

enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607(b)(2).)

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action.

The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference, Lead, Ozone, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 18, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

## PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

### Subpart L—Georgia

2. Section 52.570 is amended by adding paragraph (c) (44) to read as follows:

#### § 52.570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(44) Revisions to the Georgia State Implementation Plan; Chapter 391-3-1 and Chapter 391-3-10 of the Georgia Department of Natural Resources Administrative Code which were submitted to EPA on November 13, 1992.

(i) Incorporation by reference.

(A) Georgia Department of Natural Resources Air Quality Rules submitted by the Georgia Department of Natural Resources, Environmental Protection Division for inclusion in the Georgia state implementation plan which were adopted on October 28, 1992, are as follows:

391-3-1-.05, 391-3-1-.09, 391-3-1-.10, 391-3-1-.02(2)(zz), 391-3-1-.02(6)(a)4., 391-3-1-.03(5), 391-3-1-.03(6)(h), 391-3-10.01(d)(e), 391-3-10-.04(d), 391-3-10-.07(2), 391-3-10-.10(b), 391-3-10-.12, 391-3-10-.24(11), 391-3-10-.30(1), 391-3-10-.30(2).

(ii) Other material. None.

\* \* \* \* \*

[FR Doc. 96-1845 Filed 2-1-96; 8:45 am]

BILLING CODE 6560-50-P

## 40 CFR Part 52

[GA-21-2-5930a; FRL-5321-6]

### Approval and Promulgation of Implementation Plans; Georgia: Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State Implementation Plan (SIP) submitted by the State of Georgia through the Georgia Environmental Protection Division for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). This implementation plan was originally submitted by the State on November 13, 1992. On September 27, 1995, the State of Georgia resubmitted

the SIP establishing the PROGRAM and formally requested to withdraw the November 13, 1992, submittal. This PROGRAM satisfies the federal mandate to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the Clean Air Act as amended in 1990 (CAA).

DATES: This action is effective April 2, 1996, unless notice is received March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365.

Copies of the material submitted by the State of Georgia may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Environmental Protection Division, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. The telephone number is 404/347-3555 x4195.

#### SUPPLEMENTARY INFORMATION:

Implementation of the CAA will require small businesses to comply with specific regulations in order for areas to attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. In anticipation of the impact of these requirements on small businesses, the CAA requires that states adopt a PROGRAM, and submit this PROGRAM as a revision to the federally approved SIP. In addition, the CAA directs the EPA to oversee the small business assistance program and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in section 507 of

title V of the CAA and the EPA guidance document Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments. In order to gain full approval, the state submittal must provide for each of the following PROGRAM elements: (1) The establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a state Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP. The plan must also determine the eligibility of small business stationary sources for assistance in the PROGRAM. The plan includes the duties, funding and schedule of implementation for the three PROGRAM components.

Section 507(a) and (e) of the CAA set forth requirements the State must meet to have an approvable PROGRAM. The State of Georgia has addressed these requirements and established a PROGRAM as described below.

### *1. Small Business Assistance Program (SBAP)*

The State of Georgia has established a mechanism to implement the following six requirements set forth in section 507 of title V of the CAA:

A. The establishment of adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further comply with the CAA;

B. The establishment of adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution;

C. The development of a compliance and technical assistance program for small business stationary sources which assist small businesses in determining applicable permit requirements and in receiving permits under the CAA in a timely and efficient manner;

D. The development of adequate mechanisms to assure that small business stationary sources receive notice of their rights under the CAA in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed

or final regulation or standards issued under the CAA;

E. The development of adequate mechanisms for informing small business stationary sources of their obligations under the CAA, including mechanisms for referring such sources to qualified auditors, or at the option of the State, for providing audits of the operations of such sources to determine compliance with the CAA; and

F. The development of procedures for consideration of requests from a small business stationary source for modification of (A) any work practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

