



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2006-0651; FRL-9989-27-Region 4]

Air Plan Approval; GA; Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve changes to the Georgia State Implementation Plan (SIP) submitted by the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, on April 11, 2003. EPA is proposing to approve portions of a SIP revision which include changes to Georgia's rules regarding emissions standards and open burning. This action is being proposed pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2006-0651 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be

accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960, or Joel Huey, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Wong can be reached by telephone at (404) 562-8726 or via electronic mail at wong.richard@epa.gov. Mr. Huey can be reached by telephone at (404) 562-9104 or via electronic mail at huey.joel@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 11, 2003, GA EPD submitted a SIP revision to EPA for approval that involves changes to Georgia's SIP regulations. In this action, EPA is proposing to approve the portions of the Georgia submission that make changes to Georgia's Rule 391-3-1-.02(2)(nm) – *NOx Emissions from Large Stationary Gas Turbines* and Rule 391-3-1-.02(5) – *Open Burning*.¹ EPA

¹ On August 31, 2018, GA EPD submitted a letter (included in the docket for this action) withdrawing from the submittal a proposed revision to Georgia Rule 391-3-1-.02(5)(d) that would provide exceptions to the 40 percent opacity limit on open burning.

is not acting on the following three other portions of GA EPD's April 11, 2003, submittal at this time. On October 21, 2009, GA EPD submitted a letter withdrawing from the submittal a proposed revision to Georgia Rule 391-3-1-.02(2)(qqq) – *Volatile Organic Compound From Extruded Polystyrene Products Manufacturing Utilizing a Blowing Agent*.² On January 5, 2017 (82 FR 1206), EPA approved changes to Rule 391-3-1-.01 – *Definitions* that were included in the April 11, 2003, submittal. On April 16, 2018 (83 FR 16276), EPA published a proposed rulemaking for Rule 391-3-1-.03(11)(b) – *Permit by Rule Standards* that was included in the April 11, 2003, submittal.

II. Analysis of State's Submittal

A. Rule 391-3-1-.02(2)(nnn) – *NOx Emissions from Large Stationary Gas Turbines*

EPA is proposing to approve a change to Rule 391-3-1-.02(2)(nnn) – *NOx Emissions from Large Stationary Gas Turbines* (henceforth, Rule (nnn)), which applies to stationary gas turbines with a maximum potential output of greater than 25 megawatts. This rule was originally approved into the Georgia SIP on July 10, 2001 (66 FR 35906), as one of several rules adopted as part of GA EPD's 1-hour ozone attainment demonstration for the Atlanta nonattainment area (Atlanta Area).

Paragraph 1 of Rule (nnn) establishes nitrogen oxides (NOx) emission limits for the subject gas turbines in a 45-county area that includes and extends beyond the thirteen counties of the previous Atlanta, Georgia, 1979 1-hour ozone maintenance area.³ Paragraph 2 of the rule

² The October 21, 2009, letter is included in the docket for this action.

³ Thirteen counties of the Atlanta Area were designated nonattainment for the 1979 1-hour ozone NAAQS on November 6, 1991 (56 FR 56694) and redesignated to attainment effective June 14, 2005 (70 FR 34660).

provides that these limits apply during the “ozone season” period of May 1 through September 30 of each year.

For existing units, paragraph 5 of Rule (nnn) allowed a source owner or operator to petition the Director, by May 1, 2003, for a change to the rule in case a source is unable to meet the NO_x emission limits of paragraph 1 through combustion modifications. Georgia Power, in a 2002 letter to GA EPD,⁴ specified certain combustion turbine units at four sources that would not be able to meet the emission limits in paragraph 1 because either emission reduction technologies failed to achieve compliance with the NO_x limit of the rule or because compliance proved to be prohibitively expensive. Those units are Unit 6 at Plant Bowen, Units 3A and 3B at Plant McDonough, Units 5A and 5B at Plant Atkinson, and Unit 5A at Plant Wansley. As a result, GA EPD’s April 11, 2003, SIP revision adds to Rule (nnn) a new paragraph 7, which provides an exemption from the rule for the units that Georgia Power determined were unable to comply with the NO_x limits of paragraph 1 and were therefore taken out of normal service during ozone season. On April 10, 2018, GA EPD informed EPA that only two sources remain affected by this exemption.⁵

Paragraph 7 of Rule (nnn) provides that units are exempt from the provisions of the rule if they only operate up to three hours per month for maintenance purposes or under emergency conditions. Thus, such units are to be maintained in an operational condition for the purpose of being available to operate during emergency situations and for normal operation outside of ozone

⁴ See Charles H. Huling, Georgia Power, to Harold F. Reheis, GA EPD, August 23, 2002, included in GA EPD’s April 11, 2003, SIP submittal.

