

Third, the 2013–2015 NO<sub>2</sub> design values in South Carolina and surrounding states are well below the 100 ppb standard. The highest monitored design values during this time period are 56 to 65 percent below the NAAQS with Georgia and Florida recording the highest design values (48 and 44 ppb, respectively).<sup>17</sup>

Fourth, NO<sub>x</sub> point source emissions data provided in the SIP submittal show that NO<sub>x</sub> emissions decreased from 72,885 tons in 2008 to 41,070 tons in 2014, a reduction of approximately 44 percent.<sup>18</sup>

For all the reasons discussed above, EPA has preliminarily determined that South Carolina does not contribute significantly to nonattainment or interfere with maintenance of the 2010 1-hour NO<sub>2</sub> NAAQS in any other state and that South Carolina's SIP includes adequate provisions to prevent emissions sources within the State from significantly contributing to nonattainment or interfering with maintenance of this standard in any other state.

## V. Proposed Action

As described above, EPA is proposing to approve South Carolina's December 7, 2016, SIP revision addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i) for the 2010 1-hour NO<sub>2</sub> NAAQS.

## VI. 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. 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 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);
- Does not impose an information collection burden under the provisions

<sup>17</sup> This information is available in the SIP submittal and at <https://www.epa.gov/air-trends/air-quality-design-values>. Design values are computed and published annually by EPA's Office of Air Quality Planning and Standards and reviewed in conjunction with the EPA Regional Offices.

<sup>18</sup> The State reported these NO<sub>x</sub> emissions as NO<sub>2</sub> emissions in its SIP submittal.

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 actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory actions 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).

In addition, this proposed rule for the state of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have substantial direct effects on an Indian Tribe. The Catawba Indian Nation Reservation is located within the State of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120, "all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities." EPA notes this action will not 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, Reporting and recordkeeping requirements.

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

Dated: August 3, 2017.

### V. Anne Heard,

*Acting Regional Administrator, Region 4.*

[FR Doc. 2017–17223 Filed 8–14–17; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2007–1092; FRL–9966–14–Region 5]

### Air Plan Approval; Michigan Minor New Source Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve certain changes to the Michigan State Implementation Plan (SIP). This action relates to changes to the Permit to Install (PTI) requirements of the Michigan Rules submitted on November 12, 1993; May 16, 1996; April 3, 1998; September 2, 2003; March 24, 2009; and February 28, 2017.

**DATES:** Comments must be received on or before September 14, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–1092 at <http://www.regulations.gov>, or via email to [damico.genvieve@epa.gov](mailto:damico.genvieve@epa.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). For either manner of submission, 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, 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://www2.epa.gov/dockets/commenting-epa-dockets>.

### FOR FURTHER INFORMATION CONTACT:

Rachel Rineheart, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard,

Chicago, Illinois 60604, (312) 886-7017, [Rineheart.rachel@epa.gov](mailto:Rineheart.rachel@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. Review of State Submittals
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

**I. Background**

Section 110(a)(2)(C) of the Clean Air Act (CAA) requires that the SIP include a program to provide for the “regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved.” This includes a program for permitting construction and modification of both major sources and minor sources that the State deems necessary to protect air quality. The

State of Michigan’s minor source PTI rules are contained in Part 2 of the Michigan Administrative Code. EPA last approved changes to the Part 2 rules in 1982. The Michigan Department of Environmental Quality (MDEQ) has submitted several Part 2 revision packages since that time; however, EPA has not taken a final action on any of the submittals. The following table provides a summary of the various state submittals with the most recent version of each section of the Michigan Rule highlighted in bold.

Submittal	State effective date	Submittal date	Rules submitted 336.1xxx
1 .....	04/20/1989 04/17/1992 11/18/1993	11/12/1993 ..... .....	240, 241. 201, 283. 278, 279, 280, 281, 282, 284, 285, 286, 287, 288, 289, 290.
2 .....	07/26/1995	05/16/1996	201, 205, <b>208 (rescinded)</b> , 209, 219, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290.
3 .....	12/12/1996	04/03/1998	201a, 205.
4 .....	06/13/1997	08/20/1998	278, 283, 284, 285, 286, 287, 290.
5 .....	07/01/2003	09/02/2003	201, <b>201a</b> , 202, <b>203</b> , <b>204</b> , 205, <b>206</b> , 207, <b>212</b> , <b>216</b> , 219, 240, 241, 278, 278a, <b>279 (rescinded)</b> , 281, 282, 284, 285, 287, 289, 299.
6 .....	06/20/2008	03/24/2009	<b>201</b> , <b>202</b> , <b>205</b> , <b>207</b> , <b>219</b> , <b>240</b> , <b>241</b> , <b>278</b> , 281, 284, 285, 288, <b>299</b> .
7 .....	12/20/2016	2/21/2017	<b>278a</b> , <b>280</b> , <b>281</b> , <b>282</b> , <b>283</b> , <b>284</b> , <b>285</b> , <b>286</b> , <b>287</b> , <b>288</b> , <b>289</b> , <b>290</b> .

