• 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);
• 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 the 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. The 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 October 16, 2017. 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 31, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(382)(ii)(D) and (c)(449)(ii)(B) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(382) * * *

(ii) * * *

(D) Placer County Air Pollution Control District.

(*1*) 2006 Reasonably Available Control Technology State Implementation Plan Update Analysis, as adopted on August 10, 2006.

* * * * *

(449) * * *

(ii) * * *

(B) Placer County Air Pollution Control District.

(*1*) 2014 Reasonably Available Control Technology State Implementation Plan Analysis, as adopted on April 10, 2014.

* * * * *

■ 3. Section 52.222 is amended by adding paragraph (a)(4)(iv) to read as follows:

§ 52.222 Negative declarations.

(a) * * *

(4) * * *

(iv) Polyester Resin was submitted on July 18, 2014 and adopted on April 10, 2014.

* * * * *

[FR Doc. 2017–16823 Filed 8–14–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0078; FRL–9965–60–Region 4]

Air Plan Approval; Georgia: New Source Review and Permitting Updates

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve changes to the Georgia State Implementation Plan (SIP) to revise new source review (NSR) and miscellaneous permitting regulations. EPA is approving portions of SIP revisions submitted by the State of Georgia, through the Georgia Department of Natural Resources' Environmental Protection Division (GA EPD), on December 15, 2011, July 25, 2014, and November 12, 2014. This action is being taken pursuant to the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective October 16, 2017 without further notice, unless EPA receives adverse comment by September 14, 2017. 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 No. EPA–R04–OAR–2017–0078 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information

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

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Akers can be reached via telephone at (404) 562–9089 or via electronic mail at *akers.brad@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is the Agency taking?

On December 15, 2011, July 25, 2014, and November 12, 2014, GA EPD submitted SIP revisions to EPA for approval that involve changes to Georgia's regulations to make them consistent with federal requirements for NSR permitting, among other changes. In this action, EPA is approving the portions of these Georgia submissions that make changes to the following GA EPD regulations: Rule 391–3–1–.02(7)—''Prevention of Significant Deterioration of Air Quality (PSD),'' which applies to the construction and modification of any major stationary source in areas designated as attainment or unclassifiable as required by part C of title I of the CAA; and Rule 391–3–1–.03(8)—''Permit Requirements,'' which applies generally to the permitting program, including permitting requirements that apply to the construction and modification of any major stationary sources in nonattainment areas (NAAs) as required by part D of title I of the CAA, referred to as nonattainment new source review (NNSR). Georgia's PSD regulations at Rule 391–3–1–.02(7) were last updated in the SIP on April 9, 2013. *See* 78 FR 21065. Georgia's NNSR regulations at Rule 391–3–1–.03(8) were last updated in the SIP on November 22, 2010 (75 FR 71020).

Georgia's December 15, 2011 SIP revision modifies the definition of ''Net Emissions Increase'' to remove an obsolete reference by deleting subparagraph (III) in Rule 391–3–1–.03(8)(g)(1)(iii) and by making minor grammatical edits to subparagraphs (I) and (II) to address the deletion of subparagraph (III). Georgia's July 25, 2014 SIP revision removes an obsolete provision at Rule 391–3–1–.03(8)(d), which applied to permits issued prior to July 1, 1979. The revision replaces the text in paragraph (8)(d) with the text ''[reserved]''.

Georgia's November 12, 2014 SIP revision makes changes to the PSD regulations to reflect changes to the federal PSD regulations at 40 CFR 52.21, including provisions promulgated in the following federal rules: ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$): [1] Amendment to the Definition of 'Regulated NSR Pollutant' Concerning Condensable Particulate Matter,'' Final Rule, 77 FR 65107 (October 25, 2012) (hereinafter referred to as the $PM_{2.5}$ Condensables Correction Rule). Georgia's November 12, 2014 SIP revision also makes changes to Georgia's PSD program to incorporate plantwide applicability limits (PALs) for greenhouse gases (GHGs) as allowed in the federal rule entitled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule Step 3 and GHG Plantwide Applicability Limits.'' *See* 77 FR 41051 (July 12, 2012) (hereinafter referred to as the GHG Step 3 Rule). The $PM_{2.5}$ Condensables Correction Rule and the GHG Step 3 Rule are discussed in Section 2, below.