⁵ The two sources are Plant McDonough (combustion turbines 3A (CT5M and CT6M) and 3B (CT7M and CT8M) and Plant Wansley (combustion turbine 5A), as stated in an email from GA EPD to EPA on April 10, 2018. The email is included in the docket for this action.

season. If an owner or operator were to choose to operate in excess of the paragraph 7 limitations, the unit would be required to comply with the NOx emission limits of paragraph 1 and could no longer avail itself of the exemption provided by paragraph 7.

EPA is proposing to find that the revisions to paragraph 7 to Rule (nnn) are consistent with the CAA, including Section 110(l) of the Act, because the changes will result in reduced overall emissions from the exempted units. This is because the rule restricts the operation of the subject units during ozone season to only limited circumstances – for short periods of time for the purposes of maintenance and for emergency situations – rather than being able to operate continuously for the generation of electricity for sale. Under the existing approved rule, these units are allowed to operate, in compliance with the NOx emission limits of paragraph 1, for up to 3,672 hours during the ozone season (153 ozone season days multiplied by 24 hours per day). Under the paragraph 7 exemption from the NOx emissions limits, these units are allowed to operate only up to 15 hours during ozone season (3 hours per month multiplied by 5 ozone season months) for maintenance purposes, and only temporarily for emergency purposes.

On December 14, 2006, GA EPD submitted supplemental information with an evaluation of emission rates under the new subparagraph 7. That correspondence, which is included in the docket for this rulemaking, shows Georgia's analysis of the maximum allowable NOx emission rate based on the existing paragraph 1 in comparison to the maximum allowable emissions for maintenance purposes under paragraph 7. As shown in the table on page 3 of GA EPD's analysis, the allowable NOx emissions based on operation for maintenance purposes under paragraph 7 are significantly less than the allowable NOx emissions under the existing paragraph 1 – less than two percent of previously allowable emissions. Indeed, since 2008, data from

EPA's Air Markets Program Data (<https://ampd.epa.gov/ampd/>) shows the highest annual NOx emissions reported for these units is less than 0.5 ton.

Paragraph 7 limits the use of these units to two types of emergency situations. First, the units may be used "For the purpose of restarting the steam-electric generating units when all steam-electric generating units at a facility are down and off-site power is not available (also known as a 'Black Start')." A "Black Start" occurs in the rare circumstance that there is a system-wide power failure and these combustion turbine units are temporarily started up to provide the necessary power within the facility to re-start other units for the purposes of electricity production for the grid. In an April 10, 2018 email, GA EPD informed EPA that, since the time that Georgia adopted paragraph 7, these combustion turbine units have not been started up for the emergency purpose of a Black Start.⁶

Second, paragraph 7 allows these units to be used "When power problems on the grid would necessitate implementing manual load shedding procedures for retail customers." "Manual load shedding," as described by GA EPD, is a procedure used when Georgia Power directs power consumers to minimize or stop electric consumption, which can occur in conjunction with brownouts.⁷ Such a procedure could be used in an attempt to rebalance power in the grid and avoid a system-wide power failure. Under paragraph 7, these combustion turbine units could be used in this emergency situation to ensure continued power production at a level sufficient to meet grid demand, thus obviating the need to reduce or stop power to consumers through manual load shedding procedures. Since the time that Georgia adopted paragraph 7,

⁶ The GA EPD email of April 10, 2018, is available in the docket for this action.

⁷ Brownout is a voltage reduction by power companies during a period of high electricity demand to prevent system overload and thus avoid a potential blackout.

manual load shedding procedures have occurred infrequently,⁸ and such events do not necessarily require the start-up of an emergency combustion turbine in all cases.

