

SUMMARY: On February 21, 1997 the Ohio Environmental Protection Agency (Ohio EPA) submitted a State Implementation Plan (SIP) revision request to USEPA which consisted of a number of rules and rule paragraphs formerly contained in the Ohio Administrative Code (OAC) which had been incorporated in the Ohio SIP but which had been amended or removed from the OAC by the State. The State requested that these rules and rule paragraphs be removed from the Ohio SIP since they are no longer part of the OAC. The USEPA is proposing to approve the State's request. In the final rules section of this **Federal Register**, the USEPA is approving the State's request as a direct final rule without prior proposal because USEPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. If no adverse written comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives substantive adverse written comments which have not already been responded to, the direct final rule will be withdrawn and all such public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed rule must be received on or before October 14, 1997.

ADDRESSES: Written comments may be mailed to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), Region 5 at the address listed below. Copies of the materials submitted by the Ohio EPA may be examined during normal business hours at the following locations: Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Ohio EPA, Division of Air Pollution Control, 1800 Watermark Drive, Columbus, OH 43215.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano at (312)886-6036.

SUPPLEMENTARY INFORMATION:

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: August 27, 1997.

Michelle D. Jordan,

Acting Regional Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA-34-1-9709; FRL-5891-9]

Approval And Promulgation Of Implementation Plans; Georgia: Approval of Revisions to the Georgia State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed conditional interim approval.

SUMMARY: The EPA proposes a conditional interim approval of the State Implementation Plan (SIP) submitted by the State of Georgia through the Georgia Environmental Protection Division (EPD) on November 15, 1993, and amended on June 17, 1996, which included the 15% Rate-of-Progress Plan (15% plan). This submittal was made to meet the 15% plan requirements of section 182(b)(1)(A) of the Clean Air Act, as amended in 1990 (CAA). The EPA is proposing a conditional interim approval because achievement of the 15% reduction in emission of volatile organic compounds (VOCs) is dependent upon full implementation of the enhanced inspection and maintenance (I/M) plan and the conditions pertaining to the implementation of a low Reid Vapor Pressure (RVP) program of 7.0. Full approval of the 15% plan will be granted upon full approval of the I/M plan and the conditional approval of the low RVP program. The final interim approval of the I/M plan was published in the **Federal Register** on August 11, 1997 (see 62 FR 42916). Full approval of the individual measures that comprise the 15% plan except for I/M and the low RVP program is also being proposed in this document.

Additionally, the EPA is proposing full approval of Georgia's 1990 Baseline Inventory. The inventory was submitted by the State to fulfill requirements of section 182(b) of the CAA.

DATES: Comments on this proposed conditional interim action must be received in writing by October 14, 1997.

ADDRESSES: Written comments on this action should be addressed to Scott M. Martin, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT:

Scott M. Martin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104. The telephone number is 404/562-9036.

SUPPLEMENTARY INFORMATION:

Background

The Atlanta area was classified as serious ozone nonattainment on November 6, 1991. The nonattainment area consists of the following thirteen counties: Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnet, Henry, Paulding, and Rockdale.

Section 182(b) of the CAA requires that each state in which all or part of a serious nonattainment area is located submit, by November 15, 1992, an inventory of actual emissions from all sources, as described in section 172(c)(3) and 182(a)(1), in accordance with guidance provided by the Administrator. This inventory is for calendar year 1990 and is designated the baseline year inventory. The inventory should include both anthropogenic and biogenic sources of volatile organic compounds (VOCs), nitrogen oxides (NO_x), and carbon monoxide (CO), and must address actual emissions of these pollutants in the nonattainment area during the peak ozone season. The inventory should include all point and area sources, as well as all highway and non-highway mobile sources.

In addition, section 182(b)(1)(A) of the CAA requires ozone nonattainment areas classified as moderate and above to develop plans to reduce VOC emissions by 15 percent from the 1990 baseline. The plans were to be submitted by November 15, 1993, and the reductions were required to be achieved within six years of enactment or November 15, 1996. The CAA also set

limitations on the creditability of certain types of reductions. Specifically, a state cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures promulgated prior to 1990, or for reductions resulting from requirements to lower the Reid Vapor Pressure (RVP) of gasoline promulgated prior to 1990 or

required under section 211(h) of the CAA, which restricts gasoline RVP. Furthermore, the CAA does not allow credit for corrections to vehicle I/M Programs or corrections to Reasonably Available Control Technology (RACT) rules as these programs were required prior to 1990.

