

**§ 381.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.**

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(c) \* \* \*

(1) For all such compositions in the repertory of ASCAP, \$301 annually.

(2) For all such compositions in the repertory of BMI, \$301 annually.

(3) For all such compositions in the repertory of SESAC, \$121 annually.

\* \* \* \* \*

Dated: November 24, 2010.

**James Scott Sledge,**

Chief, U.S. Copyright Royalty Judge.

[FR Doc. 2010-30060 Filed 11-30-10; 8:45 am]

BILLING CODE 1410-72-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2007-0113-201016(a); FRL-9234-4]

**Approval and Promulgation of Implementation Plans; Georgia: Stage II Vapor Recovery**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Georgia State Implementation Plan (SIP), submitted by the Georgia Environmental Protection Division (GA EPD) on September 26, 2006, with a clarifying revision submitted on November 6, 2006. The September 26, 2006, submittal includes multiple modifications to Georgia's Air Quality Rules found at Chapter 391-3-1. Previously, EPA took action on the majority of the September 26, 2006, submittal in an action published in the *Federal Register* on February 9, 2010. In today's action, EPA is addressing only the portion of the September 26, 2006, submittal that relates to revisions to Georgia's Stage II gasoline vapor recovery rule at 391-3-1-.02(zz). These revisions are part of Georgia's strategy to meet the national ambient air quality standards (NAAQS). EPA has determined that these revisions are consistent with the December 12, 2006, EPA memorandum from Stephen D. Page entitled *Removal of Stage II Vapor Recovery in Situations Where Widespread Use of Onboard Refueling Vapor Recovery is Demonstrated*. EPA is approving Georgia's SIP revisions pursuant to section 110 of the Clean Air Act (CAA or Act).

**DATES:** This direct final rule is effective January 31, 2011 without further notice, unless EPA receives adverse comment by January 3, 2011. If EPA receives such comments, it 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 Number, "EPA-R04-OAR-2007-0113," by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [benjamin.lynora@epa.gov](mailto:benjamin.lynora@epa.gov).

3. *Fax*: 404-562-9019.

4. *Mail*: "EPA-R04-OAR-2007-0113," 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*: Ms. Lynora Benjamin, Chief, 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 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID Number, "EPA-R04-OAR-2007-0113." 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" 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 <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 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 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:** Jane Spann, 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) 562-9029. Ms. Spann can also be reached via electronic mail at [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

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**SUPPLEMENTARY INFORMATION:**

**I. Background**

*A. Georgia's Submittals*

On September 26, 2006, with a clarifying revision submitted on November 6, 2006, GA EPD submitted proposed SIP revisions to EPA for review and approval into the Georgia SIP. The September 26, 2006, submittal

included multiple modifications to Georgia's Air Quality Rules found at Chapter 391-3-1. Previously, EPA took action on the majority of the September 26, 2006, submittal in an action published in the **Federal Register** on February 9, 2010, which approved revisions to rules 391-3-1-.01(llll), 391-3-1-.01(nnnn), 391-3-1-.02(2)(d), 391-3-1-.02(2)(tt), 391-3-1-.02(2)(yy), 391-3-1-.02(2)(rrr), 391-3-1-.02(4), 391-3-1-.02(5), 391-3-1-.03(6)(b), 391-3-1-.03(6)(j), 391-3-1-.03(11)(b)3(i), 391-3-1-.03(11)(b)5(i), and 391-3-1-.05. 75 FR 6309. In today's action, EPA is approving only the portion of the September 26, 2006, submittal (as clarified in a November 6, 2006, submittal) that relates to revisions to Georgia's Stage II gasoline vapor recovery rule at 391-3-1-.02(2)(zz).

Action on the remaining portions of the September 26, 2006, SIP revision is still under consideration, and will be addressed in separate actions. EPA is not acting on revisions to rules 391-3-1-.01(qqqq), 391-3-1-.02(2)(mmm), 391-3-1-.02(6)(a), 391-3-1-.03(6)(g), and 391-3-1-.03(6)(i) at this time. EPA is also not taking action on revisions to rule 391-3-1-.02(2)(ooo), as Georgia has submitted a revised version of this rule. Additionally, EPA is not acting on revisions to rules 391-3-1-.02(ppp), 391-3-1-.02(8)(a), 391-3-1-.02(9), 391-3-1-.03(9), 391-3-1-.03(10)(b)2, 391-3-1-.03(10)(e)(6), and 391-3-1-.03(10)(g)2, as they are not part of the Federally-approved SIP.

