LMPs rely on the same control measures and relevant contingency provisions to maintain the 1997 8-hour ozone NAAQS during the second 10-year portion of the maintenance period as the maintenance plan submitted by NCDAQ for the first 10-year period.

In a notice of proposed rulemaking (NPRM), published on February 11, 2022 (87 FR 7970), EPA proposed to approve the Areas’ LMPs because the State made a showing, consistent with EPA’s prior LMP guidance, that the GSMNP, Triangle and Rocky Mount 1997 8-hour NAAQS Areas’ ozone concentrations are well below the 1997 8-hour ozone NAAQS and have been historically stable and that it met the other maintenance plan requirements. The details of North Carolina’s submission and the rationale for EPA’s action are explained further in the February 11, 2022, NPRM. Comments on the February 11, 2022, NPRM were due on or before March 14, 2022.

II. Response to Comments

One Commenter provided two separate comments on the February 11, 2022, NPRM. EPA’s responses to those comments are provided below.

Comment 1: The Commenter indicates that North Carolina’s SIP submissions and EPA’s proposed approval are reliant on emissions from North Carolina’s vehicle inspection and maintenance (I/M) program. Specifically, the Commenter expresses concerns about the effectiveness of the I/M program, citing expired tags, which the Commenter asserts indicate lapsed inspections and taxes to support highway safety measures.

Response 1: Neither of the commenter’s concerns related to possible expired tags, this is an enforcement and compliance issue, and expired tags alone are not indicative of the commenter’s conclusion that the commenter is not in compliance with all NAAQS. The commenter’s concern is not relevant to EPA’s action.

Comment 2: The commenter asserts that monitors in Wake County are not sited correctly to measure ambient air quality in the County, and therefore, do not provide adequate data to support the commenter’s action. Specifically, the commenter questions the placement of the monitors, the sufficiency of the data that is collected, and the methodology used to collect the data. In support of these assertions, the commenter compares the Town of Fuquay Varina, metropolitan downtown Raleigh, and Durham (“the State Capital”). The commenter also asserts that projects may have been

1 See 60 FR 23857.

2 See 74 FR 63995 (December 7, 2009), 72 FR 6948 (December 20, 2007), and 71 FR 64981 (November 6, 2006).

3 Swain County in the GSMNP area was never subject to North Carolina’s I/M program.
"intentionally steered clear" of monitors "to provide an unrealistic picture of Wake County air degradation."

Response 2: EPA disagrees with the Commenter’s assertion that the monitors in Wake County are not sited appropriately to collect sufficient data to determine compliance with the NAAQS and support EPA’s action. By regulation, states are required annually to submit monitoring network plans to provide their strategies for measuring ambient air quality statewide. EPA reviews these air monitoring network plans and makes determinations as to whether the plans are consistent with EPA’s monitoring requirements at 40 CFR part 58. EPA last approved North Carolina’s monitoring network plan on October 27, 2021, and made the determination (among other determinations) that North Carolina’s monitoring network is adequate to measure ambient air quality for ozone statewide, including in Wake County.4 As discussed in the NPRM, the LMPs for the Areas contain the State’s commitment to continue to maintain a monitoring network in accordance with EPA requirements.

Further, EPA is not clear on the Commenter’s assertion that projects may have been “intentionally steered clear" of monitors “to provide an unrealistic picture of Wake County air degradation,” and how this relates to air quality in the County. Notably, ozone is not directly emitted but instead is formed in the atmosphere under certain conditions with a mix of precursors, so it would not be possible for projects to be “intentionally steered clear” of ozone monitors to hypothetically manipulate air quality in the Area. In addition, the Commenter does not provide any technical information to support the assertions that ambient air quality monitoring in Wake County is not adequate.

III. Final Action

EPA is taking final action to approve the GSMP, Triangle and Rocky Mount LMPs for the 1997 8-hour ozone NAAQS, submitted by NCDAQ on September 22, 2020, as revisions to the North Carolina SIP. EPA is approving the Areas’ LMPs because each LMP includes an updated monitoring network for all elements of the 1997 8-hour ozone NAAQS. As noted in the NPRM, the LMPs provide for the first 10-year period (including emissions inventory, assurance of adequate monitoring and verification of continued attainment, and contingency provisions), and retains the relevant provisions of the SIP under sections 110(k) and 175A of the CAA.

EPA also finds that the Areas qualify for the LMP option and that the Areas’ LMPs are sufficient to provide for maintenance of the 1997 8-hour ozone NAAQS in the Areas over the second 10-year maintenance period (i.e., through January 6, 2030 for the GSMP Area, through January 5, 2027, for the Rocky Mount Area, and through December 26, 2027, for the Triangle Area).

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. These actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not significant regulatory actions 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);
- Do not impose information collection burdens under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Are certified as not having significant economic impacts on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Do not contain any unfunded mandates or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Do not have federalism implications as specified in Executive Order 13132 (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 these actions 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. These actions are 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 these actions must be filed in the United States Court of Appeals for the appropriate circuit by July 8, 2022. 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. These actions may not be challenged later in proceedings to enforce their 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 oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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4 EPA’s approval letter for North Carolina’s monitoring network is included in the docket for this final rulemaking.

Daniel Blackman,  
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 II—North Carolina

2. In § 52.1770(e), amend the table by adding an entry for “1997 8-hour Ozone NAAQS 2nd Maintenance Plans (Limited Maintenance Plans) for the Great Smoky Mountains National Park, Raleigh-Durham-Chapel Hill, and Rocky Mount, North Carolina Areas” at the end of the table to read as follows:

<table>
<thead>
<tr>
<th>Provision</th>
<th>State effective date</th>
<th>EPA approval date</th>
<th>Federal Register citation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997 8-hour Ozone NAAQS 2nd Maintenance Plans</td>
<td>9/22/2020</td>
<td>5/9/2022</td>
<td>[Insert citation of publication]</td>
<td></td>
</tr>
</tbody>
</table>

EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

On March 8, 2022, EPA publish a notice of proposed rulemaking (NPRM) to approve the October 15, 2020, SIP revisions regarding 401 KAR 63:010. EPA’s March 8, 2022, NPRM provides additional details regarding the background for this action and EPA’s rationale for approving this revision. See 87 FR 12904. Comments on the March 8, 2022, NPRM were due on or before April 7, 2022. EPA received no comments on the March 8, 2022, NPRM.

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, EPA is finalizing the incorporation by reference of Kentucky’s Regulation 401 KAR 63:010—Fugitive Emissions, state effective on June 30, 2020, which EPA notes that the Commonwealth’s submission was received on October 16, 2020. However, for clarity, EPA will refer to this submission by its cover letter date of October 15, 2020.