1990 Baseline Emissions Inventory

In this action, the EPA is proposing to approving the 1990 baseline emissions inventory for the Atlanta area. Detailed information on the emissions calculations can be obtained at the Regional address above. The following table is a summary of the baseline emissions inventory.

GEORGIA 1990 BASELINE EMISSIONS INVENTORY (TONS/DAY)

Source type	VOC	NO _x	CO
Point	57.55	121.34	6.38
Area	138.94	25.74	85.73
Highway	401.74	304.04	2,890.28
EPA Offroad	79.50	65.35	573.65
Aircraft &	9.06	22.26	31.43
Biogenic	429.10	N/A	N/A
Total	1,115.89	538.73	3,587.47

The adjusted base year inventory requires exclusion of emission reductions that would occur by 1996 as a result of the FMVCP and RVP promulgated prior to 1990. The following table is a summary of the adjusted base year inventory.

GEORGIA 1990 ADJUSTED BASELINE INVENTORY (TONS/DAY)

Source type	VOC
Point	57.55
Area	135.51
Highway Mobile	244.57
EPA Offroad Mobile	79.50
Aircraft & Railroad	9.06
Total	526.19

1990 Rate-of-Progress Inventory

The Rate-of-Progress inventory is comprised of the anthropogenic stationary (point and area) and mobile sources in the nonattainment area with all biogenic emissions removed from the baseline inventory. The following table is a summary of the Rate-of-Progress baseline inventory.

GEORGIA 1990 RATE-OF-PROGRESS BASELINE

Source type	VOC
Point	57.55
Area	138.94
Highway	401.74
EPA Offroad	79.50
Aircraft &	9.06
Total	686.79

The EPA is proposing to approve this inventory as satisfying the requirements of section 182(a)(1) of the CAA.

15% Plan

The State of Georgia submitted a 15% Plan for the Atlanta nonattainment area on November 15, 1993, with additional information submitted on June 17, 1996. This submittal was required in order to demonstrate reasonable further progress in attaining the National Ambient Air Quality Standard (NAAQS) for ozone. This 15% plan is not intended to demonstrate attainment of the ozone NAAQS. The CAA required Georgia to submit a plan by November 15, 1993, and to attain the ozone NAAQS by 1999. In order to demonstrate progress, the State must achieve actual VOC emission reductions of at least 15% from the baseline and account for growth during the first 6 years after enactment of the CAA. The 15% reduction must be based on a decrease of the 1990 baseline emissions, excluding emissions from other reduction programs and emission sources outside the nonattainment area.

Creditable 15% Reduction

The adjusted base year inventory of 526.19 tons/day is multiplied by 0.15 to calculate the creditable 15% reduction in tons/day. Georgia needs a reduction of 78.93 tons/day to obtain the creditable 15% reduction.

Total Expected Reductions by 1996

The total expected reductions by 1996 include the required 15% (78.93 tons/day), the reductions from FMVCP and RVP (160.60 tons/day), corrections to RACT rules (3.05 tons/day) and corrections to I/M programs (0.00 tons/

day). Georgia expects to have a total of 242.58 tons/day of reductions by 1996.

Target Level Emissions for 1996

To calculate the 1996 target emissions level, the total expected reductions (242.58 tons/day) are subtracted from the 1990 Rate-of-Progress baseline inventory (686.79 tons/day) for the Atlanta nonattainment area. This gives a 1996 target level emissions of 444.21 tons/day.

Reductions Needed by 1996 to Achieve 15% Accounting for Growth

The reductions needed to achieve 15% net of growth are determined by subtracting the target level emissions (444.21 tons/day) from the 1996 estimated emissions (560.21 tons/day) giving a total of 116.00 tons/day in additional reductions needed.

Reductions Required by 1996

In order to meet the target level required for 1996 Georgia must reduce VOC emissions by an additional 116.00 tons/day. The 1990 Rate-of-Progress Baseline inventory is the base inventory from which the 15 percent reduction on existing sources and the reduction from growth by 1996 must be calculated to meet requirements of the CAA.

The following is a summary of the reductions Georgia will obtain to meet this requirement. More detailed information concerning specific areas of reduction can be found in the Technical Support Document (TSD) located at the Regional EPA address listed above.

