

beginning before January 1, 2018, and each subsequent taxable year of the foreign corporation, provided that the taxpayer and United States persons that are related (within the meaning of section 267 or 707) to the taxpayer consistently apply such paragraph with respect to all foreign corporations. For payments made before October 1, 2019, where the taxpayer does not apply the provisions of paragraph (c)(5)(i)(C) of this section, see paragraph (c)(5)(i)(C) of this section as in effect and contained in 26 CFR part 1, as revised April 1, 2020.

**Sunita Lough,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 24, 2020

**David J. Kautter,**

*Assistant Secretary for the Treasury (Tax Policy).*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2020–0072; FRL–10013–73–Region 4]

### Air Plan Approval; Georgia: Emission Reduction Credits

**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 in a letter dated October 18, 2019. The SIP revision updates Georgia's rule entitled *Emission Reduction Credits* which establishes a program for sources in specified counties to apply for credits for voluntary emissions reductions. EPA has evaluated Georgia's submittal and determined that it meets the applicable requirements of the Clean Air Act (CAA or Act) and EPA regulations.

**DATES:** This rule is effective October 22, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0072. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not 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](http://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 be reached via telephone at (404) 562–9144 or via electronic mail at [williams.pearlene@epa.gov](mailto:williams.pearlene@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Georgia Environmental Protection Division (GA EPD) submitted a revision to its SIP in a letter dated October 18, 2019,<sup>1</sup> modifying Rule 391–3–1–.03(13), *Emission Reduction Credits*,<sup>2</sup> in the State's air permitting rules. This submittal revises the counties in which sources may create emission reduction credits (ERCs). This change aligns Georgia's ERC program with the current status of counties designated nonattainment or contributing to a nonattainment area.

Georgia's October 18, 2019, SIP submittal revises the counties listed in Rule 391–3–1–.03(13)(a) to ensure that only sources in counties currently designated nonattainment—and counties<sup>3</sup> contributing to the ambient air quality in the nonattainment area—may participate in the ERC program. The details of the submittal and EPA's rationale for approving the changes are discussed in a notice of proposed

rulemaking (NPRM) dated May 22, 2020. See 85 FR 31112. Comments were due on the May 22, 2020, NPRM by June 22, 2020. No comments were received on the proposed action.

These changes 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 permitting program.<sup>4</sup> 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 concludes that these changes are consistent with the CAA and applicable EPA regulations.<sup>5</sup>

## 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(13), entitled “Emission Reduction Credits,” effective September 26, 2019,<sup>6</sup> 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, these materials generally available through [www.regulations.gov](http://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.<sup>7</sup>

<sup>4</sup> See 85 FR 2646 (January 16, 2020).

<sup>5</sup> EPA has also 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.” See 51 FR 43814 (December 4, 1986).

<sup>6</sup> Specifically, in this action, EPA is incorporating by reference subsections (a), (d), and (h) of Rule 391–3–1–.03(13) with a state-effective date of September 26, 2019. EPA previously approved and incorporated by reference subsection (f) with a state-effective date of July 18, 2001, and subsections (b), (c), (e), (g), and (i) with a state-effective date of February 6, 2000; those prior approvals are not impacted by this action. EPA has included a clarifying explanation to this effect in the entry for Rule 391–3–1–.03(13) at 40 CFR 52.570(c).

<sup>7</sup> See 62 FR 27968 (May 22, 1997).

<sup>1</sup> EPA notes the Agency received the submittal on October 24, 2019.

<sup>2</sup> EPA notes that the Agency received several submittals revising the Georgia SIP transmitted with the same October 18, 2019, cover letter. EPA is considering action for these other SIP revisions in separate rulemakings.

<sup>3</sup> The NPRM dated May 22, 2020 (85 FR 31112) incorrectly included Rockdale county in the list of five counties being moved from 391–3–1–.03(13)(a)2 to (a)3. The correct list of counties being moved in this action includes Barrow, Carroll, Hall, Spalding, and Walton. Rockdale county remains in the list of counties under (a)2.

### III. Final Action

EPA is approving 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 for Nitrogen Oxides and Volatile Organic Compounds, corresponding to the counties that are either currently in nonattainment or contributing to the current nonattainment area. EPA has concluded that the SIP revision is consistent with the CAA and EPA's federal 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 (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.

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 November 23, 2020. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: August 26, 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(13)” to read as follows:

#### § 52.570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

#### EPA APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.03(13) .....	Emission Reduction Credits.	9/26/2019	9/22/2020, Insert citation of publication].	Except subparagraph 391–3–1–.03(13)(f), which was approved into the SIP with a state-effective date of 7/18/2001, and subparagraphs (b), (c), (e), (g), and (i), which were approved into the SIP with a state-effective date of 2/16/2000.

\* \* \* \* \*

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES****42 CFR Part 121**

RIN 0906-AB23

**Removing Financial Disincentives to Living Organ Donation****AGENCY:** Health Resources and Services Administration (HRSA), Health and Human Services Department (HHS).**ACTION:** Final rule.

**SUMMARY:** This final rule amends the regulations implementing the National Organ Transplant Act of 1984, as amended (NOTA), to remove financial barriers to organ donation by expanding the scope of reimbursable expenses incurred by living organ donors to include lost wages, and child-care and elder-care expenses incurred by a caregiver. HHS is committed to reducing the number of individuals on the organ transplant waiting list by increasing the number of organs available for transplant. This final rule is associated with Section 8 of the Executive Order (E.O.) 13879 titled “Advancing American Kidney Health,” issued on July 10, 2019, which directed HHS to propose a regulation allowing living organ donors to be reimbursed for related lost wages, child-care expenses, and elder-care expenses through the Reimbursement of Travel and Subsistence Expenses Incurred toward Living Organ Donation program authorized under section 377 of the Public Health Service (PHS) Act, as amended.

