



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2006-0651; FRL-9994-14-Region 4]

Air Plan Approval; GA; Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

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

DATES: This rule will be effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2006-0651. All documents in the docket are listed on the 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 www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, (formerly known as the 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 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation 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 and Radiation 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 approving 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 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.

In a notice of proposed rulemaking (NPRM) published on February 12, 2019 (84 FR 3354), EPA proposed to approve Georgia’s Miscellaneous Revisions. The details of Georgia’s submission and the rationale for EPA’s action are explained in the NPRM. Comments on the proposed rulemaking were due on or before March 14, 2019. EPA received no comments on the proposed action.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia’s Rule 391-3-1-.02(2)(nm) – *NOx Emissions from Large Stationary Gas Turbines*, effective April 20, 2003, which adds exemptions for emission standards for certain electric generating units, and Georgia Rule 391-3-1-.02(5)– *Open Burning*, also effective

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.

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

April 20, 2003,³ which adds, clarifies and removes several types of activities to the open burning exception list, revises specific county restrictions and removes the prohibition on open burning during an air pollution episode. 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). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.⁴

III. Final Action

EPA is approving the aforementioned changes to the Georgia SIP found in Georgia Rules 391-3-1-.02(2)(nm) and 391-3-1.02(5) submitted on April 11, 2003. For the reasons explained in EPA’s February 12, 2019 NPRM (84 FR 3354), EPA has concluded that these changes are consistent with the CAA and its implementing regulations, and will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of the Act). *See* 42 U.S.C. 7410(l).

IV. Statutory and Executive Order Reviews

³ The effective date of the change to Rule 391-3-1-.02(5) made in Georgia’s April 11, 2003, SIP revision is April 20, 2003. However, for purposes of the state-effective date at 40 CFR 52.570(c), that change to Georgia’s rule is captured and superseded by Georgia’s update in a November 6, 2006 (state-effective July 13, 2006), SIP revision, which EPA previously approved on February 9, 2010 (75 FR 6309).

⁴ *See* 62 FR 27968 (May 22, 1997).

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 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 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.

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 **[insert date 60 days after date of publication in the Federal Register]**. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 14, 2019.

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

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart L--Georgia

2. In §52.570, the table in paragraph (c) is amended by revising the entries “391-3-1-.02(2)(nmn)” and “391-3-1-.02(5)” to read as follows:

§52.570 Identification of plan.

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(c) * * *

EPA Approved Georgia Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
Emission Standards				
**	**	*	*	*
391-3-1-.02(2)(nmn)	NO _x Emissions from Large Stationary Gas Turbines	4/20/2003	[insert date of publication in the Federal Register], [insert Federal Register citation]	
**	**	*	*	*
391-3-1-.02(5)	Open Burning	7/13/2006	[insert date of publication in the Federal Register], [insert Federal Register citation]	Except subparagraph 391-3-1-.02(5)(c), which was approved on July 10, 2001, with a state-effective date of August 16, 2000.
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[FR Doc. 2019-10969 Filed: 5/24/2019 8:45 am; Publication Date: 5/28/2019]