#### B. Atlanta Area Ozone NAAQS Status<sup>1</sup>

Effective January 6, 1992, 13 counties in and around Atlanta, Georgia (Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding and Rockdale) were designated "serious" nonattainment for the 1-hour ozone NAAQS (hereafter referred to as the "Atlanta 1-Hour Area"). 56 FR 56694. The original attainment date for the Atlanta 1-Hour Area to attain the 1-hour ozone NAAQS was no later than November 15, 1999. However, the Atlanta 1-Hour Area did not attain the 1-hour ozone NAAQS by that time. Because Atlanta failed to attain the 1-hour ozone NAAQS by November 15, 1999, EPA issued a final rulemaking action on September 26, 2003 (68 FR 55469) determining that, by operation of law, the Atlanta 1-Hour Area was being reclassified as a severe ozone nonattainment area effective January 1,

<sup>1</sup> While this section focuses on the ozone status for the Atlanta Area, EPA considered the Atlanta Area's status with regard to the other NAAQS in evaluating this revision.

2004. Subsequently, effective June 14, 2005, the Atlanta 1-Hour Area was redesignated to attainment for the 1-hour ozone NAAQS. 70 FR 34660.

Before being redesignated to attainment for the 1-hour ozone NAAQS however, effective June 15, 2004, the original 13 counties, and an additional 7 surrounding counties (Bartow, Barrow, Carroll, Hall, Newton, Spalding, and Walton),<sup>2</sup> were designated as a "marginal" ozone nonattainment for the 1997 8-hour ozone NAAQS (hereafter referred to as the "Atlanta 1997 8-Hour Ozone Area"). 69 FR 23858. The Atlanta 1997 8-Hour Ozone Area was initially classified "marginal" based on a design value of 0.091 parts per million (ppm) with an attainment date of June 15, 2007. The Atlanta 1997 8-Hour Ozone Area failed to attain the 1997 8-hour ozone NAAQS by the June 15, 2007, deadline. Subsequently, on March 6, 2008, the Atlanta 1997 8-Hour Ozone Area was reclassified from a "marginal" to "moderate" 8-hour ozone nonattainment area. The Atlanta 1997 8-Hour Ozone Area remains designated as moderate ozone nonattainment area, and has a 2007-2009 design value of 0.087 ppm.<sup>3</sup>

Effective May 27, 2008, EPA strengthened the 8-hour ozone NAAQS by revising it to 0.075 ppm. 73 FR 16436. Consistent with a directive of the new Administration regarding the review of new and pending regulations, the Administrator reviewed a number of actions that were taken by the previous Administration. 74 FR 4435. The 2008 8-hour ozone NAAQS final rule was included in this review. Based on EPA's reconsideration, on January 19, 2010, EPA proposed to set different primary and secondary ozone NAAQS than those set in 2008, to provide requisite protection of public health and welfare, respectively. 75 FR 2938. Initially, EPA expected these NAAQS to become final by August 31, 2010, but now expects them to be finalized later in 2010. Today's rulemaking does not address requirements for the revised or reconsidered 2008 or proposed 2010 8-hour ozone NAAQS.

<sup>2</sup> The 20 county area designated nonattainment for the 1997 8-hour ozone NAAQS consists of Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding and Rockdale, Bartow, Barrow, Carroll, Hall, Newton, Spalding, and Walton—will be referred to as the "Atlanta 1997 8-Hour Ozone Area" throughout this rulemaking.

<sup>3</sup> The primary and secondary ozone ambient air quality standards (for the 1997 8-hour ozone NAAQS) are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. See 40 CFR part 50, Appendix I.

## II. CAA and Georgia SIP Provisions

### A. Gasoline Vapor Recovery Provisions

Georgia's Stage II gasoline vapor recovery rule prohibits any person from constructing or reconstructing a gasoline dispensing facility unless the "facility is equipped and operating with a vapor recovery system to recover the displacement vapors from the vehicle's gasoline storage tank." Rule 391-3-1-.02(2)(zz)(1). The vapor recovery system must have a demonstrated 95 percent by weight or greater volatile organic compound (VOC) control efficiency, as demonstrated by California Air Resources Board (CARB), or equivalent test procedures and methods. Rule 391-3-1-.02(2)(zz)(3).