SUMMARY OF REDUCTIONS NEEDED

Source type	Expected reductions (tons/day)
Point Sources	4.28
Area Sources	37.97
Highway Mobile Sources	71.88
Non-Road Mobile Sources	2.93
Reductions Demonstrated	117.06
Required Reductions	116.00
Excess Reductions	1.06

1996 Projected Emissions

The projected emissions for 1996 have been calculated by applying the control measures discussed below to the 1996 Estimated Emissions. The 1996 Projected Emissions are shown as follows:

1996 PROJECTED EMISSIONS (TONS/DAY)

Point	50.77
Area	118.83
Mobile	183.12
Nonroad	90.43
Total	443.15

The 1996 Projected Emissions of 443.15 tons/day are less than the 1996 Target Level Emissions of 444.21 tons/day.

Control Strategies**Point Source Control Measures***Point Source Rule Effectiveness Improvements*

Following EPA guidance on rule effectiveness (RE) and RE improvements, RE for gasoline terminals, major graphic arts sources, and coil coating plants will be increased from the default 80% to 91.0% thus reducing emissions 2.25 tons/day, 0.97 tons/day, and 0.64 tons/day from respective 1990 levels. The above RE improvements do not require any rule changes.

Area Source Control Measures*Stage I*

Stage I VOC emissions are VOC emissions from the loading of underground gasoline storage tanks at gasoline dispensing facilities. In 1991, Georgia Rule 391-3-1-.02(2)(rr) "Gasoline Dispensing Facility-Stage I" (rule (rr)) was revised to lower applicability level from facilities with throughput of more than 20,000 gallons per month to 10,000 gallons per month. The revised applicability will result in

a reduction of 3.05 tons/day. This reduction is included as part of the Total Expected Reductions by 1996 but is not creditable towards the 15% reduction since it is a correction to a RACT rule.

In 1990, the Atlanta ozone nonattainment area did not include Forsyth and Cherokee counties so rule (rr) did not apply there. Rule (rr) was revised to require compliance in these two counties by November 1992, resulting in a reduction equal to 1.27 tons/day.

The above reductions from Stage I are based on the EPA suggested 80% value for RE. Since the majority of these facilities will become subject to and comply with the Stage II requirements of Rule 391-3-1-.02.(2)(zz) "Gasoline Dispensing Facilities-Stage II," there will be additional inspections, operator education and training, etc. which will improve the RE of the Stage I rule. The RE will increase from 80% to 85.6% upon implementation of these additional programs. This will reduce projected 1996 emissions by 1.13 tons/day.

Architectural Coatings

Architectural coatings, traffic markings, and high performance maintenance coatings are all subcategories of area source surface coatings. Based on 1996 projected emissions, these surface coatings account for 33.08 tons/day of emissions. Reducing these emissions by 20% gives a reduction of 6.62 tons/day (reference March 7, 1996, memo from John Seitz (EPA) "Update on the credit for the 15% Rate-of-Progress Plans for reductions from the architectural and industrial maintenance (AIM) coating rule").

Open Burning

VOC emissions result from open burning at a projected rate of 12.65 tons/day. Rule 393-3-1-.02(5) bans such burning during the ozone season (April 1 to October 31). Due to exceptions to Rule 393-3-1-.02(5) 77.19% of open burning emissions will be eliminated resulting in a reduction of 9.76 tons/day of VOC emissions.

Slash/Prescribed Burning

The 1996 projected emissions for slash/prescribed burning are 4.36 tons/day for VOC. Rule 393-1-.02(5) bans 100% of such burning during the ozone season (April 1 to October 31) resulting in a reduction of 4.36 tons/day of VOC emissions.

Consumer/Commercial Solvents

The 1996 projected emissions for consumer/commercial solvents (i.e.

windshield washer fluid) are 26.66 tons/day. Windshield washer fluid has a typical VOC content of 35%. Rule 391-3-1-.02(aaa) limits its VOC content to 8%, resulting in a 77.14% reduction in VOCs for a 1.96 tons/day reduction of VOC emissions.

Underground Storage Tank Breathing Losses

Uncontrolled emissions in 1996 are projected to be 2.11 tons/day. The Stage II controls in Rule 391-3-1-.02(zz) controls 90% of these emissions with a projected emission reduction of 1.78 tons/day assuming 85% overall control. The Stage I controls in rule (rr) will obtain a 7.2% reduction of these emissions with a projected reduction of 0.17 tons/day. The total projected reductions from Stage I and Stage II controls for breathing losses are 1.95 tons/day.

