

Dated: November 18, 2009.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

■ 40 CFR part 52 is amended as follows:

## PART 52—[AMENDED]

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

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

### Subpart O—Illinois

■ 2. Section 52.725 is amended by adding paragraph (j) to read as follows:

#### § 52.725 Control strategy: Particulates.

\* \* \* \* \*

(j) Determination of Attainment. EPA has determined, as of November 27, 2009, that the Chicago-Gary-Lake County, IL-IN PM<sub>2.5</sub> nonattainment area has attained the 1997 PM<sub>2.5</sub> NAAQS. This determination, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, reasonable further progress, contingency measures, and other plan elements related to attainment of the standard for as long as this area continues to meet the 1997 PM<sub>2.5</sub> NAAQS.

### Subpart P—Indiana

■ 2. Section 52.776 is amended by adding paragraph(s) to read as follows:

#### § 52.776 Control strategy: Particulate matter.

\* \* \* \* \*

(s) Determination of Attainment. EPA has determined, as of November 27, 2009, that the Chicago-Gary-Lake County, IL-IN PM<sub>2.5</sub> nonattainment area, which includes Lake and Porter counties in IN, and the Evansville nonattainment area have attained the 1997 PM<sub>2.5</sub> NAAQS. These determinations, in accordance with 40 CFR 51.1004(c), suspend the requirements for these areas to submit an attainment demonstration, associated reasonably available control measures, reasonable further progress, contingency measures, and other plan elements related to attainment of the standard for as long as the area(s) continue to meet the 1997 PM<sub>2.5</sub> NAAQS.

[FR Doc. E9-28256 Filed 11-25-09; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2006-0649-200918; FRL-8984-7]

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

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action 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. 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 also included revisions to Georgia's Prevention of Signification Deterioration (PSD) and Nonattainment New Source Review (NNSR) programs, which EPA is addressing separately. This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** *Effective Date:* This rule will be effective December 28, 2009.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R04-OAR-2006-0649. All documents in the docket are listed on the <http://www.regulations.gov> Web site. 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 are available either electronically through <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:

Deanne Grant, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9291. Ms. Grant can also be reached via electronic mail at [grant.deanne@epa.gov](mailto:grant.deanne@epa.gov). For information relating to the Georgia SIP, please contact Ms. Stacy Harder at (404) 562-9042. Ms. Harder can also be reached via electronic mail at [harder.stacy@epa.gov](mailto:harder.stacy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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#### I. EPA's Action

EPA is taking final action to approve SIP revisions, provided by the State of Georgia in three respective submittals, to Chapter 391-3-1. The first submittal dated October 31, 2006, includes revisions to Rule 391-3-1-.03(6)(b) "Permit Exemption for Combustion Equipment." The second submittal dated March 5, 2007, includes revisions 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." The third submittal dated August 22, 2007, includes revisions to Rules 391-3-1-.01(III) "Volatile Organic Compound," 391-3-1-.02(12) "Clean Air Interstate Rule NO<sub>x</sub> Annual Trading Program," and 391-3-1-.03(6)(b)11 "Stationary Engines." The revisions 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)(b)16 "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, or on provisions pertaining to Georgia's PSD and NNSR rules.

#### II. Background

The GA EPD submitted revisions to the Georgia SIP in three submittals dated October 31, 2006, March 5, 2007, and August 22, 2007. The October 31, 2006, submittal revises 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. This rule revision is meant to streamline the permitting process for certain operators, and no longer require stationary sources that install temporary boilers and electric generators to obtain a permit for the temporary equipment operated during periods of maintenance or repair. 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."

The March 5, 2007, submittal revises Rule 391-3-1-.02(2)(jjj), "NO<sub>x</sub> Emissions from Electric Utility Steam Generating Units." This 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. Additionally, the March 5, 2007, submittal revises Rule 391-3-1-.02(6)(a)4, "Emission Statements." This revision amends the emission statement requirements so they are consistent with 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 part 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 non-attainment area.

The August 22, 2007, submittal revises Rule 391-3-1-.01(III), "Volatile Organic Compound." This revision adds 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethylpentane to the list of those excluded from the definition of VOC, on the basis that the compound makes a negligible contribution to ozone formation. Therefore, the revision updates the definition of VOC, to comply with the Federal list of compounds designated as having negligible photochemical

activity. The August 22, 2007, submittal also revises Rule 391-3-1-.02(12), "Provisions," by deleting inadvertent references and inserting correct references in paragraph (12), "Clean Air Interstate Rule NO<sub>x</sub> Annual Trading Program." Lastly, the August 22, 2007, submittal revises Rule 391-3-1-.03(6)(b)11, "Stationary Engines," to correct an inadvertent error in subparagraphs (iii) and (iv) to read "hours-per-year," rather than "hours-per-hour." The rules in these three submittals became State effective on April 19, 2006, March 12, 2007, and July 25, 2007, respectively.