Today's action approves revisions to Georgia's Stage II gasoline vapor recovery rule at 391-3-1-.02(2)(zz). This rule was initially developed by the State of Georgia, and submitted to EPA for approval to comply with Section 182 of the CAA. Section 182(b)(3) of the CAA calls for States with "moderate" ozone nonattainment areas to submit revisions to their SIPs requiring all owners or operators of gasoline dispensing systems to install and operate a system for gasoline vapor recover of emissions from the fueling of motor vehicles. 42 U.S.C. 7511a(b)(3). Sections 182(c), 182(d) and 182(e) of the CAA apply this requirement to States with "serious," "severe" and "extreme" ozone nonattainment areas as well. 42 U.S.C. § 7511a(c), (d), and (e). Accordingly, as a serious ozone nonattainment area, Georgia submitted its initial Stage II gasoline vapor recovery rule at 391-3-1-.02(2)(zz) on November 13, 1992, to EPA for initial approval. EPA approved Georgia's gasoline vapor rule into the Georgia SIP on February 2, 1996. 61 FR 3819.

### B. CAA Onboard Refueling Vapor Recovery (ORVR) Provisions

Generally speaking, the scheme set up by the CAA anticipates that ORVR may replace Stage II systems. VOC emissions, which are precursors of ozone, are emitted by fueling vehicles but these emissions are mitigated by both Stage II vapor recovery systems and by use of vehicles equipped with ORVR. Both ORVR and Stage II systems operate to control VOC emissions during motor vehicle fueling. Stage II vapor recovery systems are installed at the gasoline dispensing facility, while ORVR is installed within the motor vehicle itself.

The Stage II vapor recovery provisions of CAA section 182(b)(3) "shall not apply" to "moderate" ozone nonattainment areas after EPA

promulgates ORVR standards. 42 U.S.C. 7521(a)(6). According to 40 CFR 51.905(a)(1)(i), Atlanta remains subject to the obligation to implement the applicable requirements as defined in 51.900(f) which include Stage II Vapor Recovery (51.900(f)(5)), except as provided in 40 CFR 51.905(b). 40 CFR 51.905(b) requires that a State remain subject to Stage II Vapor Recovery (and other 51.900(f) requirements) until the area attains the 8-hour NAAQS. After the area attains the 8-hour NAAQS, the State may request such obligations be shifted to contingency measures, consistent with sections 110(l) and 193 of the CAA; however, the State cannot remove the obligations from the SIP. As stated earlier, since Georgia is not “removing the obligation” but is instead revising the Stage II requirements for a certain portion of the fleet, as explained in this direct final rule, this revision is consistent with 40 CFR 51.905(a)(1)(i).

On April 6, 1994, EPA issued final regulations requiring the phase-in of ORVR emissions control systems on new motor vehicles, requiring a minimum of 95 percent evaporative emission capture efficiency. 59 FR 16262. For ozone nonattainment areas classified as “serious” or above, the CAA allows EPA to revise or waive the Section 182(b)(3) Stage II gasoline vapor recovery rules, after determining ORVR emissions control systems are in widespread use throughout the motor vehicle fleet. 42 U.S.C. § 7521(a)(6). This determination of widespread use has not yet been made for the entire fleet; however, EPA has issued a guidance on December 12, 2006, entitled *Removal of Stage II Vapor Recovery in Situations Where Widespread Use of Onboard Refueling Vapor Recovery is Demonstrated*. More discussion on how this guidance relates to today’s action can be found in section II.B.3 of this rulemaking. While this action is supported by EPA’s policies regarding ORVR, the revision must also meet the requirements of CAA section 110(l). See below for more information on CAA section 110(l) and its relation to Georgia’s SIP revision.

### C. CAA Section 110(l)

EPA’s primary consideration for determining the approvability of Georgia’s request is whether this requested action complies with section 110(l) of the CAA which states:

Plan Revision—Each revision to an implementation plan submitted by a State under this chapter shall be adapted by such State after reasonable notice and public hearing. 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 7501 of this title), or any other applicable requirement of this chapter.

Thus, while “moderate” ozone nonattainment areas are not required to implement Stage II vapor recovery programs after promulgation of ORVR standards, if these areas already have Stage II vapor recovery programs in the SIPs, such programs cannot be revised or removed unless the revision or removal of such program from the SIP would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement under the CAA. 42 U.S.C. 7410(l). EPA’s March 9, 1993, memorandum entitled *Impact of the Recent Onboard Decision on Stage II Requirements in Moderate Nonattainment Areas*, states “When onboard rules are promulgated, a State may withdraw its stage II rules for moderate areas from the SIP (or from consideration as a SIP revision) consistent with its obligation under sections 182(b)(3) and 202(a)(6), so long as withdrawal will not interfere with any other applicable requirement of the Act.” While Georgia’s SIP revisions do not remove Stage II requirements for the Atlanta ozone moderate area, it does revise the Stage II requirements for a certain portion of the fleet.