Section 110(l) provides that “the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.” This proposed SIP revision is consistent with these requirements because potential NOx emissions for maintenance under the new paragraph 7 are significantly less than potential emissions of a unit generating electricity for sale continuously during the 153-day ozone season. In addition, based upon the limited types of emergency use allowed under the rule and the actual operational history and emissions of these units,⁹ EPA believes that start-up of these units for emergency purposes is unlikely during any particular ozone season and that any such use that might occur would be brief. Accordingly, EPA is proposing to approve the amendment to Rule (nnn) from GA EPD’s April 11, 2003, submittal.

B. Rule 391-3-1-.02(5) – *Open Burning*

GA EPD’s April 11, 2003, submittal makes several changes to the State’s *Open Burning* rule at Rule 391-3-1-.02(5). This rule bans open burning in the State of Georgia with the exception of several specific types of open burning listed at subsection (5)(a).¹⁰ In its submittal, GA EPD explains that the purpose of the changes is to make the rule consistent with current interpretation, implementation, and enforcement.

⁸ See GA EPD email of April 10, 2018.

⁹ A summary of the NOx emissions from the affected sources for the past 10 years is included in the docket for this action.

¹⁰ The submittal revises the definition of “slash burning” at paragraph (5)(e)2 (formerly (5)(f)2). However, EPA is not acting on this change because the State deleted the term from the Rule in a later submittal of November 6, 2006, which EPA has already approved. See 75 FR 6309 (February 9, 2010).

GA EPD's submittal revises paragraph (5)(a)6, which provides an exclusion from the open burning ban for "Fires set for purposes of training fire-fighting personnel when authorized by the appropriate governmental entity and the guidelines set forth by the Director are strictly observed." The submittal revises this exclusion from the open burning ban by deleting the ending phrase, "and the guidelines set forth by the Director are strictly observed." However, the State's "guidelines set forth by the Director" apply to acquired structure burns, which as discussed below, are now part of the authorization process for the new standalone exclusion from the open burning ban at paragraph (5)(a)7. Therefore, the State has removed this phrase from paragraph (5)(a)6.

The submittal adds a standalone exemption from the open burning ban at paragraph (5)(a)7 for "[a]cquired structure burn," which is defined as "the burning of a house, building or structure for the exclusive purpose of providing training to the fire-fighting personnel or arson investigators."¹¹ *See* Georgia Rule 391-3-1-.02(5)(e)(3). Under the rule, an acquired structure burn may only be conducted after an Authorization to Burn certificate has been issued by the Division. EPA notes that acquired structure burn activities were previously exempted from the open burning ban throughout the State, with some limitations, under Rule 391-3-1-.02(5)(a)(6) (previously (a)(7)). However, GA EPD has pulled "acquired structure burns" out as a standalone exemption to further restrict them during ozone season in the 45 counties encompassing and surrounding the (former) Atlanta ozone 1-hour nonattainment area.¹² EPA is proposing to approve the addition of "acquired structure burns" as a standalone exemption from the open

¹¹ EPA has already approved changes to the definition for "[a]cquired structure burn" at paragraph (5)(e)3. *See* 70 FR 50199 (August 26, 2005).

¹² *See* Rule 391-3-1-.02(5)(b), which limits the categories of open burning allowed in the 45-county area.

burning ban because it was already exempted under the existing SIP-approved rule as part of training to the fire-fighting personnel under paragraph (5)(a)6. As a standalone exemption, it is now specifically banned during ozone season in the 45 counties of the Atlanta Area under Rule 391-3-1-.02(5)(b). Also, conducting an acquired structure burn requires an Authorization to Burn certificate, which includes the “guidelines set forth by the Director” that were also previously included in paragraph (5)(a)6.¹³ In addition, EPA notes that because acquired structure burns are no longer allowed in the 45-county area surrounding the Atlanta Area during ozone season, this change will prevent them from having an adverse impact on the seven counties of the only current nonattainment area in the State.¹⁴ Taken together, the exclusions at paragraphs (5)(a)6 and (5)(a)7 retain the exemption for fires set for purposes of training fire-fighting personnel, provided that proper authorization has been obtained, but now prohibit acquired structure burns during the ozone season in 45 counties of the Atlanta Area.