The May 21, 2009, rulemaking proposed approval of the aforementioned revisions to the Georgia SIP (74 FR 23812). The comment period closed on June 22, 2009, and no comments were received. A detailed discussion of Georgia's submittals and EPA's rationale for approval of these Georgia SIP revisions may be found in the proposed rulemaking notice. The discussion in the proposed rule describes the basis on which EPA is now taking final action on the Georgia SIP revisions.

### III. Final Action

EPA is taking final action to approve the aforementioned revisions, specifically, Chapters 391-3-1-.03(6)(b), 391-3-1-.02(2)(jjj), 391-3-1-.02(6)(a)4, 391-3-1-.01(III), 391-3-1-.02(12), 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. These revisions meet CAA requirements and are consistent with EPA policy and 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. 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 (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.

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 January 26, 2010. 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, Carbon monoxide,

Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 16, 2009.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

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

#### EPA-APPROVED GEORGIA REGULATIONS

#### Subpart L—Georgia

■ 2. In § 52.570(c) the table is amended as follows:

■ a. By revising the entries for “391–3–1–.01,” “391–3–1–.02(2)(jjj),” “391–3–1–.02(12),” and “391–3–1–.03”.

■ b. By adding an entry in numerical order for “391–3–1–.02(6)”.

■ c. By removing the entry for “391–3–1–.02(2)(6)”.

#### § 52.570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

State citation	Title/subject	State effective date	EPA approval date	Explanation
391–3–1–.01 .....	Definitions .....	7/25/07	11/27/09 [Insert citation of publication].	
* * *	* * *			
391–3–1–.02(2) (jjj) .....	NO <sub>x</sub> Emissions from Electric Utility Steam Generating Units.	3/12/07	11/27/09 [Insert citation of publication].	
* * *	* * *			
391–3–1–.02(6) .....	Source Monitoring .....	3/12/07	11/27/09 [Insert citation of publication].	
* * *	* * *			
391–3–1–.02(12) .....	Clean Air Interstate Rule NO <sub>x</sub> Annual Trading Program.	7/25/07	11/27/09 [Insert citation of publication].	
* * *	* * *			
391–3–1–.03 .....	Permits .....	7/25/07	11/27/09 [Insert citation of publication].	Paragraph (9) Permit Fees; Paragraph (10) Title V Operating Permits are not Federally approved.
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[FR Doc. E9–28255 Filed 11–25–09; 8:45 am]  
BILLING CODE 6560–50–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–HQ–OAR–2009–0670; FRL–8985–6]

#### Finding of Failure To Submit State Implementation Plans Required for the 1997 Particulate Matter Less Than 2.5 Micrometer (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS)

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is taking a final action in which it finds that three

States, Georgia, Illinois, and Pennsylvania, have failed to submit State Implementation Plans (SIPs) to satisfy requirements of the Clean Air Act (CAA) for attaining the 1997 National Ambient Air Quality Standards (NAAQS) for particulate matter less than 2.5 micrometers (PM<sub>2.5</sub>). Under the CAA and EPA’s implementing regulations, States with nonattainment areas were required to submit SIPs by April 5, 2008, demonstrating how each nonattainment area would attain the 1997 PM<sub>2.5</sub> standards as expeditiously as practicable. If within 18 months of the effective date of this notice EPA has not determined that the State has submitted the required nonattainment plan, then any new or modified source in the nonattainment area will be required to obtain emission reduction offsets that exceed its emission increases on a two-to-one basis. If

within 24 months of the effective date of this notice EPA has not determined that the State has submitted the required SIP, then the highway funding sanction also will apply in the nonattainment area. No later than 2 years after EPA makes the finding, EPA must promulgate a Federal Implementation Plan (FIP) if the State has not submitted the required nonattainment SIP and EPA has not approved it.

**DATES:** *Effective Date.* This action is effective on November 27, 2009.

**FOR FURTHER INFORMATION CONTACT:** General questions concerning this notice should be addressed to Mr. Butch Stackhouse, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code: C504–2, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711; telephone (919) 541–5208.