### III. Analysis of Georgia’s SIP Revisions

On September 26, 2006, GA EPD submitted a proposed SIP revision to EPA for approval into the Georgia SIP. A clarifying revision was submitted on November 6, 2006. The first change being proposed for approval today is to Georgia Air Quality Rule 391–3–1–.02(2)(zz)3(i)(1). If certain conditions are met, this change will allow certification of Stage II equipment using certification procedures other than the CARB procedures, as previously required. Today, EPA is also taking action to approve the component of the September 26, 2006, submittal (as clarified in the November 6, 2006, submittal) that modifies Georgia Air Quality Rule, Chapter 391–3–1–.02, paragraph (2) “Emission Limitations and Standards,” subparagraph (zz) “Gasoline Dispensing Facilities—Stage II.” As explained above, this rule was initially approved by EPA into the Georgia SIP on February 2, 1996, and requires owners or operators of gasoline dispensing systems to install and operate Stage II gasoline vapor recovery systems to recover the vapors from the fueling of motor vehicles. The current Georgia Air Quality Rule at 391–3–1–.02(2)(zz)2, exempts facilities used exclusively for the re-fueling of vehicles

equipped with ORVR equipment. This exemption is being expanded today to cover initial fueling as well. Now, facilities used exclusively for the initial fueling and/or re-fueling of vehicles equipped with ORVR equipment are exempt. EPA’s analysis of these two changes is discussed below.

#### A. Federal Requirements for Stage II

As previously mentioned in this rulemaking, States were required to adopt Stage II rules for all areas classified as “moderate” or worse under section 182(b)(3) of the CAA. However, section 202(a)(6) of the CAA states that “the requirements of section 182(b)(3) (relating to Stage II gasoline vapor recovery) for areas classified under section 181 as moderate for ozone shall not apply after promulgation of such standards.” ORVR regulations were issued by EPA on April 6, 1994. See 59 FR 16262, 40 CFR 86.001 and 40 CFR 86.098. As a result, the CAA no longer requires moderate areas to impose Stage II controls under section 182(b)(3), and such areas may seek SIP revisions to remove such requirements from their SIP, subject to section 110(l) of the Act.

#### B. Section 110(l) Noninterference Demonstration

Under CAA section 110(l), Stage II vapor recovery programs cannot be revised or removed unless it is demonstrated that revision or removal of such program from the SIP would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement under the CAA. 42 U.S.C. 7410(l). While Georgia’s September 26, 2006, and November 6, 2006, SIP revisions are not requesting the withdrawal of its Stage II rule for the Atlanta Area, these SIP revisions are requesting revisions to Georgia’s Stage II requirements, and thus these revisions must be shown to satisfy 110(l) of the CAA.

#### 1. CAA Section 110(l) Demonstration for Revision to Georgia Air Quality Rule 391–3–1–.02(2)(zz)3—CARB

Georgia’s September 26, 2006, revision changes Georgia Air Quality Rule 391–3–1–.02(2)(zz)3 to allow mixing of equipment components under separate, non-CARB certification procedures when supported by the manufacturer or independent third-party certification that the configuration meets or exceeds the applicable performance standards and has received prior written approval by GA EPD. The State has requested the rule change to allow the maintenance of existing Stage II systems with certified components by

a third party other than CARB. This change is needed because the CARB discontinued its certification of Stage II components upon implementation of a new vapor recovery system in California. Many components of California's new vapor recovery system are not compatible with Stage II systems. Stage II components that need replacing may not be able to be replaced with components from California's new vapor recovery system. Since CARB discontinued certification of Stage II components, it takes a third party or manufacturer to test and verify Stage II systems. This rule change will enable existing Stage II systems in Georgia to be maintained and have components replaced as needed, without having to convert the entire systems from Stage II to California's new vapor recovery system. The change requires Stage II components to continue to be certified, but allows certification through a third party, or through the manufacturer, upon prior written approval by GA EPD. This rule change is approvable because it merely allows for third party certification other than CARB and no emissions changes are expected to result from this revision.

## 2. CAA Section 110(l) Demonstration for Revision to Georgia Air Quality Rule 391-3-1-.02(2)(zz)(1)—Initial Fueling of Vehicles With ORVR

The revisions being approved today exclude from Georgia's Stage II vapor recovery program the initial fueling of vehicles equipped with ORVR, stating "[t]he requirements of this subsection shall not apply to facilities \* \* \* used exclusively for the initial fueling and/or re-fueling of vehicles equipped with onboard refueling vapor recovery (ORVR) equipment." Georgia Air Quality Rule 391-3-1-.02(2)(zz)(1) (underlined text is being added to current rule). Georgia has confirmed that 100 percent of vehicles contemplated by their rule for initial refueling would be equipped with ORVR.