The submittal also removes the following two types of open burning from the list of activities at subsection (5)(a) that are excluded from the open burning ban: (1) “Destruction of combustible demolition or construction materials either on site or transported to a burning facility upon approval by the Director, unless prohibited by local ordinance and/or regulation” (subparagraph (5)(a)3); and (2) “Setting and maintenance by contractors and tradesmen of miscellaneous small fires necessary to such activities as street-paving work installation or repair of utilities, provided that such fires are kept small in size, no smoke emissions exceed 40 percent

¹³ The “guidelines set forth by the Director” are provided in the memorandum “Guidance for Acquired Structure for Live Fire Training” from GA EPD to Georgia Fire Department Chiefs and Personnel, July 13, 2016, downloaded from <https://epd.georgia.gov/air/acquired-structure-burn-information> on September 14, 2018, and included in the docket for this rulemaking.

¹⁴ On June 4, 2018, EPA designated the counties of Bartow, Cobb, Clayton, DeKalb, Fulton, Gwinnett and Henry as nonattainment for the 2015 8-hour ozone national ambient air quality standards (NAAQS). See 83 FR 25776.

opacity, and that local ordinances and regulations do not prohibit such actions” (subparagraph (5)(a)11). Since these two types of open burning would no longer be excluded from the State’s open burning ban, they would be prohibited in the State, and this strengthens protection of air quality.

GA EPD’s submittal revises another existing exclusion at paragraph (5)(a)8, where the exclusion for “Disposal of tree limbs from storm damage” is changed to “Disposal of vegetative debris from storm damage.” EPA believes the change from “tree limbs” to “vegetative debris” is minimal and will have no impact on air quality.

Paragraph (5)(a)11 (previously (5)(a)12) provides an exception to the open burning ban in “other than predominantly residential areas for the purpose of land clearing or construction or right-of-way maintenance provided the following [five] conditions are met.” The second condition that must be met for this type of open burning to be allowed is that “[t]he location of the burning is at least 1,000 feet from any dwelling located in a predominately residential area.” Two changes are made here. The revised language (1) removes the limitation of this exception to “other than predominantly residential areas,” and (2) changes the second condition that must be met such that rather than requiring this type of burning occur at least 1,000 feet from any “dwelling located in a predominantly residential area,” the rule requires it to occur at least 1,000 feet from any “occupied structure, or lesser distance if approved by the Division.” Thus, the revised rule establishes a minimum distance required from all occupied structures (e.g., schools, work places and shops), not just residential area dwellings, and provides that the GA EPD Director may approve lesser distances as evaluated and deemed appropriate. The revised

language is more protective of air quality because it requires that burning for the purpose of land clearing, construction or right-of-way maintenance must be conducted at least 1,000 feet away from all occupied structures, not just residential dwellings. Any distance less than 1,000 feet must be specifically reviewed and, if deemed appropriate, approved by the Director. EPA believes the amount of distance required is unrelated to attainment or maintenance of the NAAQS, and thus is appropriately left to the State's discretion.

Paragraph (5)(a)13 (previously (5)(a)14) provides seven conditions that must all be met before anyone may conduct "[o]pen burning of vegetative material for the purpose of land clearing using an air curtain destructor." The revision removes the "Georgia Forestry Office" as one of the entities that may be required to authorize such burning under the first condition at subparagraph (5)(a)13(i). As revised, authorization for such burning must be obtained, if required, from the fire department having local jurisdiction but is not required from the Georgia Forestry Office. EPA believes this revision is within the State's discretion. The revision also adds a new condition, subparagraph (5)(a)13(viii), stating that "[t]he air curtain destructor cannot be fired before 10:00 a.m. and the fire must be completely extinguished, using water or by covering with dirt, at least one hour before sunset." Thus, the burning of vegetative material for the purpose of land clearing using an air curtain destructor must be limited to daytime hours. This approach is more protective of air quality because it allows less time each day for the burning of vegetative material and enables better oversight by enforcement personnel.

Subsection 391-3-1-.02(5)(b) provides specific county restrictions to implement more stringent limitations on open burning in the counties that were previously part of the Atlanta nonattainment area for the 1997 8-hour ozone NAAQS. GA EPD's April 11, 2003, revision

moves the counties of Bartow, Carroll, Hall, Newton, Spalding, and Walton from paragraph (b)2 to paragraph (b)1 (and thus deletes paragraph (b)2) and makes administrative edits to reflect the adopted changes in the allowed types of open burning listed in subsection (5)(a). This is an administrative change that will not impact air quality. The SIP revision also deletes from paragraph (b)4 (renumbered as (b)3) a statement which provides the Division with authority to allow additional types of open burning if it can be demonstrated that adequate disposal facilities are not reasonably available. EPA proposes to approve this revision because it strengthens the SIP by disallowing additional types of open burning currently allowed in some circumstances under the specific county open burning restrictions of subsection (5)(b).

