

1997, and section 14.3, effective on July 2, 2007.

\* \* \* \* \*

■ 3. Section 52.1605 is amended by revising the entry for Subchapter 14 under Title 7, Chapter 27 to read as follows:

**§ 52.1605 EPA-approved New Jersey regulations.**

State regulation	State effective date	EPA approved date	Comments
* * * * *	* * * * *	* * * * *	* * * * *
Title 7, Chapter 27.			
* * * * *	* * * * *	* * * * *	* * * * *
Subchapter 14, "Control and Prohibition of Air Pollution from Diesel-Powered Motor Vehicles".			On September 15, 1997, section 14.2 was re-numbered to 14.6. The State did not submit this change as a SIP revision. Therefore, the July 1, 1985, version of section 14.2 will continue to be the EPA-approved regulation.
Sections 14.1–14.3	July 1, 1985	June 13, 1986.	
Section 14.1	July 2, 2007	April 17, 2009 [Insert Federal Register page citation].	
Section 14.2	September 15, 1997	April 17, 2009 [Insert Federal Register page citation].	
Section 14.3	July 2, 2007	April 17, 2009 [Insert Federal Register page citation].	
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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2009–0181; FRL–8892–8]

### Approval and Promulgation of Implementation Plans; Georgia; Enhanced Inspection and Maintenance Plan

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve the State Implementation Plan (SIP) revision submitted by Georgia Department of Natural Resources (GA DNR) through the Georgia Environmental Protection Division (GA EPD) on February 13, 2009. The revisions include minor changes to Georgia's Air Quality Rules found at Chapter 391–3–20–17, pertaining to rules for Enhanced Inspection and Maintenance (I/M). Specifically, the changes update the amount of repair costs that may qualify for a waiver. This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** This direct final rule is effective June 16, 2009, without further notice, unless EPA receives adverse comment by May 18, 2009. If adverse comment is received, EPA will publish a timely

withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2009–0181 by one of the following methods:

1. *http://www.regulations.gov*: Follow the online instructions for submitting comments.
2. *E-mail*: [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).
3. *Fax*: (404) 562–9019.
4. *Mail*: "EPA–R04–OAR–2009–0181," 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*: Lynorae Benjamin, 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. 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–2009–0181." 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," which means EPA will not know your identity or contact information unless you provide it in the body of your comments. 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 materials, such as copyrighted material, are not placed on the Internet and will be publicly available only in the 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:** Mohammad Madjdinasab, 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) 562-9026. Mr. Madjdinasab can also be reached via electronic mail at [madjdinasab.mohammad@epa.gov](mailto:madjdinasab.mohammad@epa.gov). For information relating to the Georgia State SIP, contact Ms. Stacy Harder. Ms. Harder may be reached at (404) 562-9042, or [harder.stacy@epa.gov](mailto:harder.stacy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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**I. Background**

The I/M program is a way to ensure that vehicles are maintained properly and verify that the emission control system is operating correctly, in order to reduce vehicle-related emissions. Enhanced I/M was required for 1-hour ozone nonattainment areas classified as serious nonattainment and above, under the CAA. Georgia implemented an enhanced I/M program for the 13-county Atlanta 1-hour ozone area in 1996 to fulfill the requirements under the CAA for a serious nonattainment area. Georgia was able to demonstrate attainment with the 1-hour ozone standard in 2005 for the Atlanta 1-hour ozone nonattainment area (referred to hereafter as the "Atlanta area"). However, on April 30, 2004, the Atlanta area was designated nonattainment for the 8-hour ozone standard (69 FR

23857), and the area was expanded from 13 to 20 counties. The Atlanta area was first classified as a marginal nonattainment area and later reclassified to a moderate nonattainment area on March 6, 2008 (73 FR 12013).

The enhanced I/M program is no longer a required measure for Atlanta for the 8-hour ozone standard pursuant to the CAA because the area is now classified as a moderate non-attainment area (73 FR 12013). However, the enhanced I/M program was approved into the SIP for the 1-hour ozone standard and must remain in the SIP until such time that the State removes the requirement, pursuant to section 110(l) of the CAA. On February 13, 2009, GA EPD provided its annual submission to update the waiver provision related to its enhanced I/M rule. This submission was provided to satisfy 40 CFR 51.360(a)(7). Specifically, 40 CFR 51.360(a)(7) states "Beginning on January 1, 1998, enhanced I/M programs shall require the motorist to make an expenditure of at least \$450 in repairs to qualify for a waiver. The I/M program shall provide that the \$450 minimum expenditure shall be adjusted in January of each year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index of 1989. Prior to January 1, 1998, States may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the relevant enhanced I/M performance standard."

**II. Analysis of the State's Submittal**

In accordance with 40 CFR 51.360(a)(7), Rule 391-3-20-.17 "Waivers" was revised effective January 1, 2009, to adjust the minimum amount that must be paid on qualifying repairs after a vehicle fails an initial test in order to be granted a waiver from complying with the inspection requirements for the corresponding registration period. A minimum repair cost of \$450 must be made on qualifying repairs after the vehicle fails the initial test. The \$450 level will be adjusted each year to reflect the change in the Consumer Price Index after 1989. These revisions became State effective on December 28, 2008. In the February 13, 2009, submittal, State of Georgia stated that this change will not have a negative impact on small business owners that conduct vehicle inspections. Further, there is no change in cost to the general public, as these fees used to be adjusted annually utilizing the Consumer Price Index and submitted to EPA for

approval annually. GA EPD is simply making this SIP revision to avoid the submission of minimum required repair cost and revising their SIP annually.

**III. Final Action**

EPA is taking direct final action to approve the aforementioned revisions, specifically, Chapter 391-30-20-.17 Subparagraph (2)(a) into the Georgia SIP. These revisions submitted by GA EPD on February 13, 2009, are consistent with CAA requirements, and EPA policy and guidance.

EPA is publishing this rule without prior proposal because the agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 16, 2009 without further notice unless the Agency receives adverse comments by May 18, 2009.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 16, 2009 and no further action will be taken on the proposed rule.

**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 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 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 (Public Law 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 an Indian

country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal laws.

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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 16, 2009. 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. Parties with objections to this direct final rule are

encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Volatile organic compounds.

Dated: April 3, 2009.

**Beverly H. Banister**,  
Acting Regional Administrator, Region 4.

#### PART 52—[AMENDED]

- 1. The authority citation for part 52 continues to read as follows:

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

#### Subpart L—Georgia

- 2. Section 52.570(c) is amended by revising the entry for “391–3–20” 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
*	*	*	*	*
<b>Chapter 52 Attainment and Maintenance of the National Ambient Air Quality Standards</b>				
*	*	*	*	*
391–3–20 .....	Enhanced Inspection and Maintenance .....	12/28/2008	04/17/2009	[Insert citation of publication].

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 271

[EPA–R05–RCRA–2008–0712; FRL–8789–6]

#### Wisconsin: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Final rule.

**SUMMARY:** EPA is granting Wisconsin final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The agency published a proposed rule on November 25, 2008 at 73 FR 71583 and provided for public comment. The public comment period ended on December 26, 2008. We received no comments. No further opportunity for comment will be provided. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is proposing to authorize the State’s