Autobody Refinishing

The 1996 projected VOC emissions from autobody refinishing are 13.84 tons/day. According to a memo from John Seitz (EPA) on November 29, 1994, "Credit for the 15% Rate-of-Progress Plans for reductions from the architectural and industrial maintenance (AIM) coating rule and the autobody refinishing rule" a 37% VOC emissions reduction for autobody refinishing is allowed. This rule provides a VOC reduction of 5.12 tons/day.

Consumer Products

Emission rates for the 1996 Estimated Inventory were calculated to be 26.66 tons/day of VOC. A reduction in previously unregulated areas of approximately 20% by November 15, 1996 is anticipated (reference June 22, 1995, memo from John Seitz (EPA) "Regulatory schedule for consumer and commercial products under section 183(e) of the CAA"). Therefore, the consumer products rule, excluding windshield washer fluid which is already regulated by the State, will result in a 2.16 tons/day reduction of VOC emissions.

Mobile Source Control Measures

Total highway mobile source reductions are 71.88 tons/day. Due to the interaction of various control measures (i.e., reduced Reid Vapor Pressure and Stage II recovery), the VOC reductions from each control modeled separately is difficult to determine. Unless otherwise stated with a specific reduction, all of the following control measures contribute towards the cumulative reduction of 71.88 tons/day.

Enhanced Inspection and Maintenance (I/M)

Georgia Rule 391-3-20 establishes a biennial enhanced I/M program for all 13 counties of the Atlanta nonattainment area beginning October 1, 1996, and covering 1975 and newer model years of light duty gasoline-powered vehicles. According to E.H. Pechan & Associates, Inc. in Sample City Analysis Comparison of Enhanced I/M Reductions Versus Other 15 Percent ROP Plan Measures reductions the enhanced I/M program will contribute approximately 60 tons/day towards the cumulative 71.88 tons/day reductions from highway mobile sources for the nonattainment area. A more detailed description of Georgia's enhanced I/M program was published in a separate **Federal Register** action on December 13, 1996 (61 FR 65496).

Reid Vapor Pressure (RVP) Reduction

RVP is a measure of the tendency of gasoline to evaporate. Georgia Rule 391-3-1-.02(2)(bbb) requires that during the summer months (June 1–September 15) the RVP limit for gasoline dispensed in the 13 county nonattainment area not exceed 7.0 psi which is lower than the federally mandated RVP of 7.8 psi. The RVP reduction from 7.8 to 7.0 will contribute 3.13 tons/day towards the cumulative 71.88 tons/day reduction from highway mobile sources. Reductions in exhaust VOC emissions attributable to reducing RVP were calculated using EPA's Final Complex Model. Point Source Rule Effectiveness Improvements for gasoline terminals will reduce VOC emissions from this category by 0.40 tons/day with the implementation of 7.0 RVP gasoline. Based on the gasoline throughput in the 13 county nonattainment area, Stage I will contribute a reduction of 0.59 tons/day in additional VOC emissions attributable to the lower RVP limit.

State governments are generally preempted under section 211(c)(4)(A) of the CAA from requiring gasoline sold in any area in a State to meet an RVP standard different from the federal standard. However, under 211(c)(4)(C) a State can require a more stringent RVP standard in its SIP if the more stringent standard is necessary to achieve the NAAQS in a particular nonattainment area. The State can make this demonstration of necessity by providing evidence that no other measures exist that would bring about timely attainment, or that such measures exist, are technically possible to implement, but are unreasonable or impracticable. If a State makes this demonstration, it can lower the volatility to whatever

standard is necessary for the nonattainment area. The State of Georgia submitted an attainment demonstration on November 15, 1994 that included regulations controlling the RVP of gasoline below 7.8. This attainment demonstration failed to show attainment, and therefore, EPA is requiring Georgia to submit a new attainment demonstration. This new attainment demonstration will be submitted to EPA in late 1997. Because Georgia is currently developing their attainment demonstration, EPA is proposing conditional approval of Georgia's low RVP program. The State will be considering new control strategies as part of their attainment demonstration, among those fuel controls. If the State still needs the program, they will need to meet the requirements under 211(c)(4)(C). As part of the conditional approval process, Georgia must commit within 30 days of this proposal to submit within one year of conditional interim approval documentation supporting the need for a 7.0 psi RVP program. If the commitment is not made within 30 days, EPA proposes in the alternative to disapprove the SIP revision. If the State does make a timely commitment but the condition is not met by the date to which the State committed, EPA proposes that this rulemaking will convert to a final disapproval. EPA will notify the State by letter that the conditions have not been met and that the conditional approval has been converted to a disapproval. Georgia must commit to correct the deficiencies to enable EPA to conditionally approve the program.