At this time, EPA is not acting on the changes included in the December 15, 2011, submittal made to Rule 391–3–1–.01—''Definitions,'' at paragraph (cccc); Rule 391–3–1–.03 at paragraph (11)—''Permit by Rule;'' and to the NNSR program at Rule 391–3–1–.03(8)(c), (e), and certain portions of (g), that adopted provisions related to $PM_{2.5}$, and modified certain provisions related to ozone.[2] The revision made to Rule 391–3–1–.02, ''Provisions,'' at paragraph (2)(uuu)—''SO_2 Emissions from Electric Utility Steam Generating Units,'' was withdrawn from the December 15, 2011, submittal and EPA consideration on December 9, 2014. The changes made to Rule 391–3–1–.02(4)—''Ambient Air Standards,'' included in the December 15, 2011, submittal, were approved in a May 16, 2013, final rule (78 FR 28744). EPA also approved changes made to Rule 391–3–1–.01—''Definitions,'' at paragraph (nnnn), as included in the December 15, 2011, submittal, in a July 31, 2015 direct final rule. *See* 80 FR 45609.

EPA is not acting on the following changes included in the July 25, 2014 submittal: Rule 391–3–1–.02(2)(a)—''General Provisions;'' Rule 391–3–1–.02(2)(e)—''Particulate Emissions from Manufacturing Processes;'' Rule 391–3–1–.02(l)—''Conical Burners;'' Rule 391–3–1–.02(o)—''Cupola Furnaces for Metallurgical Melting;'' Rule 391–3–1–.02(p)—''Particulate Emissions from Kaolin and Fuller's Earth Processes;'' Rule 391–3–1–.02(q)—''Particulate Emissions from Cotton Gins;'' Rule 391–3–1–.02(gg)—''Kraft Pulp Mills;'' Rule 391–3–1–.02(4)—''Ambient Air Standards;'' or Rule 391–3–1–.02(6)(a)—''Specific Monitoring and Reporting Requirements for Particular Sources.'' EPA approved changes to Rule 391–3–1–.01—''Definitions,'' at paragraph (llll), as modified in the July 25, 2014 submittal, on October 5, 2016 (81 FR 69019). EPA also approved changes made to Rule 391–3–1–.01—''Definitions,'' at (nnnn) in a January 5, 2017 direct final rule. *See* 82 FR 1206.

[1] Airborne particulate matter (PM) with a nominal aerodynamic diameter of 2.5 micrometers or less (a micrometer is one-millionth of a meter, and 2.5 micrometers is less than one-seventh the average width of a human hair) are considered to be ''fine particles'' and are also known as $PM_{2.5}$. Fine particles in the atmosphere are made up of a complex mixture of components including sulfate; nitrate; ammonium; elemental carbon; a great variety of organic compounds; and inorganic material (including metals, dust, sea salt, and other trace elements) generally referred to as ''crustal'' material, although it may contain material from other sources. The health effects associated with exposure to $PM_{2.5}$ include potential aggravation of respiratory and cardiovascular disease (*i.e.,* lung disease, decreased lung function, asthma attacks and certain cardiovascular issues). On July 18, 1997, EPA revised the NAAQS for PM to add new standards for fine particles, using $PM_{2.5}$ as the indicator. Previously, EPA used PM_{10} (inhalable particles smaller than or equal to 10 micrometers in diameter) as the indicator for the PM NAAQS. EPA established health-based (primary) annual and 24-hour standards for $PM_{2.5}$, setting an annual standard at a level of 15.0 micrograms per cubic meter ($\mu g/m^3$) and a 24-hour standard at a level of 65 $\mu g/m^3$(62 FR 38652). At the time the 1997 primary standards were established, EPA also established welfare-based (secondary) standards identical to the primary standards. The secondary standards are designed to protect against major environmental effects of $PM_{2.5}$, such as visibility impairment, soiling, and materials damage. On October 17, 2006, EPA revised the primary and secondary 24-hour NAAQS for $PM_{2.5}$ to 35 $\mu g/m^3$ and retained the existing annual $PM_{2.5}$ NAAQS of 15.0 $\mu g/m^3$(71 FR 61236). On January 15, 2013, EPA published a final rule revising the annual $PM_{2.5}$ NAAQS to 12 $\mu g/m^3$(78 FR 3086).

