

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 Clean Air Act. 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 Clean Air Act; 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 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 March 2, 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. 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, Intergovernmental relations, Ozone.

Dated: December 17, 2008.

Lynn Buhl,

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 52.726 is amended by adding paragraph (gg) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(gg) Approval—On January 30, 2007, the Illinois Environmental Protection Agency (IEPA) requested that EPA find that the Illinois portion of the Chicago-Gary-Lake County, Illinois-Indiana (IL-IN) nonattainment area, attained the revoked 1-hour ozone National Ambient Air Quality Standard (NAAQS). After review of this submission, EPA approves this finding.

Subpart P—Indiana

■ 3. Section 52.777 is amended by adding paragraph (kk) to read as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(kk) Approval—On October 25, 2007, the Indiana Department of Environmental Management (IDEM) requested that EPA find that the Indiana portion of the Chicago-Gary-Lake County, IL-IN nonattainment area, has attained the revoked 1-hour ozone NAAQS. After review of this submission, EPA approves this finding.

[FR Doc. E8-30812 Filed 12-29-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2006-0649-200750; FRL-8757-9]

Approval and Promulgation of Implementation Plans; Georgia; Nonattainment New Source Review Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to disapprove a portion of a revision to the Georgia State Implementation Plan (SIP) submitted by the State of Georgia on March 5, 2007. The proposed revision was intended to modify Georgia's Nonattainment New Source Review (NNSR) permitting rules in the SIP to establish a new baseline emissions calculation procedure for the generation of emissions reduction credits to be used as offsets. EPA proposed to disapprove this revision on September 4, 2008; one comment letter, which supported EPA's proposed disapproval of the baseline emissions calculation, was received.

DATES: This rule will be effective January 29, 2009.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2006-0649. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information may not be 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 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: For information regarding the Georgia State Implementation Plan, 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. *Telephone number:* (404) 562-9042; *e-mail address:* harder.stacy@epa.gov. For information regarding New Source Review, contact Ms. Kelly Fortin, Air Permits Section, at the same address above. *Telephone number:* (404) 562-9117; *e-mail address:* fortin.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, references to "EPA," "we," "us," or "our," are intended to mean the U.S. Environmental Protection Agency. The supplementary information is arranged as follows:

- I. What Action Is EPA Taking?
- II. What Is the Background for EPA's Action?
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

On March 5, 2007, the State of Georgia, through the Georgia Environmental Protection Division (EPD), submitted revisions to the Georgia SIP. The submittal consisted of changes to the Georgia Rules for Air Quality Control, Chapter 391-3-1. Among other revisions, the submittal includes changes to Rules 391-3-1-.02(7) "Prevention of Significant Deterioration (PSD) of Air Quality," and 391-3-1-.03(13)(c) "Emission Reduction Credits."

On September 4, 2008 (73 FR 51606), EPA published a notice of proposed rulemaking (NPR) in the **Federal Register**, proposing to, among other actions, approve the State's change to Rule 391-3-1-.02(7) and to disapprove Rule 391-3-1-.03(13)(c). The public comment period on this action was extended to November 6, 2008 (October 6, 2008, 73 FR 58085). One comment letter was received which included adverse comments on the proposed

revisions concerning Rule 391-3-1-.02(7) and supporting comments on the proposed disapproval of Rule 391-3-1-.03(13)(c). EPA is now moving forward to disapprove Rule 391-3-1-.03(13)(c) which is separate from Rule 391-3-1-.02(7). EPA is not now taking any actions regarding Rule 391-3-1-.02(7). In a future **Federal Register** notice, EPA will be addressing the adverse comments in a final action on Rule 391-3-1-.02(7). Additionally, EPA is not acting on the non-New Source Review (NSR) portions of the March 5, 2007, submittal, which were not part of the September 4, 2008 proposal.

EPA is taking final action to disapprove Rule 391-3-1-.03(13)(c), related to "Emissions Reduction Credits."