The State of Georgia acknowledges the heart of the PROGRAM is the Small Business Assistance Program (SBAP), which resides in the Air Protection Branch within the Environmental Protection Division. The SBAP will provide an information clearinghouse and refer small businesses to State technical experts within the Branch who are trained to handle specific questions relevant to achieving compliance with the CAA. In addition, the SBAP will provide for the collection and dissemination of information to small businesses on determining applicable requirements under the CAA, permit issuance, small businesses' rights and obligations, compliance methods, acceptable control technologies, pollution prevention, accidental release prevention and detection, audit programs and procedures, and other matters deemed useful or necessary by the Division. The specific mechanisms for collection and dissemination of information will be developed by the Ombudsman. The SBAP also will consider requests from small business stationary sources for modifications of work practices, technological methods of compliance, or compliance procedures and provide guidance as necessary. The SBAP will utilize, on an as needed basis, the services of other in-state entities with expertise in various aspects related to the PROGRAM.

The dissemination of information to small businesses in Georgia through the SBAP involves both a proactive and a reactive component. The SBAP will actively advertise the PROGRAM to ensure the regulated communities are aware of their obligations under the CAA. The reactive component takes place after the regulated community recognizes that there is or could be some

obligation on their part to comply with the CAA. The Division is committed to supporting the proactive component of the program which includes, but is not limited to the following: utilizing the Georgia Department of Industry and Trade manufacturing directory; providing informational packets which describe in layman terms compliance and technical information relevant to small businesses as required by the Act; and holding meetings throughout the State with interested parties. Reactive components of the SBAP include: the designation of a trained technical specialist to handle inquiries from small businesses; a technical specialist to interface with the Air Protection Branch's engineering, permitting, and compliance programs for needed information; and an information clearinghouse of information from EPA's technical support services, other state ombudsman offices, and professional organizations.

The SBAP will assist small businesses in determining applicable requirements and will provide information on permit issuance, compliance methods, acceptable control technologies, pollution prevention, accidental release prevention and detection, and audit programs. The SBAP will inform small businesses about their rights under the CAA; assist in the preparation of guidance documents and ensure that technical and compliance information is available to the small business community and the general public; answer regulatory questions raised by small businesses and provide them with clean air compliance information; obtain information and counsel from other appropriate state agencies; and participate and sponsor meetings on air quality requirements, pollution prevention, and other regulatory issues.

A small business may petition the Division to modify work practices, compliance methods or implementation schedules in accordance with established procedures as described in the SIP.

### *2. Ombudsman*

Section 507(a)(3) of the CAA requires the designation of a state office to serve as the Ombudsman for small business stationary sources. Georgia has appointed a Small Business Ombudsman and established the Office of the Ombudsman within the Environmental Protection Division. Through that office, the Ombudsman will have access to the Governor, the Director of the Environmental Protection Division, the Chief of the Air Protection Branch, and other state and Federal agencies. The Ombudsman will

have the necessary autonomy to function independently of the air program.

### 3. Compliance Advisory Panel

Section 507(e) of the CAA requires the State to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses. Four members will be selected by the state legislature who are owners, or represent owners, of small businesses. The majority and minority leadership in both the house and the senate shall each appoint one member of the panel. One member will be selected by the Chief of the Air Protection Branch. The State of Georgia has established a CAP with a membership consistent with the aforementioned CAA requirements.

The duties of the CAP include: providing advisory opinions to the EPA regarding the effectiveness of the state PROGRAM, the difficulties encountered by small businesses, and the severity of enforcement; reviewing information for small business stationary air pollution sources to assure such information is understandable to the lay person; and to make periodic reports to the Administrator of the Environmental Protection Agency in accordance with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act. The SBAP will serve as the secretariat to the CAP in the development and dissemination of reports, advisory opinions, and other information.

### 4. Source Eligibility

Georgia has incorporated section 507(c)(1) of the CAA and defined a Small Business Stationary Source as a source that:

- (1) Is owned or operated by a person who employs 100 or fewer individuals;
- (2) is a small business concern as defined in the Small Business Act;
- (3) is not a major stationary source; and
- (4) does not emit 50 tons per year (tpy) of any regulated pollutant and emits less than 75 tpy of all regulated pollutants.