[2] There are currently no areas in Georgia designated as nonattainment for any $PM_{2.5}$ or ozone NAAQS. Regarding Rule 391–3–1–.03(8)(g), EPA is not acting on the changes to (g)(1)(iii), (g)(2)(i), (g)(5)(i), and (g)(6)(i) that reference subparagraph 8(c)16.(ii). As discussed in Section III.A., below, EPA is only acting on the changes to Rule 391–3–1–.03(8)(g) in the December 15, 2011 submittal that remove an obsolete reference to clean units.

EPA is not acting on the changes to Rule 391–3–1–.01—''Definitions,'' at paragraphs (llll) and (nnnn), and Rule 391–3–1–.02(4)—''Ambient Air Standards,'' as included in the November 12, 2014 submittal, because EPA approved them on July 31, 2015. *See* 80 FR 45609.

EPA is not acting on a change included in the November 12, 2014 submittal at Rule 391–3–1–.02(7)(a)(2)(iv). This provision would have incorporated by reference the federal definition of the term ''subject to regulation,'' but provided that incorporation of the federal regulation would be automatically rescinded if certain triggering events occurred. EPA previously disapproved the portion of a January 13, 2011 SIP revision that sought to include Rule 391–3–1–.02(7)(a)(2)(iv) in the SIP. *See* 81 FR 11438 (March 4, 2016). Because this provision is not part of Georgia's SIP, EPA is not acting on the State's proposed change to that provision.

Finally, EPA is not acting on the changes included in the November 12, 2014 submittal regarding a new definition of the term ''regulated NSR pollutant'' at Rule 391–3–1–.02(7)(a)(2)(ix) because Georgia withdrew these changes from EPA's consideration in a December 1, 2016 letter.[3]

II. Background

A. 2002 NSR Reform and Clean Units

On December 31, 2002 (67 FR 80186), EPA published final rule changes to 40 CFR parts 51 and 52 regarding the CAA's PSD and NNSR programs. On November 7, 2003 (68 FR 63021), EPA published a notice of final action on 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.'' The 2002 NSR Reform Rules made changes to two areas of the NSR programs that are relevant to this action. First, the rule allowed major stationary sources to comply with plant-wide applicability limits (PALs) to avoid having a significant emissions increase that triggers the requirements of the major NSR program. A PAL establishes a site-specific plantwide—rather than unit-specific—emission level for a pollutant, which allows the source to make changes to individual units at the facility without triggering the requirements of the PSD program, provided that facility-wide emissions do not exceed the PAL. Second, the rule provided a new applicability provision for emissions units that are designated ''clean units.'' On November 7, 2003 (68 FR 63021), EPA published a notice of final action on its reconsideration of the 2002 NSR Reform Rules, which clarified an issue regarding PALs. For additional information on the 2002 NSR Reform Rules, see 67 FR 80186 (December 31, 2002) and *https://www.epa.gov/nsr/nsr-regulatory-actions#nsrreform.*

After the 2002 NSR Reform Rules were finalized and effective (March 3, 2003), industry, state, and environmental petitioners challenged numerous aspects of the 2002 NSR Reform Rules. *See* 45 FR 52676 (August 7, 1980). On June 24, 2005, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued a decision vacating the portion of the rule pertaining to clean units. *New York* v. *U.S. EPA,* 413 F.3d 3 (D.C. Cir. 2005). On June 13, 2007 (72 FR 32526), EPA took final action to revise the 2002 NSR Reform Rules to remove from federal law all provisions pertaining to clean units.

B. 2008 NSR $PM_{2.5}$ Rule

On May 16, 2008, EPA finalized a rule titled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$),'' Final Rule, 73 FR 28321 (May 16, 2008) (hereinafter referred to as the 2008 NSR $PM_{2.5}$ Rule). The 2008 NSR $PM_{2.5}$ Rule, which revised the federal NSR program requirements to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and NAAs. Among other things, the rule revised the definition of ''regulated NSR pollutant'' for PSD to add a paragraph providing that ''particulate matter (PM) emissions, $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures'' and that on or after January 1, 2011, ''such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, $PM_{2.5}$ and PM_{10} in permits.'' *See* 73 FR 28321 at 28348. A similar paragraph added to the NNSR rule does not include ''particulate matter (PM) emissions.'' *See* 40 CFR 51.165(a)(1)(xxxvii)(D).