EPA published a proposed disapproval of the 1993, 1996, and 1998 submittals on November 9, 1999; however, EPA never published a final disapproval. The changes included in the 2003, 2009, and 2017 submittals were primarily intended to address disapproval issues identified by EPA in 1999. At the time of the 1999 proposed disapproval, the Part 2 Rules also included the state’s major non-attainment PTI program. The major non-attainment provisions have been removed from Part 2, and are now covered by the Part 19 rules which were approved on December 16, 2013.

**II. Review of State Submittals**

Section 110(a)(2)(C) of the CAA requires that each SIP include a program to provide for the regulation of construction and modification of stationary sources as necessary to assure that the National Ambient Air Quality Standards (NAAQS) are achieved. Specific elements for an approvable construction permitting plan are found in the implementing regulations at 40 CFR 51 subpart I—Review of New Sources and Modifications. Requirements relevant to minor construction programs are 40 CFR 51.160–51.163. EPA regulations have few specific criteria for state minor new source review (NSR) programs. Generally, state programs must set forth legally enforceable procedures that allow the state to determine if a planned

construction activity would result in a violation of the state’s SIP or a national standard and prevent any activity that would. In accordance with 40 CFR 51.162, the state plan must identify the responsible agency for making permitting decisions. 40 CFR 51.160 requires that the plan identify the types and sizes of activities that are subject to the plan, provide that sources undertaking an activity submit adequate information regarding the location, design and emissions related information to enable the state to make a determination, and discuss the air quality data and dispersion or other air quality modeling used. 40 CFR 51.161 provides specific criteria for public availability of information and opportunity for public comment. Finally, 40 CFR 51.164 requires that the plan identify the administrative procedures that will be followed in making permitting decisions.

The revisions to Part 2 submitted by MDEQ are largely provisions that strengthen the already approved minor NSR program adding greater detail with respect to applicability, required application material, and processing of applications; however, the revisions do include changes to waiver provisions and the addition of several categories of exemptions from the requirement to obtain a PTI. The revisions also include changes the public notice requirements, Michigan R 336.1205. EPA is not acting on Michigan R 336.1205 at this time,

and it will be addressed in a subsequent rulemaking action.

The expansion of exemptions would be viewed as a potential relaxation of the already approved plan; therefore, Michigan was required to provide information as required by section 110(l) of the CAA to demonstrate that the revision would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. The 2003 and 2017 submittals provide analyses of the emissions associated with each new exemption and the impact they would have on air quality. EPA’s review of the waiver and exemption provisions are discussed in greater detail below.

Michigan R 336.1202 provides a waiver from the requirement to obtain a permit prior to commencing construction under limited circumstances. The Prevention of Significant Deterioration (PSD) provisions of the CAA prohibit commencement of construction without first obtaining the required permit authorizing construction; however, the requirement only applies to major sources, and no such restriction is specified under the minor NSR program requirements set forth in 40 CFR 51.160. In addition, EPA has made determinations which further support that limited construction may begin before a permit is issued for minor sources. For example, EPA’s October 10,

1978, memorandum from Edward E. Reich to Thomas W. Devine in Region 1 discusses limited preconstruction activities allowed at a site with both PSD and non-PSD sources. This memo states that construction may begin on PSD-exempt projects before the permit is issued. Furthermore, EPA approved a rule for Idaho's permit program and Wisconsin's permit program which allowed construction to commence under limited circumstance prior to a permit being issued. (See 68 FR 2217 and 73 FR 12893.) As stated previously, the minor NSR provisions at 40 CFR 51.160 require state programs to determine if activities would violate an applicable SIP or national standard and to prevent construction of an activity that would violate an applicable SIP provision or national standard. Michigan R 336.1202(1) requires an application for a waiver be submitted to MDEQ and requires MDEQ to act on the request within 30 days. Construction may not proceed unless the waiver is granted. The rule also indicates that the waiver does not guarantee approval of the required PTI and any construction activity would be at the owner/operator's risk. Michigan R 336.1202(2) limits the waiver to minor construction activities and activities that are not considered construction or reconstruction under a National Emission Standard for Hazardous Air Pollutants of 40 CFR part 61 or part 63. EPA finds the Michigan waiver provisions are consistent with EPA regulations and policy, are similar to waiver provisions previously approved in Idaho and Wisconsin, and provide adequate assurance that major construction activities would be prevented and activities will not result in a violation of the SIP or a national standard.