Georgia has established the following mechanisms as required by section 507: (1) A process for ascertaining the eligibility of a source to receive assistance under the PROGRAM, including an evaluation of a source's eligibility using the criteria in section 507(c)(1) of the CAA; (2) A process for public notice and comment on grants of eligibility to sources that do not meet the provisions of sections 507(c)(1) (C),

(D), and (E) of the CAA, but do not emit more than 100 tpy of all regulated pollutants; and (3) a process for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, of any category or subcategory of sources that the Division determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

### Final Action

In this action, EPA is approving the SIP revision establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance program submitted by the State of Georgia through the Environmental Protection Division. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 2, 1996 unless, by March 4, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published with this action. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 2, 1996.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 2, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the CAA, 42 U.S.C. 7607(b)(2).)

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

By today's action, the USEPA is approving a State program created for the purpose of assisting small business stationary sources in complying with existing statutory and regulatory requirements. The program being approved today does not impose any new regulatory burden on small business stationary sources; it is a program under which small business stationary sources may elect to take advantage of assistance provided by the State. Therefore, because the USEPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. Environmental Protection Agency*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. sections 7410(a)(2) and 7410(k).

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA"), P.L. 104-4, establishes requirements for the Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written

statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Through submission of the SIP or plan revisions approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The submission approved in this action may bind State, local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to perform certain duties. To the extent that the submission being approved by this action will impose or lead to the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, or tribal

governments in the aggregate, or on the private sector, in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 17, 1995.

Patrick M. Tobin,

*Acting Regional Administrator.*

Chapter I, title 40, Code of Federal Regulations, is amended as follows:

#### **PART 52—[AMENDED]**

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

Authority: 42.U.S.C. 7401-7671q.

#### **Subpart L—Georgia**

2. Section 52.570 is amended by adding paragraph (c)(43) read as follows:

#### **§ 52.570 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(43) The Georgia Environmental Protection Division has submitted revisions to the Georgia State Implementation Plan on September 27, 1995. These revisions address the requirements of section 507 of Title V of the Clean Air Act and establish the Small Business Stationary Source Technical and Environmental Program.

(i) Incorporation by reference.

(A) The submittal of the state of Georgia's Small Business Stationary Source Technical and Environmental Compliance Assistance Program which was adopted on July 20, 1995.

(ii) Additional Material. None.

\* \* \* \* \*

[FR Doc. 96-1926 Filed 2-1-96; 8:45 am]

BILLING CODE 6560-50-P

#### **40 CFR Part 52**

[RI15-1-6954a; A-1-FRL-5329-3]

#### **Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Control of Volatile Organic Chemicals from Automotive Refinishing Operations**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision establishes VOC emission standards for automotive refinishing operations. The intended effect of this action is to approve a revision to Rhode Island SIP which reduces VOC emissions from automotive refinishing. This action is being taken in accordance with Section 183(e) and Section 182(b)(1) of the Clean Air Act.

**DATES:** This action is effective April 2, 1996, unless notice is received by March 4, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystems Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE-131), Washington, D.C. 20460; and the Division of Air and Hazardous Materials, Department of Environmental Management, 291 Promenade Street, Providence, RI 02908-5767.

**FOR FURTHER INFORMATION CONTACT:** Jeanne Cosgrove, (617) 565-3246.

**SUPPLEMENTARY INFORMATION:** Under section 183(a) of the Clean Air Act, EPA was required to issue a control techniques guideline (CTG) for the category of autobody refinishing. However, EPA has instead issued guidance for this category in the form of an Alternative Control Technology (ACT) guideline. While the ACT does not define reasonably available control technology (RACT) standards for autobody refinishing, it does include three control options with estimates of costs and emission reductions for each option. In addition to the section 183(a) requirements, Section 183(e) of the CAA, requires EPA to issue national VOC emissions standards for consumer and commercial products, which include automotive refinishing coatings. EPA expects to propose the national rule for automotive refinishing coatings in early 1996. Rhode Island decided to adopt rules for autobody refinishing in advance of a federal rule, to get credit