

Signed at Washington, DC, this 15th day of May 2009.

**Shelby Hallmark,**

*Acting Assistant Secretary for Employment Standards.*

**Andrew Auerbach,**

*Deputy Director, Office of Labor-Management Standards.*

[FR Doc. E9-11813 Filed 5-20-09; 8:45 am]

BILLING CODE 4510-CP-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2006-0649-200749; FRL-8909-1]

### Approval and Promulgation of Implementation Plans Georgia: Revisions to State Implementation Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Georgia State Implementation Plan (SIP), submitted by the Georgia Environmental Protection Division (GA EPD) in three submittals dated October 31, 2006, March 5, 2007, and August 22, 2007. The submittals include modifications to Georgia's Rules for Air Quality Control, Chapter 391-3-1. The October 31, 2006, revision includes changes to "Permit Exemption for Combustion Equipment." The March 5, 2007, revisions include changes to "NO<sub>x</sub> (Nitrogen Oxides) Emissions from Electric Utility Steam Generating Units," and "Emission Statements." Finally, the August 22, 2007, submittal contains revisions to "Volatile Organic Compound," "Provisions," and "Stationary Engines." EPA is not acting on the August 22, 2007, revisions to rule 391-3-1-.03(6) "Exemptions, Combustion Equipment" in this action. EPA is also not acting on the August 22, 2007, revisions to rule 391-3-1-.03(9), as it is not part of the federally-approved SIP. These submittals included revisions to Georgia's Prevention of Significant Deterioration and Nonattainment New Source Review programs, which EPA addressed in a separate action (73 FR 51606). This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before June 22, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. "EPA-R04-

OAR-2006-0649," by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [benjamin.lynora@epa.gov](mailto:benjamin.lynora@epa.gov).

3. *Fax*: 404-562-9019.

4. *Mail*: "EPA-R04-OAR-2006-0649," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier*: Ms. Lynora Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

*Instructions:* Direct your comments to Docket ID No. "EPA-R04-OAR-2006-0649." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information

about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management 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 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9042. Ms. Harder can also be reached via electronic mail at [harder.stacy@epa.gov](mailto:harder.stacy@epa.gov).

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#### SUPPLEMENTARY INFORMATION:

##### I. EPA's Action

On October 31, 2006, March 5, 2007, and August 22, 2007, GA EPD submitted proposed SIP revisions to EPA for review and approval into the Georgia SIP. The rules became state effective on April 19, 2006, March 12, 2007, and July 25, 2007, respectively. The revisions include changes made by the State of Georgia to Chapter 391-3-1. Specifically, the October 31, 2006, revision includes changes to Rule 391-3-1-.03(6)(b) "Permit Exemption for Combustion Equipment." The March 5, 2007, revisions include changes to Rules 391-3-1-.02(2)(jjj) "NO<sub>x</sub> Emissions from Electric Utility Steam Generating Units," and 391-3-1-.02(6)(a)4 "Emission Statements." Finally, the August 22, 2007, submittal contains revisions to Rules 391-3-1-.01(III)

“Volatile Organic Compound,” 391–3–1–.02 “Provisions,” and 391–3–1–.03(6)(b)11 “Stationary Engines.” EPA is now proposing to approve these revisions. The revisions summarized below are approvable pursuant to section 110 of the CAA.

EPA is not acting on the August 22, 2007, revisions to rule 391–3–1–.03(6) “Exemptions, Combustion Equipment” in this action. Additionally, EPA is not acting on the August 22, 2007, revisions to rule 391–3–1–.03(9), as it is not part of the federally-approved SIP.

## II. Analysis of Georgia’s Submittals

### *October 31, 2006, Submittal*

#### Rule 391–3–1–.03(6)(b), “Permit Exemption for Combustion Equipment”

This revision adds two new subparagraphs, (b)14 and 15, for the purpose of exempting temporary boilers and electric generators that are used to replace a facility’s boilers or generators during periods of repair or maintenance, from the requirement to obtain a permit. Fuel-burning equipment that remains at a location for more than 180 consecutive days is no longer considered to be a temporary boiler. Temporary fuel-burning equipment that replaces temporary equipment at a location to perform the same function will be included in calculating the total consecutive time period. This revision provides language stating the exemption is permissible “provided the actual and potential emissions of the temporary sources do not exceed that of the main source.” This rule revision is meant to streamline the permitting process for certain operators, and no longer requires stationary sources that install temporary boilers and electric generators to obtain a permit for the temporary equipment operated during periods of maintenance or repair.