Generally, MDEQ requires a PTI for any activity that results in the emission of any amount of a regulated air pollutant. The state's minor NSR program does not exempt based on emission thresholds and instead lists specific exempt source categories of emissions. The exemption provisions considered in this action are Michigan R 336.1278, 336.1278a, and 336.1280–336.1290. When determining adequacy of the state rules, EPA is concerned with the possibility that an exemption might allow an activity that should be subject to major source permitting requirements escape appropriate review and permitting, that sources are required to maintain information adequate for the state to ensure that exemptions have been applied appropriately, and that the exemptions would not interfere with

any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

Michigan R 336.1278 and 336.1278a provide limitation on the use of the specific exemptions provided in R 336.1280–336.1290, and require sources using the exemptions to maintain certain records to demonstrate that the exemptions have been applied appropriately. Michigan R 336.1278 excludes any activity that would be subject to PSD or major non-attainment permitting from use of the exemptions. The rule also defines activity to include all “concurrent and related installation, construction, reconstruction, relocation, or modification of any process or process equipment” which will ensure that projects are aggregated properly before applying an exemption. Michigan R 336.1278a requires owner/operators applying an exemption to maintain records and a written demonstration supporting application of the exemption. Additionally, specific exemptions may include additional monitoring and recordkeeping as required to ensure that the equipment is operating as required under the exemption.

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. The exemptions only apply to the need to obtain a PTI prior to construction. Exempt units would still be required to comply with any non-PTI related SIP requirements or standards under the CAA. The 2003 and 2017 submittals provide an estimation of emissions that could result from each exemption. Many of these exemptions would result in very low levels of emissions, generally less than 3 tons per year of a regulated pollutant. Several would likely result in no emission of a regulated pollutant. Where an exemption could result in an increase of a regulated pollutant in amounts greater than 10 tons per year, MDEQ provided modeling, or in the case of ozone a qualitative analysis to demonstrate that the emissions that could result from the exempt categories would have no significant impact on compliance with the NAAQS. After reviewing the information provided by MDEQ, EPA agrees that the exemptions are unlikely to result in a violation of the NAAQS.

### III. What action is EPA taking?

EPA is proposing to approve all changes submitted by MDEQ except for changes to Michigan R 336.1205 which includes provisions for public notice. EPA will not be taking any action with respect to the changes in public notice and will be addressing Michigan R 336.1205 in a separate action. The already approved public notice procedures will remain in the SIP until EPA takes action on Michigan R 336.1205.

### IV. Incorporation by Reference

In this rule, EPA proposes to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA proposes to incorporate by reference Michigan's updated permitting rules including 336.1209, effective 07/26/1995; 336.1201a, 336.1203, 336.1204, 336.1206, 336.1212, 336.1216, effective 07/01/2003; 336.1201, 336.1202, 336.1207, 336.1219, 336.1240, 336.1241, 336.1278, 336.1299, effective 06/20/2008; and 336.1278a, 336.1280, 336.1281, 336.1282, 336.1283, 336.1284, 336.1285, 336.1286, 336.1287, 336.1288, 336.1289, 336.1290, effective 12/20/2016. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov), and/or at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### 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 Clean Air Act and applicable Federal regulations. 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 Clean Air Act. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 Clean Air Act; 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).

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.

Dated: July 27, 2017.

**Robert A. Kaplan,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2017–17230 Filed 8–14–17; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2016–0634; FRL–9966–32–Region 4]

#### Air Plan Approval; Georgia; Regional Haze Progress Report

**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, Department of Natural Resources, through the Georgia Environmental Protection Division (GA EPD) on January 8, 2014. Georgia's January 8, 2014, SIP revision (Progress Report) addresses requirements of the Clean Air Act (CAA or Act) and EPA's rules that require each state to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing SIP addressing regional haze (regional haze plan). EPA is proposing to approve Georgia's determination that the State's regional haze plan is adequate to meet these RPGs for the first implementation period covering through 2018 and requires no substantive revision at this time.

**DATES:** Comments must be received on or before September 14, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2016–0634 at <http://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

<http://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached by phone at (404) 562–9031 and via electronic mail at [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

States are required to submit a progress report in the form of a SIP revision during the first implementation period that evaluates progress towards the RPGs for each mandatory Class I federal area<sup>1</sup> (Class I area) within the state and for each Class I area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). In addition, the provisions of 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze plan. The first progress report is due five years after submittal of the initial regional haze plan. Georgia submitted its first regional haze plan on February 11, 2010, and supplemented its plan on November 19, 2010.<sup>2</sup>

Like many other states subject to the Clean Air Interstate Rule (CAIR), Georgia relied on CAIR in its regional haze plan to meet certain requirements of EPA's Regional Haze Rule, including best available retrofit technology (BART) requirements for emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) from certain electric generating units (EGUs) in the State.<sup>3</sup> This reliance was consistent with EPA's regulations at the time that Georgia developed its regional haze plan. *See* 70 FR 39104 (July 6, 2005). However, in 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C.

<sup>1</sup> Areas designated as mandatory Class I federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). These areas are listed at 40 CFR part 81, subpart D.

<sup>2</sup> Georgia's February 11, 2010, regional haze plan as supplemented on November 19, 2010, is hereinafter collectively referred to as Georgia's regional haze plan unless otherwise specified.

<sup>3</sup> CAIR required certain states, including Georgia, to reduce emissions of SO<sub>2</sub> and NO<sub>x</sub> that significantly contribute to downwind nonattainment of the 1997 National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>) and ozone. *See* 70 FR 25162 (May 12, 2005).