Stage II

Georgia Rule 391-3-1-.02(2)(zz) "Gasoline Dispensing Facilities-Stage II" prohibits the transfer of gasoline from stationary storage tanks of gasoline dispensing facilities to any vehicle gasoline tank unless the facility is equipped with an approved vapor recovery system. Exemptions to this rule include facilities that dispense no more than 10,000 gallons/month and dispensing facilities owned by independent small business gasoline marketers that dispense up to and including 50,000 gallons/month. The reductions contribute toward the cumulative 71.88 tons/day VOC reductions from highway mobile sources. The EPA federally approved Georgia rule 391-3-1-.02(2)(zz) into the Georgia SIP on February 2, 1996, (61 FR 3819).

Tier I Tailpipe Standards

The CAA mandates new and stricter emissions standards for light duty vehicles. The total VOC reductions in the nonattainment area from Tier I Standards contribute toward the cumulative 71.88 tons/day from highway mobile sources.

Transportation Control Measures (TCMs)

TCMs programmed in Tier I (FY96–FY97) of the Atlanta Regional Transportation Improvement Program include the following types of projects: bike/pedestrian, HOV lanes, Park/Ride facilities, Traffic Flow Improvement, Transit. The TCMs reduce VOC emissions by 2.57 tons/day. Further information concerning methodologies for the TCM analysis is available at the EPA Regional address listed above.

Additional 1996 Mobile Source VOC Reductions

VOC reductions in the nonattainment area from promulgation of new federal rules were calculated using EPA guidance. EPA's planned detergent additives program reduce highway VOC emissions by 1.70 tons/day and nonroad VOC emissions by 0.77 tons/day. New federal nonroad engine emission standards (40 CFR part 90) for new nonroad spark-ignition engines at or below 19 kilowatts reduce VOCs by 2.16 tons/day.

Background on Georgia's I/M submittal

Section 182(b)(1) of the CAA requires that states containing ozone nonattainment areas classified as Moderate or above prepare SIPs that provide for a 15 percent VOC emissions reduction by November 15, 1996. Most of the 15% SIPs originally submitted to the EPA contained enhanced I/M programs because this program achieves more VOC emission reductions than most, if not all other, control strategies. However, because most states experienced substantial difficulties implementing these enhanced I/M programs, only a few states are currently testing cars using the original enhanced I/M protocol.

On September 18, 1995, EPA finalized revisions to its enhanced I/M rule allowing states significant flexibility in designing I/M programs appropriate for their needs. Subsequently, Congress enacted the National Highway Systems Designation Act of 1995 (NHSDA), which provides states with more flexibility in determining the design of enhanced I/M programs. The substantial amount of time needed by states to re-design enhanced I/M programs in accordance with the guidance contained

within the NHSDA, secure state legislative approval when necessary, and set up the infrastructure to perform the testing program precludes states that revise their I/M programs from obtaining emission reductions from such revised programs by November 15, 1996.

Given the heavy reliance by many States upon enhanced I/M programs to help achieve the 15% VOC emissions reduction required under CAA section 182(b)(1), and the recent NHSDA and regulatory changes regarding enhanced I/M programs, EPA believes that it is no longer possible for many states to achieve the portion of the 15% reductions that are attributed to I/M by November 15, 1996. Under these circumstances, disapproval of the 15% SIPs would serve no purpose. Consequently, under certain circumstances, EPA will propose to allow states that pursue re-design of enhanced I/M programs to receive emission reduction credit from these programs within their 15% plans, even though the emissions reductions from the I/M program will occur after November 15, 1996.