This SIP revision is approvable because all the vehicles whose initial fueling is being excluded from Stage II vapor recovery rules are equipped with ORVR, an equivalent vapor recovery system. Both Stage II and ORVR systems must demonstrate a 95 percent or greater VOC control efficiency; thus, there will be no increase in emissions as a result of these SIP revisions. Therefore, these revisions will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement under the CAA.

## 3. EPA Guidance on Widespread ORVR Use

These revisions are consistent with EPA guidance set forth in a December 12, 2006 memorandum from Stephen D. Page entitled *Removal of Stage II Vapor Recovery in Situations Where Widespread Use of Onboard Refueling Vapor Recovery is Demonstrated* (Page Memorandum). In relevant part, the Page Memorandum states that if a SIP revision demonstrates that 95 percent of the new vehicles fueled at an automobile assembly plant are equipped with ORVR, and that this level of ORVR use would not decrease, then EPA can determine that widespread use of ORVR has been achieved for the fleet of motor vehicles that are fueled at that facility. Page Memorandum, page 2. The December 12, 2006, memorandum also explains that "any EPA SIP approval would also be subject to the CAA section 110(l) requirement that the revision not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other requirement of the CAA." December 12, 2006, memorandum, page 3. As explained above, for ozone nonattainment areas "worse" than "moderate," the CAA allows EPA to revise or waive the Section 182(b)(3) Stage II gasoline vapor recovery rules, after determining ORVR emissions control systems are in widespread use throughout the motor vehicle fleet. 42 U.S.C. 7521(a)(6).

Georgia revised its Stage II vapor recovery rules to exclude initial fueling of motor vehicles equipped with ORVR. Under Georgia's changes, the only vehicles excluded from Stage II vapor recovery rules are vehicles equipped with ORVR. Because 100 percent of the vehicles subject to Georgia's rule changes, the criteria for widespread use for this fleet of vehicles is achieved. Georgia's rule changes for Stage II are consistent with the CAA, implementing regulations, guidance, including the Page Memorandum, and EPA's action in other similar situations. *See* 74 FR 26103 (approving removal of Stage II vapor control requirements for new and upgraded gasoline dispensing facilities in southeast Florida area); and 71 FR 52464 (approving removal of Stage II vapor recovery systems at Ford's Chicago Assembly Plant).

## IV. Final Action

EPA is taking direct final action to approve into the Georgia SIP, the aforementioned revisions to Georgia's Stage II vapor recovery rule at 391-3-1-.02(2)(zz), submitted by GA EPD on September 26, 2006, and November 6,

2006. Today's revisions exclude initial fueling of motor vehicles equipped with ORVR from the Stage II vapor recovery rules; and allows mixing of Stage II equipment components under separate, non-CARB certification procedures when supported by the manufacturer or independent third-party certification that the configuration meets or exceeds the applicable performance standards and has received prior written approval by GA EPD. These revisions are consistent with EPA guidance and the CAA.

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 January 31, 2011 without further notice unless the Agency receives adverse comments by January 3, 2011.

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 January 31, 2011 and no further action will be taken on the proposed rule.

## 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. 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 proposed 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 31, 2011. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 10, 2010.

**A. Stanley Meiburg,**  
*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.*

**Subpart L—Georgia**

■ 2. Section 52.570(c) is amended by revising the entry for “391-3-1-.02(2)(zz)” 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
*	*	*	*	*
391-3-1-.02(2)(zz) ....	Gasoline Dispensing Facility—Stage II.	1/9/05	12/1/10 [Insert citation of publication].	Exemption for initial fueling of vehicles equipped with ORVR from Stage II requirements; allowing mixing of Stage II components when supported by third party certification and prior written approval of GA EPD.
*	*	*	*	*

\* \* \* \* \*  
[FR Doc. 2010-30119 Filed 11-30-10; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

**[EPA-HQ-OPP-2008-0095; FRL-8851-6]**

**Tristyrylphenol Ethoxylates; Exemption From the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of poly (oxy-1,2-ethanediyl),  $\alpha$ -[tris(1-phenylethyl)phenyl]- $\omega$ -hydroxy-, (CAS Reg. No. 99734-09-5), here in referred to as tristyrylphenol ethoxylate, when used as an inert ingredient post-harvest as a surfactant under 40 CFR 180.910 with a maximum of 15 percent by