II. What Is the Background for EPA's Action?

On December 31, 2002 (67 FR 80186), EPA published final rule changes to 40 Code of Federal Regulations (CFR) parts 51 and 52, regarding the Clean Air Act's (CAA) PSD and NNSR programs. On November 7, 2003 (68 FR 63021), EPA published a notice of final action on the reconsideration of the December 31, 2002, final rule changes. The December 31, 2002, and the November 7, 2003, final actions are collectively referred to as the "2002 NSR Reform Rules." For additional information on the 2002 NSR Reform Rules, see 67 FR 80186 (December 31, 2002). For information on the subsequent revisions to these rules, see <http://www.epa.gov/nsr>.

On October 31, 2006, March 5, 2007, and August 22, 2007, EPD submitted revisions to EPA for the purpose of including the revised State NSR permitting rules in the SIP. Copies of Georgia's revised NSR rules, as well as the State's Technical Support Document, can be obtained from the Docket, as discussed in the **ADDRESSES** section above.

On September 4, 2008 (73 FR 51606), EPA proposed to partially approve and disapprove certain portions of these submittals consistent with section 110(k)(3) of the CAA (73 FR 51606). In response to requests for an extension of the public comment period, EPA extended the public comment period through November 6, 2008 (73 FR 58084). One comment letter, which among other concerns supports this disapproval action, was received and may be obtained from the Docket, as discussed in the **ADDRESSES** section above.

The March 5, 2007, proposed SIP revision includes changes to Georgia Rule 391-3-1-.03 subparagraph (13)(c), "Quantification of Emission Reduction

Credits," regarding the methodology for the calculation of emission reduction credits to incorporate the new federal definition of "baseline actual emissions." The State's intent was to make the method for determining actual emissions, prior to a reduction, consistent with the calculation of baseline emissions reductions used elsewhere in the federal and State NSR requirements. The emission reduction credits are certified under the Georgia rule to be used as offsets for nonattainment NSR purposes. However, the federal requirements at 40 CFR 51.165(a)(3)(i) require that the offset baseline shall be the "actual emissions" of the source from which offset credit is obtained. For additional discussion on this topic, see EPA's final action on the NSR Reform Rules (67 FR 80196), under the heading "Am I able to Apply Today's Changes for Calculating the Baseline Actual Emissions to Other Major NSR Requirements?"

The Georgia SIP currently contains an approved calculation methodology for emission reduction credits to be used as offsets, which is based upon the federal definition of "actual emissions" rather than "baseline actual emissions." EPA is now acting to disapprove the State's March 5, 2007, submission requesting that the change to Georgia Rule 391-3-1-.03 subparagraph (13)(c), be incorporated into the Georgia SIP because it is not consistent with federal requirements. This provision is severable from the other provisions of the Georgia submittals discussed in EPA's September 4, 2008, rulemaking notice.

No additional submittals to EPA are required by Georgia in response to EPA's disapproval because Georgia's SIP contains an approved methodology for calculating emission reduction credits that is consistent with the federal nonattainment NSR requirements. Any use of "baseline actual emissions" for the calculation of offsets, or the subsequent use of such offsets, would be inconsistent with federal law and the applicable Georgia SIP requirements.

III. Final Action

EPA is taking final action to disapprove subparagraph 391-3-1-.03(13)(c) of the State of Georgia's March 5, 2007, SIP submittal related to "Emissions Reduction Credits" pursuant to section 110(k)(3) of the CAA.

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. This action merely ensures that State law meets 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 March 2, 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. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 16, 2008.

Russell L. Wright, Jr.,

Acting Regional Administrator, Region 4.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R10-OAR-2007-0915; FRL-8747-7]

Approval and Promulgation of State Implementation Plans: Oregon; Salem Carbon Monoxide Nonattainment Area; Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of

Oregon. On August 9, 2007 the State of Oregon submitted a request to EPA that the Salem carbon monoxide (CO) nonattainment area be redesignated to attainment for the CO National Ambient Air Quality Standard (NAAQS) and concurrently submitted a maintenance plan that provides for continued attainment of the CO NAAQS. The Salem CO nonattainment area has not violated the 8-hour CO NAAQS since 1985.

DATES: This rule is effective on March 2, 2009, without further notice, unless EPA receives adverse comment by January 29, 2008. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2007-0915, by any of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.

- *E-mail:* vaupel.claudia@epa.gov.

- *Mail:* Claudia Vergnani Vaupel, EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

- *Hand Delivery/Courier:* EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. *Attention:* Claudia Vergnani Vaupel, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2007-0915. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The 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 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