Specifically, EPA will propose approval of 15% SIPs if the emissions reductions from the revised, enhanced I/M programs, as well as from the other 15% SIP measures, will achieve the 15% level as soon after November 15, 1996 as practicable. To make this "as soon as practicable" determination, EPA must determine that the SIP contains all VOC control strategies that are practicable for the nonattainment area in question and that meaningfully accelerate the date by which the 15% level is achieved. The EPA does not believe that measures meaningfully accelerate the 15% date if they provide only an insignificant amount of reductions.

In the case of the Atlanta nonattainment area, the State of Georgia has submitted a 15% SIP that would achieve the amount of reductions needed from I/M by November 1999. The State of Georgia has submitted a 15% SIP that achieves all other reductions by 1996. The EPA proposes to determine that this SIP does contain all measures, including enhanced I/M, that achieve the required reductions as soon as practicable. The EPA also proposes to determine that the I/M program for the Atlanta nonattainment area does achieve reductions as soon as practicable.

The EPA has examined other potentially available SIP measures to determine if they are practicable for the Atlanta nonattainment area and if they would meaningfully accelerate the date

by which the area reaches the 15% level of reductions. The EPA proposes to determine that the SIP does contain the appropriate measures.

Following, is a list of measures which are not included in the Georgia 15% plan with reductions of VOC emissions in tons/day which could be achieved if implemented: Industrial Adhesives (8.35), Treatment Storage Disposal Facility (TSDFs)—Federal Rule (early implementation) (3.33), Landfills—Federal Rule (0.00), Nonroad Gasoline—Reformulated Gasoline (3.72), Motor Vehicle—Reformulated Gasoline (32.24). The amount of reduction attributed to reformulated gasoline is overestimated because Georgia has implemented a lower RVP of 7.0. Georgia did not include these measures in their 15% plan because they could not be implemented quicker than I/M and the measures do not provide the level of reductions achieved through the implementation of enhanced I/M.

Proposed Rule Approval

In addition to proposing approval of Georgia's 15% plan, the EPA proposes to approve the following revisions submitted by the State into their SIP:

391-3-1-.01(III) "Volatile Organic Compound"

Georgia submitted revisions to their definition of VOC so that it is consistent with the federal definition.

391-3-1-.01(mmmm) "Hazardous Air Pollutant"

Georgia submitted this new definition to define a class of pollutants which is now being regulated as a result of the CAA.

391-3-1-.02(2)(ii) VOC Emissions from Surface Coating of Miscellaneous Metal Parts and Products

A new paragraph 6. is being added to exempt facilities which have a potential to emit of less than 10 tons/year.

391-3-1-.02(2)(rr) Gasoline Dispensing Facility—Stage I

This section is being revised to outline requirements for the transfer of gasoline from any delivery vessel into a stationary storage tank. No person may transfer or cause or allow the transfer of gasoline from any delivery vessel into any stationary storage tank subject to this subsection unless the tank is equipped with all of the following: a submerged fill pipe; an approved Stage I vapor recovery system that is in good working order; Pressure/Vacuum vent valves with minimum settings of 8 ounces of pressure and 1/2 ounce of vacuum unless the facility has a

California Air Resources Board (CARB) certified Stage II vapor recovery system; and the vapors displaced from the storage tank during filling are controlled by one of the following: a vapor-tight vapor return line from the stationary gasoline storage tank(s) to the delivery vessel for each product delivery line that is connected from the delivery vessel to the storage tank(s); if a manifold connects all stationary gasoline storage tanks vent lines, a vapor tight vapor return line from a tank being filled to the delivery vessel with sufficient return capacity to control vapors from all tanks being filled at the time and to prevent release of said vapors from the vent line(s) or other tank openings; or a refrigeration-condensation system or a carbon adsorption system is utilized and recovers at least 90 percent by weight of the organic compounds in the displaced vapor.

Paragraph 6 is being amended to state that Stage I gasoline vapor recovery systems installed prior to January 1, 1993 that currently utilize a co-axial Stage I vapor recovery system in which the gasoline tanks are not manifolded in manner and that are utilized at a facility that is not required to have a Stage II vapor recovery system shall be exempted from installing a co-axial poppetted drop tube.

The definition of "Division Approved" is also being added.