On October 25, 2012, EPA took final action to amend the definition of ''regulated NSR pollutant'' promulgated in the 2008 NSR $PM_{2.5}$ Rule regarding the PM condensable provision at 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(i) and Appendix S to 40 CFR 51. *See* 77 FR 65107. The $PM_{2.5}$ Condensables Correction Rule removed the inadvertent requirement in the 2008 NSR $PM_{2.5}$ Rule that the measurement of condensable particulate matter be included as part of the measurement and regulation of ''particulate matter emissions'' under the PSD program. The term ''particulate matter emissions'' includes filterable particles that are larger than $PM_{2.5}$ or PM_{10} and is an indicator measured under various New Source Performance Standards (NSPS). *See* 40 CFR part 60.[4]

The PSD requirements of the 2008 NSR $PM_{2.5}$ Rule were approved into the Georgia SIP on September 8, 2011. *See* 76 FR 55572. The November 12, 2014 submittal makes the correction to the condensables provision for Georgia's PSD program. See Section III, below, for EPA's analysis of Georgia's submittals.

B. Greenhouse Gases and Plantwide Applicability Limits

On January 2, 2011, GHG emissions were, for the first time, covered by the PSD and title V operating permit programs.[5] To establish a process for phasing in the permitting requirements for stationary sources of GHGs under the CAA PSD and title V programs, on June 3, 2010, the EPA published a final rule entitled ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (hereinafter referred to as the GHG Tailoring Rule). *See* 75 FR 31514. In Step 1 of the GHG Tailoring Rule, which began on January 2, 2011, the EPA limited application of PSD and title V requirements to sources of GHG emissions only if they were subject to PSD or title V ''anyway'' due to their emissions of pollutants other than GHGs. These sources are referred to as ''anyway sources.''

In Step 2 of the GHG Tailoring Rule, which applied as of July 1, 2011, the PSD and title V permitting requirements applied to some sources that were classified as major sources based solely on their GHG emissions or potential to emit GHGs. Step 2 also applied PSD permitting requirements to modifications of otherwise major sources that would increase only GHG

[3] In the December 1, 2016 letter, Georgia also withdrew changes regarding the term ''regulated NSR pollutant'' at Rule 391–3–1–.02(7)(a)(2)(ix). The December 1, 2016 letter is included in the docket for this action.

[4] In addition to the NSPS, states regulated ''particulate matter emissions'' for many years in their SIPs for PM, and the same indicator has been used as a surrogate for determining compliance with certain standards contained in 40 CFR part 63, regarding National Emission Standards for Hazardous Air Pollutants.

[5] See the rule entitled ''Reconsideration of Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs,'' Final Rule, 75 FR 17004 (April 2, 2010).

emissions above the level in the EPA regulations. EPA generally described the sources covered by PSD during Step 2 of the GHG Tailoring Rule as ''Step 2 sources'' or ''GHG-only sources.''

Subsequently, EPA published the GHG Step 3 Rule on July 12, 2012. *See* 77 FR 41051. In this rule, EPA decided against further phase-in of the PSD and title V requirements for sources emitting lower levels of GHG emissions. Thus, the thresholds for determining PSD applicability based on emissions of GHGs remained the same as established in Step 2 of the Tailoring Rule.

The GHG PALs portion of the July 12, 2012 final rule revised EPA regulations under 40 CFR part 52 for establishing PALs for GHG emissions. A PAL establishes a site-specific plantwide emission level for a pollutant that allows the source to make changes at the facility without triggering the requirements of the PSD program, provided that emissions do not exceed the PAL level. Under EPA's interpretation of the federal PAL provisions, such PALs are already available under PSD for non-GHG pollutants and for GHGs on a mass basis. EPA revised the PAL regulations to allow for GHG PALs to be established on a carbon dioxide equivalent (CO_2e)[6] basis as well. *See* 77 FR 41051 (July 12, 2012). EPA finalized these changes in an effort to streamline federal and SIP PSD permitting programs by allowing sources and permitting authorities to address GHGs using PALs in a manner similar to the use of PALs for non-GHG pollutants.

On June 23, 2014, the U.S. Supreme Court addressed the application of stationary source permitting requirements to GHG emissions in *Utility Air Regulatory Group (UARG)* v. *EPA,* 134 S. Ct. 2427 (2014). The Supreme Court upheld EPA's regulation of Step 1—or ''anyway'' sources—but held that EPA may not treat GHGs as air pollutants for the purposes of determining whether a source is a major source (or a modification thereof) and thus require the source to obtain a PSD or title V permit. Therefore, the Court invalidated PSD and title V permitting requirements for Step 2 sources.