**DATES:** This final rule is effective on October 22, 2020.

**FOR FURTHER INFORMATION CONTACT:** Frank Holloman, Director, Division of Transplantation, Healthcare Systems Bureau, HRSA, 5600 Fishers Lane, Room 08W63, Rockville, MD 20857; by email at [donation@hrsa.gov](mailto:donation@hrsa.gov); or by telephone (301) 443-7577.

**SUPPLEMENTARY INFORMATION:****I. Public Participation**

On December 20, 2019, HHS published a notice of proposed rulemaking (NPRM) in the **Federal Register** (84 FR 70139) to amend the regulations implementing the NOTA to remove financial barriers to organ donation by expanding the scope of reimbursable expenses incurred by living organ donors. The NPRM

provided for a 60-day comment period, and HHS received 267 comment letters raising a variety of issues. HHS has carefully considered all comments in developing this rule, as outlined in Section V below, and presents a summary of all significant comments and Departmental responses.

**II. Background**

As discussed in the NPRM, every 10 minutes, another person is added to the national organ transplant waiting list, and approximately 20 people die every day while waiting for a transplant.<sup>1</sup> The current approach to acquiring organs for transplantation relies on the altruism of deceased donors and their families and the voluntarism and altruism of living organ donors.

Living organ donation offers a viable transplant option, primarily for kidney and liver transplant candidates, and helps to reduce the overall number of individuals on the national organ transplant waiting list, thus improving the transplantation system overall. The President’s E.O. 13879, “Advancing American Kidney Health,” emphasized that supporting living organ donors can help address the current demand for kidney transplants. That E.O. directed the HHS Secretary to propose a regulation that would expand the definition of allowable costs that can be reimbursed under HRSA’s current Reimbursement of Travel and Subsistence Expenses Incurred toward Living Organ Donation program. This final rule addresses this E.O. requirement, which also included language specifically addressing reimbursement of lost wages along with child-care and elder-care expenses.

Living organ donation also delivers several additional benefits for the recipient, as described in the NPRM, including receipt of a better quality organ in a shorter time period and better clinical outcomes than those who continue on dialysis or receive a deceased donor kidney transplant.<sup>2</sup> However, all such benefits must be weighed against the donor risks, which include surgical and anesthesia-related complications and infections as well as the uncertainty of the long-term health effects on donors following living organ donation, which are currently being studied.

**A. HRSA’s Reimbursement of Travel and Subsistence Expenses Incurred Toward Living Organ Donation Program**

Congress provided specific authority under section 377 of the Public Health Service (PHS) Act, as amended, 42 U.S.C. 274f,<sup>3</sup> to the Secretary of Health and Human Services (the Secretary) for reimbursement of travel and subsistence expenses, which encompasses costs for travel to medical and clinical appointments, lodging, and meals, incurred by eligible individuals making living donations of their organs, and other individuals accompanying the living organ donors.

Within the same section of the PHS Act, Congress also authorized the Secretary to reimburse “incidental non-medical expenses” incurred by living organ donors under 42 U.S.C. 274f(a)(2), if the Secretary determines by regulation that reimbursements for such expenses are appropriate.

The National Living Donor Assistance Center (NLDAC)<sup>4</sup> operates the living organ donor reimbursement program funded by HRSA’s Reimbursement of Travel and Subsistence Expenses Incurred toward Living Organ Donation grants program. Under the authority provided under section 377 of the PHS Act, as amended, the program is operated via cooperative agreement. The program’s purpose is to help remove financial disincentives for living organ donations. In adherence to the authority outlined in the PHS Act, the program’s Eligibility Guidelines currently provide that “qualifying expenses” include those incurred by the donor and his/her accompanying person(s) as part of: (1) Donor evaluation, (2) hospitalization for the living donor surgical procedure, and/or (3) medical or surgical follow-up, clinic visits, or hospitalization within two calendar years following the living donation procedure.<sup>5</sup> It is important to note that not all applicants or recipients of reimbursements will go on to donate an organ. Many factors may prevent an intended and willing donor from proceeding with the donation. Such circumstances include present health status of the intended donor or recipient that would prevent the transplant or donation from proceeding, perceived long-term risks to the intended donor, or unforeseen events outside the intended donor’s control.

<sup>3</sup> Available at <https://www.govinfo.gov/content/pkg/PLAW-108publ216/pdf/PLAW-108publ216.pdf>.

<sup>4</sup> The Center’s website is available at <https://www.livingdonorassistance.org/home/default.aspx>.

<sup>5</sup> The Eligibility Guidelines for HRSA’s reimbursement program are available at <https://www.govinfo.gov/content/pkg/FR-2009-06-19/pdf/E9-14425.pdf>.

<sup>1</sup> Information from <https://www.organdonor.gov/statistics-stories/statistics.html#glance> and accessed on August 26, 2019.

<sup>2</sup> Data from [https://srr.transplant.hrsa.gov/annual\\_reports/2017/Kidney.aspx](https://srr.transplant.hrsa.gov/annual_reports/2017/Kidney.aspx).