### *March 5, 2007, Submittal*

#### Rule 391–3–1–.02(2)(jjj), “NO<sub>x</sub> Emissions from Electric Utility Steam Generating Units”

The revision amends NO<sub>x</sub> emission limits in subparagraphs (jjj)4.,5.,6.,7., and 8., for coal-fired electric utility steam generating units with a maximum heat input greater than 250 Million British thermal units per hour (MMBtu/hr). The limit is based on a 30-day rolling average (averaged over all existing units) and was effective at the beginning of the 2007 ozone season, which runs from May 1st through September 30th in Georgia. Consistent with the existing regulation, unit-specific NO<sub>x</sub> limits are to be established in a permit. This limit is also included

as part of the Macon, Georgia, 8-hour ozone maintenance plan (72 FR 53432).

Subparagraph 4 specifies that the previous NO<sub>x</sub> emissions limit of 0.20 lb/MMBtu was effective through September 30, 2006. Subparagraph 5, which was effective May 1, 2007, lowers the existing 7-plant emission limit to 0.18 lb/MMBtu, to account for lower NO<sub>x</sub> emissions from Plant Scherer. The requirements of subparagraphs 4 and 5 apply to all sources located in Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gwinnett, Heard, Henry, Monroe, Paulding, Putnam, and Rockdale Counties.

Subparagraph 6 establishes an ozone season NO<sub>x</sub> emission limit of 0.17 lb/MMBtu for Georgia Power’s Plant Scherer, located in Monroe County. The requirements in subparagraph 6 apply to sources located in Monroe County. These revisions also establish an ozone season NO<sub>x</sub> emissions limit for Georgia Power’s Plant Scherer, which is located in the Macon area, and also contributes to ozone levels in the Atlanta nonattainment area.

#### Rule 391–3–1–.02(6)(a)4, “Emission Statements”

The revision amends subparagraph (a)4 to revise the emission statement requirements to be consistent with the Federal regulations for 8-hour ozone nonattainment areas. The Emission Statement deadline is changed from July 31st to June 15th of each calendar year. Additionally, applicability of the requirements is expanded to include the counties of Barrow, Bartow, Carroll, Hall, Newton, Spalding and Walton, which are parts of the Atlanta 8-hour ozone nonattainment area. The basis of this rule is to require submission of NO<sub>x</sub> and volatile organic compounds (VOC) emissions inventories for sources located in the Atlanta ozone nonattainment area. The purpose of the revision is to make the rule consistent with current federal regulations for 8-hour ozone nonattainment areas.

### *August 22, 2007, Submittal*

#### Rule 391–3–1–.01(III), “Volatile Organic Compound”

The revision submitted by GA EPD adds one compound to the list of those excluded from the definition of VOC, on the basis that the compound makes a negligible contribution to ozone formation. Tropospheric ozone, commonly known as smog, occurs when VOCs and NO<sub>x</sub> react in the atmosphere. Because of the harmful health effects of ozone, EPA limits the amount of VOCs and NO<sub>x</sub> that can be released into the

atmosphere. VOCs are those compounds of carbon (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate) which form ozone through atmospheric photochemical reactions. Compounds of carbon (or organic compounds) have different levels of reactivity; they do not react at the same speed, or do not form ozone to the same extent.

It has been EPA’s policy that compounds of carbon with a negligible level of reactivity need not be regulated to reduce ozone (42 FR 35314, July 8, 1977). EPA determines whether a given carbon compound has “negligible” reactivity by comparing the compound’s reactivity to the reactivity of ethane. EPA lists these compounds in its regulations at 40 CFR 51.100(s), and excludes them from the definition of VOC. The chemicals on this list are often called “negligibly reactive.” EPA may periodically revise the list of negligibly reactive compounds to add compounds to or delete them from the list. GA EPD’s revision modified the definition of VOC to exclude: 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethylpentane.

This revision updates the definition of VOC, to comply with the Federal list of compounds designated as having negligible photochemical reactivity.