In accordance with the Supreme Court decision, on April 10, 2015, the D.C. Circuit issued an Amended Judgment vacating the regulations that implemented Step 2 of the GHG Tailoring Rule, but not the regulations that implement Step 1 of the GHG Tailoring Rule. *Coalition for Responsible Regulation, Inc.* v. *EPA,* 606 Fed. Appx. 6, 7 (D.C. Cir. 2015). With respect to Step 2 sources, the D.C. Circuit's Judgment vacated the EPA regulations under review (including 40 CFR 51.166(b)(48)(v) and 40 CFR 52.21(b)(49)(v)) ''to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emissions increase from a modification.'' *Id.* at 7–8.

EPA promulgated a good cause final rule on August 19, 2015, entitled ''Prevention of Significant Deterioration and Title V Permitting for Greenhouse Gases: Removal of Certain Vacated Elements.'' *See* 80 FR 50199 (August 19, 2015) (hereinafter referred to as the Good Cause GHG Rule). The rule removed from the federal regulations the portions of the PSD permitting provisions for Step 2 sources that were vacated by the D.C. Circuit (*i.e.,* 40 CFR 51.166(b)(48)(v) and 52.21(b)(49)(v)). EPA therefore no longer has the authority to conduct PSD permitting for Step 2 sources, nor can we approve provisions submitted by a state for inclusion in its SIP providing this authority. In addition, on October 3, 2016, EPA proposed to revise provisions in the PSD permitting regulations applicable to GHGs to fully conform with *UARG* and the Amended Judgment, but those revisions have not been finalized. *See* 81 FR 68110.

Georgia's November 12, 2014 SIP revision adopts the GHG Step 3 Rule. EPA's analysis of the submittal is included in Section III of this rulemaking.

III. Analysis of the State's Submittals

A. Georgia's December 15, 2011 Submittal

Georgia currently has a SIP-approved NNSR program at Rules 391–3–1–.03(8)(c) and (g). The change to Rule 391–3–1–.03(8)(g) in the December 15, 2011 submittal removes an obsolete reference to clean units by deleting subparagraph (III) in Rule 391–3–1–.03(8)(g)(1)(iii) and by making minor grammatical edits to subparagraphs (I) and (II) to address the deletion of subparagraph (III). Georgia never adopted the Clean Unit provisions, and the language in subparagraph (III) expressly excludes incorporation of 40 CFR 51.165(a)(1)(vi)(C)(3) and (E)(5)—related to increases and decreases at clean units—into the State's definition of ''Net Emissions Increase.'' Subparagraph (III) is now obsolete, because as discussed in Section II.A., above, clean unit provisions were removed from the federal NSR rules on June 13, 2007 (72 FR 32526). Therefore, EPA is approving this change to Georgia's SIP-approved NNSR rules.

B. Georgia's July 25, 2014 Submittal

Georgia's July 25, 2014 submittal makes an administrative edit to Georgia Rule 391–3–1–.03(8) for generally applicable permitting requirements. GA EPD deletes the text from paragraph (d) that required that Section 129A of the CAA, governing new source performance standards for solid waste combustion, must be met before permitting sources to be constructed or modified prior to July 1, 1979. The date for this requirement has passed, so the provision is obsolete. Georgia's non-SIP rules have other, more current provisions pursuant to CAA section 129. EPA has concluded that this revision will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act, and is approving this administrative change to the SIP.

C. Georgia's November 12, 2014 Submittal

Georgia currently has a SIP-approved PSD program at Rule 391–3–1–.02(7), including the regulation of GHGs under Step 1 and Step 2 pursuant to the GHG Tailoring Rule. The November 12, 2014 submittal revises the PSD regulations by changing the incorporation by reference date of 40 CFR 52.21 at Rule 391–3–1–.02(7)(a)(1) from July 20, 2011, to December 9, 2013.[7] The effect of changing this incorporation by reference date is to adopt two significant changes

[6] CO_2 equivalent (CO_2e) emissions refers to emissions of six recognized GHGs other than CO_2 which are scaled to equivalent CO_2 emissions by relative global warming potential values, then summed with CO_2 to determine a total equivalent emissions value. *See* 40 CFR 51.166(48)(ii) and 52.21(49)(ii).