391-3-1-.02(2)(zz) Gasoline Dispensing Facilities—Stage II

This subsection is being revised to add or revise the definitions for "Approved Stage II Vapor Recovery System," "California Air Resources Board (CARB) certified system," "Average monthly throughput," "Fill cap," "Independent small business owner," "Operator," "Owner," and "Vapor cap." A compliance date for facilities with a throughput of 50,000 gallons or more per month is established as November 15, 1994. An exemption for facilities reconstructed prior to November 15, 1995, that dispense up to 50,000 gallons per month and are owned by an independent small business marketer of gasoline is established. Procedures for certification of Stage II facilities are also established.

391-3-1-.02(2)(aaa) Consumer and Commercial Products

This subsection is being added and is applicable to any person who supplies or sells consumer and commercial products limited by this subsection within the 13 county nonattainment area. After January 1, 1996, no person shall supply, offer for sale or sell any

automobile windshield washer fluid which contains VOCs as an active ingredient, or solvent in a concentration greater than 8.0% by weight.

391-3-1-.02(2)(bbb) Gasoline Marketing-Reid Vapor Pressure (RVP)

This subsection is being conditionally approved and states that during the period from June 1 to September 15 of any calendar year no person, retailer, or wholesale purchaser-consumer shall sell, offer for sale, dispense, supply, offer for supply, transport or introduce into commerce gasoline whose Reid vapor pressure exceeds 7.0 psi.

391-3-1-.02(5) Open Burning

Paragraph 13 is being added which allows open burning of vegetative material for the purpose of land clearing using an air curtain destructor.

Subsection (b) is being revised to state that beginning calendar year 1996 open burning during the months of May, June, July, August, and September is prohibited in the Atlanta ozone nonattainment area. Certain exemptions to this rule are granted for procedures necessary for production of harvesting crops, cooking food for immediate human consumption, fires set for the purpose of training fire-fighting personnel, operation of devices using open flames, setting and maintenance by contractors of miscellaneous small fires necessary to such activities as street paving, and disposal of packaging materials previously containing explosives, in accordance with U.S. Department of Labor Safety Regulations.

391-3-1-.02(2)(ff) Solvent Metal Cleaning

This subsection is being amended to establish requirements which apply to degreasers using trichlorethylene, carbon tetrachloride, and/or chloroform in a total concentration greater than 5 percent by weight.

391-3-1-.02(7) Prevention of Significant Deterioration

This subsection is being amended to add and update all of the new and amended changes to these federally-promulgated, state-implemented rules.

391-3-1-.03 Permits. Amended

Paragraph 6. Exemptions is being amended. Subparagraph (6)(b)11 is being amended to add exemptions for stationary engines, and (6)(b)13 is being added to exempt fire fighter or other emergency/safety equipment used to train firefighters. Subsection (6)(c) is amended to add exemptions for storage tanks. Subsection (6)(g) is added to provide exemptions for pollution

control. Subsection (6)(h) is amended to provide exemptions for industrial operations.

Proposed Action

The EPA proposes conditional approval of the State of Georgia's 15% plan contingent upon full approval of the I/M plan. Final interim approval of the I/M plan was published in the **Federal Register** on August 11, 1997 (see 62 FR 42916). In addition EPA proposes conditional approval of rule 391-3-1-.02(2)(bbb) Gasoline Marketing-Reid Vapor Pressure (RVP). The condition for approvability is as follows: Georgia must submit documentation demonstrating that the program is needed for attainment. EPA proposes to approve Georgia's 1990 Baseline Emissions Inventory for the Atlanta nonattainment area. The EPA also proposes approval of the rule revisions discussed above to 391-3-1-.01(III) "Volatile Organic Compound"; 391-3-1-.01(mmmm) "Hazardous Air Pollutant"; 391-3-1-.02(2)(ii) VOC Emissions from Surface Coating of Miscellaneous Metal Parts and Products; 391-3-1-.02(rr) Gasoline Dispensing Facility—Stage I; 391-3-1-.02(zz) Gasoline Dispensing Facilities—Stage II; 391-3-1-.02(2)(aaa) Consumer and Commercial Products; 391-3-1-.02(5) Open Burning; 391-3-1-.02(2)(ff) Solvent Metal Cleaning; 391-3-1-.02(7) Prevention of Significant Deterioration; 391-3-1-.03 Permits. Amended.