### Rule 391–3–1–.02, “Provisions”

GA EPD is revising paragraph (12) “Clean Air Interstate Rule NO<sub>x</sub> Annual Trading Program,” by deleting inadvertent references and inserting the correct references in subparagraphs (f)3(iii), (g)1(i) and (g)1(ii). The rule is being revised to correct cross-references. Subparagraph (f)3(iii) inadvertently references the wrong subparagraphs for determining the control period for baseline heat input for NO<sub>x</sub> allocations. Revisions to subparagraph (f)3(iii) updates the reference to subparagraph (f)2(i) and (ii), and (f)2.(iii) with references to subparagraphs (f)3.(i) and (ii), and (f)3.(i) through (f)3.(ii), respectively. Subparagraphs (g)1.(i) and (ii) are amended to be consistent with the changes to subparagraph (f)3.(iii) above, as well as to add a wording change to clarify the control period. Specifically, the reference in subparagraph (g)1.(i) currently stated as “(f)2. through (f)3.” is updated to correctly read “(f)1.(i).” The current reference in (g)1.(ii) to subparagraph (f)2. through (f)3 is also revised to “(f)1.(ii).” Additionally, the words “that is four years” are added to describe the control period in subparagraph (g)1.(ii).

Rule 391–3–1–.03(6)(b)11, “Stationary Engines”

The revision corrects an inadvertent error in subparagraphs (iii) and (iv) to read “hours-per-year,” rather than “hours-per-hour.”

### III. Proposed Action

EPA is proposing to approve the aforementioned revisions, specifically, Chapters 391–3–1–.03(6)(b), 391–3–1–.02(2)(jji), 391–3–1–.02(6)(a)4, 391–3–1–.01(III), 391–3–1–.02, and 391–3–1–.03(6)(b)11, into the Georgia SIP. These revisions were submitted by GA EPD on October 31, 2006, March 5, 2007, and August 22, 2007.

### 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. 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 approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it 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, Carbon monoxide, Incorporated by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 11, 2009.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

[FR Doc. E9–11909 Filed 5–20–09; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 84

[Docket Number NIOSH–005]

**RIN 0920–AA10**

### Approval Tests and Standards for Closed-Circuit Escape Respirators

**AGENCY:** Centers for Disease Control and Prevention, HHS.

**ACTION:** Notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** The Department of Health and Human Services (DHHS) is reopening the comment period until June 19, 2009 concerning the proposed rule for Approval Tests and Standards for Closed-Circuit Escape Respirators that was published in the **Federal Register** on Wednesday, December 10, 2008 (73 FR 75027). The previous comment period closed on April 10, 2009.

**DATES:** All written comments on the proposed rule must be received on or before June 5, 2009.

**ADDRESSES:** You may submit comments, identified by RIN: 0920–AA10, by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **E-mail:** [niocindocket@cdc.gov](mailto:niocindocket@cdc.gov). Include “RIN: 0920–AA10” and “42 CFR pt. 84” in the subject line of the message.

- **Mail:** NIOSH Docket Office, Docket #005, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking, RIN: 0920–AA10. All comments received will be posted without change to <http://www.cdc.gov/niosh/docket>, including any personal information provided.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.cdc.gov/niosh/docket>.

### FOR FURTHER INFORMATION CONTACT:

Jonathan V. Szalajda, NIOSH, National Personal Protective Technology Laboratory (NPPTL), Post Office Box 18070, 626 Cochran Mill Road, Pittsburgh, Pennsylvania 15236, telephone (412) 386–5200, facsimile (412) 386–4089, e-mail [zfx1@cdc.gov](mailto:zfx1@cdc.gov).

**SUPPLEMENTARY INFORMATION:** The Department of Health and Human Services published a proposed rule on the Approval Tests and Standards for Closed-Circuit Escape Respirators on December 10, 2008 and asked for comments on or before February 9, 2009 (73 FR 75027). On March 4, 2009 the Department published a document announcing two public meetings and reopening the comment period for this proposed rule until April 10, 2009 (74 FR 9380). The Department held the two public meetings on March 16, 2009 and March 23, 2009. Commenters at the meeting requested additional time to review data and provide additional comment regarding the proposal. After reviewing the record, the Department has concluded that reopening the comment period until June 12, 2009 is reasonable.

Dated: May 15, 2009.

**Ashley Files Flory,**

*Acting Executive Secretary to the Department.*

[FR Doc. E9–11938 Filed 5–20–09; 8:45 am]

**BILLING CODE 4163–18–P**