[7] EPA has not acted on, and is not currently acting on, the portion of Georgia's September 15, 2008 SIP revision that seeks to incorporate into the SIP, through a revision to Georgia Rule 391–3–1–.02(7)(a)(2)(iii) (state effective on September 11, 2008), the provisions amended in the Ethanol Rule (72 FR 24060) to exclude facilities that produce ethanol through a natural fermentation process from the definition of ''chemical process plants'' in the major NSR source permitting program found at 40 CFR 52.21(b)(1)(i)(a) and (b)(1)(iii)(t). Therefore, today's action does not IBR those provisions into the SIP. Additionally, today's action does not incorporate into the SIP the provisions at 40 CFR 52.21(b)(2)(v) and (b)(3)(iii)(*c*) that were stayed indefinitely by the Fugitive Emissions Interim Rule, 76 FR 17548 (March 30, 2011). As discussed in an October 26, 2016 letter from GA EPD, these stayed provisions were not incorporated into Georgia's SIP through EPA's September 9, 2011 approval of the IBR update to Georgia Rule 391–3–1–.02(7) in Georgia's January 13, 2011 SIP revision because these provisions were initially stayed on September 30, 2009 (74 FR 50115). GA EPD's October 26, 2016 letter is located in the docket for this action.

to the PSD rules: (1) The adoption of GHG PAL provisions pursuant to the GHG Step 3 Rule; and (2) the incorporation of the correction to the $PM_{2.5}$ condensables provision as promulgated in the $PM_{2.5}$ Condensables Correction Rule.

Georgia's November 12, 2014 submittal incorporates these two federal PSD provisions as of December 9, 2013, which is prior to the *UARG* decision, the D.C. Circuit's Amended Judgment in *Coalition for Responsible Regulation,* and EPA's August 19, 2015 Good Cause GHG Rule. Therefore, Georgia's adoption by reference of 40 CFR 52.21 as of December 9, 2013, did not include the August 19, 2015 revisions to the Federal PSD program removing the PSD provisions vacated by the Amended Judgment. Prior to this action, the Georgia SIP contains the vacated GHG provisions (through the incorporation by reference of a previous version of 40 CFR 52.21) and so EPA's approval of the CFR incorporation by reference update to December 9, 2013, does not change the Georgia SIP with respect to the vacated provisions. However, the now-vacated portions of 40 CFR 52.21 incorporated into the Georgia SIP-approved PSD program are no longer enforceable. EPA believes that this portion of the Georgia SIP should be revised in light of the D.C. Circuit's Amended Judgment, but EPA also notes that these provisions may not be applied even prior to their removal from the Georgia SIP because the court decisions described above have determined these parts of EPA's regulations are unlawful. EPA therefore proposes to approve the update to the incorporation by reference of PSD regulations with the understanding that the GHG provisions that have been vacated by the court decisions may not be applied after those decisions.

The November 12, 2014 SIP revision seeks to add to the Georgia SIP elements of the EPA's July 12, 2012 rule implementing Step 3 of the phase-in of PSD permitting requirements for GHGs described in the GHG Step 3 Rule. Specifically, the incorporation of the GHG Step 3 Rule provisions will allow GHG-emitting sources to obtain PALs for their GHG emissions on a CO_2e basis. As explained in Section II.B above, a PAL establishes a site-specific plantwide emission level for a pollutant, which allows the source to make changes to individual units at the facility without triggering the requirements of the PSD program, provided that facility-wide emissions do not exceed the PAL.

The federal GHG PAL regulations include provisions that apply solely to GHG-only, or Step 2, sources. Some of these provisions may no longer be applicable in light of the Supreme Court's decision in *UARG* and the D.C. Circuit's Amended Judgment. Since the Supreme Court has determined that sources and modifications may not be defined as ''major'' solely on the basis of GHGs emitted or increased, PALs for GHGs may no longer have value in some situations where a source might have triggered PSD based on GHG emissions alone. EPA has proposed action in an October 3, 2016 proposed rule to clarify the GHG PAL rules. *See* 81 FR 68110. However, PALs for GHGs may still have a role to play in determining whether a source that is already subject to PSD for a pollutant other than GHGs should also be subject to PSD for GHGs.