Included in this submittal were revisions to 391-3-1-.03(9) Permit Fees, 391-3-1-.03(10) Title V Operating Permits, and 391-3-1-.03(11) Permit by Rule. EPA is not taking action on these rules at this time as they will be acted upon in a separate action.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or

final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Conditional SIP Approval Actions

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new Federal requirement.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that

may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 29, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97-24241 Filed 9-11-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX35-1-6168; FRL-5891-8]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas; Propose Disapproval of Revisions to the State Implementation Plan; Chapter IV, Sections 114.1 and 114.5

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing disapproval of SIP revisions Texas submitted for Regulation IV, 30 TAC Chapter 114, sections 114.1 "Maintenance and Operation of Air Pollution Control Systems or Devices Used to Control Emissions from Motor Vehicles" and 114.5 "Exclusions and Exceptions" on February 24, 1989, September 6, 1990, and July 13, 1993.

The EPA is acting on these three previously submitted revisions that relate to State wide antitampering provisions and exemptions to antitampering provisions for motor vehicles or motor vehicle engine emission control systems. The EPA is proposing disapproval because the States antitampering rules are not consistent with the Clean Air Act (the Act), section 203(a)(3) and EPA tampering prohibition as outlined in

EPA's antitampering Enforcement Policy, Mobile Source Enforcement Memorandum No. 1A.

DATES: Comments must be received on or before October 14, 1997.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Copies of the documents about this action are available for public inspection during normal business hours at the above and following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711-3087.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scoggins, Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7354 or via e-mail at scoggins.paul@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region 6 address.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On February 24, 1989, September 6, 1990, and July 13, 1993, EPA received revisions to the Texas SIP for changes to Regulation IV, 30 TAC Chapter 114, sections 114.1 and 114.5, 114.5, and 114.1 and 114.5 respectively. In their regulations, Texas adopted specific measures restricting emission control equipment removal/modifications (antitampering) and exempting or providing exclusions for vehicles from antitampering requirements.

The Federal tampering prohibition for emission control equipment for motor vehicles and motor vehicle engines is contained in section 203(a)(3) of the Act, 42 U.S.C. 7522(a)(3). Section 203(a)(3)(A) of the Act prohibits "any person from removing or rendering inoperative any emission control device or element of design installed on or in a motor vehicle or motor vehicle engine prior to its sale and delivery to an ultimate purchaser" and prohibits "any person from knowingly removing or rendering inoperative any such device or element of design after such sale and delivery to the ultimate purchaser." Mobile Source Enforcement Memorandum No. 1A provides

guidance on what is a violation of section 203(a)(3).

The State revision, received February 24, 1989, made the following changes. Section 114.1 prohibits: (1) The removal of or render inoperative any system or device used to control emissions from a motor vehicle or motor vehicle engine or any part thereof; (2) specifies the conditions for the acceptable removal and/or installation of vehicle engines, catalytic converters, or other emission control components; (3) prohibits leasing, sale, or offer to sale motor vehicles that have tampered emission control equipment; (4) and finally, establishes sign posting requirements for prohibitions.

Section 114.5 exempts from the provisions of 114.1: (1) Dual-fuel conversions specified by the Department of Public Safety (DPS); (2) vehicles belonging to persons being transferred to a foreign country and specifies associated documentation requirements; (3) sales or offers for sale motor vehicles for wholesale transaction and for sales or trade-ins from an individual to a vehicle dealer; (4) Federal, State and local agencies that sell abandoned, confiscated, or seized vehicles and vehicle auction facilities if specific conditions are satisfied.

The State revision, received September 9, 1990, to section 114.5 exempts all dealer transactions that do not result in the sale of a tampered vehicle to an individual for operation on a public highway.

The State revision, received on July 13, 1993, made the following changes. Section 114.1 addresses the replacement or installation of aftermarket alternative fuel conversions equipment and any other system or device relating to emissions, safety concerns and antitampering. Section 114.5 specifies conditions for granting motor vehicle and motor vehicle engine exclusions from the provisions of section 114.1, deletes original text in 114.5(c) to improve consistency with section 114.1, and redesignates original paragraphs.

II. Analysis of State Submittal

The EPA is proposing disapproval of the revisions to Texas SIP for Texas Regulation IV, 30 TAC Chapter 114, sections 114.1 and 114.5 based on the following inconsistencies. Section 114.1 (b)(4) allows replacement or installation of any system or device (other than catalytic converters, engines and the conversion of the vehicle to alternative fuels, which are handled under separate subsections) if: The system or device can be demonstrated to be at least as effective in reducing emissions as the original equipment. This rule does not