The submittal also includes a revision that would delete the following provision from subsection (5)(c): “A written notification to a person of a violation at one site shall be considered adequate notice of the rules and regulations and subsequently observed violations by the same person at the same or different site will result in immediately appropriate legal action by the Director.” EPA is not proposing to act on this deletion because the provision was never approved into the SIP.

The SIP revision also removes subsection (5)(e) of the State’s Open Burning Rule, which prohibits open burning during an “air pollution episode,” defined at Rule 391-3-1-.04 as a condition that could “lead to a substantial threat to the health of persons in the specific area affected.” Georgia has separate state-adopted regulations establishing three levels of an air pollution episode: “Alert,” “Warning,” and “Emergency.” The lowest level, “Alert,” occurs at

0.17 parts per million (ppm) over an 8-hour average for ozone; 150 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) over a 24-hour average for $\text{PM}_{2.5}$; and $350 \mu\text{g}/\text{m}^3$ over a 24-hour average for PM_{10} .¹⁵

In this action, EPA is proposing to approve removal of the prohibition on open burning during an air pollution episode at Rule 391-3-1-.02(5)(e), which currently states: “During an air pollution episode declared by the proper authorities, no open burning of any kind shall be permitted unless open burning is required in the performance of an official duty of any public office, or a fire is necessary to thwart or prevent a hazard which cannot be properly managed by any other means, or is necessary for the protection of public health.” In comparison with the NAAQS, the “Alert” levels under the State’s Air Pollution Episode rule are 2.3 times the ozone and PM NAAQS levels or greater. In other words, an exceedance of the NAAQS would occur well before the concentration of air contaminants gets high enough for an air pollution episode declaration, meaning a ban on open burning during an episode, by definition, cannot impact attainment or maintenance of the NAAQS. Further, there have been only a few instances of pollutant levels above the Alert threshold in Georgia,¹⁶ and no recorded declaration of an air pollution episode. And as discussed below, EPA notes the State has ample authority to implement an open burning ban to the extent needed to protect public health. For these reasons, EPA believes that removal of Rule 391-3-1-.02(5)(e) from the SIP is consistent with the CAA, including section 110(l) of the Act, and its implementing regulations.

¹⁵ Georgia’s adopted air pollutant concentration thresholds for the “Alert,” “Warning,” and “Emergency” levels are not in the State’s federally-approved SIP, but are available on the State’s website at <https://epd.georgia.gov/existing-rules-and-corresponding-laws>.

¹⁶ EPA conducted a review of historical data and identified two exceedances of the $\text{PM}_{2.5}$ and PM_{10} threshold. The “Georgia Emergency Response Memo” and associated attachments are in the docket for this action.

EPA also notes that removal of this provision will not impact the State's separate "emergency powers" authority under section 110(a)(2)(G) of the Act. That provision requires the SIP to include "emergency powers" to restrain pollution sources presenting an imminent and substantial endangerment to public health or welfare, or the environment. EPA has previously approved Georgia Air Quality Act § 12-9-14 as satisfying the State's section 110(a)(2)(G) obligations. Thus, removal of Rule 391-3-1-.02(d) will not impact this separate applicable requirement.

III. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the GA EPD Rule 391-3-1-.02(2)(nmn) – *NOx Emissions from Large Stationary Gas Turbines* which revises emissions limits for some large stationary gas turbines and Rule 391-3-1-.02(5) – *Open Burning*, which revises the State's open burning rules, state effective March 26, 2003. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve portions of Georgia's April 11, 2003, submittal. Specifically, EPA is proposing to approve the changes to GA EPD Rule 391-3-1-.02(2)(nmn) – *NOx Emissions from Large Stationary Gas Turbines* and Rule 391-3-1-.02(5) – *Open Burning*. EPA believes that these proposed changes to the regulatory portion of the SIP are consistent with

section 110 of the CAA and meet the regulatory requirements pertaining to SIPs. EPA also believes that these proposed changes are specifically consistent with CAA section 110(l), which states that the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the Act.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 21, 2018.

Mary S. Walker,
Acting Regional Administrator,
Region 4.

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