Moreover, the existing GHG PALs regulations do not add new requirements for sources or modifications that only emit or increase greenhouse gases above the major source threshold or the 75,000 ton per year GHG level in 40 CFR 52.21(b)(49)(iv). Rather, the PALs provisions provide increased flexibility to sources that wish to address their GHG emissions in a PAL. Since this flexibility may still be valuable to sources in at least one context described above, the Agency believes that it is appropriate to approve these provisions into the Georgia SIP at this time. EPA has concluded that approving this change into the SIP will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA. EPA discussed the effects of PALs in the Supplemental Environmental Analysis of the Impact of the 2002 Final NSR Improvement Rules (November 21, 2002) (Supplemental Analysis). The Supplemental Analysis explained, ''[t]he EPA expects that the adoption of PAL provisions will result in a net environmental benefit. Our experience to date is that the emissions caps found in PAL-type permits result in real emissions reductions, as well as other benefits.'' Supplemental Analysis at 6; *see also* 76 FR 49313, 49315 (August 10, 2011). EPA is therefore approving the PALs provisions into the Georgia SIP, as incorporated by reference.

By changing the incorporation by reference date for Rule 391–3–1–.02(7) in the November 12, 2014 SIP revision, Georgia also adopts changes made by EPA in the $PM_{2.5}$ Condensables Correction Rule. *See* 77 FR 65107 (October 25, 2012). As explained in Section II.A, the federal rule corrected an inadvertent error in the definition of ''regulated NSR pollutant'' at 40 CFR 52.21(b)(50).[8] EPA has concluded that this change will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA, and is approving this revision to the Georgia SIP.

IV. Incorporation by Reference

In this rule, 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 Rule 391–3–1–.02(7)—''Prevention of Significant Deterioration'' at subparagraph (a)(1), effective October 14, 2014,[9] which revises PSD rules, and Rule 391–3–1–.03(8)—''Permit Requirements'' at paragraph (g), effective September 13, 2011,[10] which revises NNSR rules, and at paragraph (d), effective August 1, 2013, which revises generally applicable permitting requirements. Therefore, these materials have been approved by EPA for inclusion in the SIP, 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 by the Director of the Federal Register in the next update to the SIP compilation.[11] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Final Action

EPA is approving the aforementioned changes to the SIP because they are consistent with the CFR 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

[8] As discussed in section I of this action, Georgia's December 15, 2011 and November 12, 2014 submittals included further revisions to Rule 391–3–1.02(7)(a)(2)(ix), but those revisions were withdrawn in a December 1, 2016 letter.

[9] See footnote 8, above, for additional detail.

[10] As discussed in section I of this action, EPA is not incorporating by reference the changes to Rule 391–3–1–.03(8)(g)(1)(iii), (g)(2)(i), (g)(5)(i), and (g)(6)(i) that reference subparagraph 8(c)16.(ii).

[11] 62 FR 27968 (May 22, 1997).

should adverse comments be filed. This rule will be effective October 16, 2017 without further notice unless the Agency receives adverse comments by September 14, 2017.

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 adverse 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 October 16, 2017 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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).

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 October 16, 2017. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: July 19, 2017.

V. Anne Heard,

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. Section 52.570(c) is amended by revising the entries for ''391–3–1–.02(7)'' and ''391–3–1–.03'' 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(7)	Prevention of Significant Deterioration of Air Quality (PSD).	10/14/2014	8/15/2017, [Insert citation of publication].	EPA is not incorporating the revision to Georgia Rule 391–3–1–.02(7)(a)(2)(iv) included in Georgia's November 12, 2014 SIP submittal because that provision is not in the SIP. As discussed in EPA's action published March 4, 2016 to update to Georgia's SIP. The version of Georgia Rule 391–3–1–.02(7) in the SIP does not incorporate by reference: (1) The provisions amended May 1, 2007 to exclude facilities that produce ethanol through a natural fermentation process from the definition of ''chemical process plants'' in the major NSR source permitting program found at 40 CFR 52.21(b)(1)(i)(a) and (b)(1)(iii)(t), or (2) the provisions at 40 CFR 52.21(b)(2)(v) and (b)(3)(iii)(*c*) that were stayed indefinitely (March 30, 2011).
*	* *	*	* *	* *
391–3–1–.03	Permits	8/1/2013	8/15/2017, [Insert citation of publication].	Changes specifically to (8)—Permit Requirements at (d) (state effective August 1, 2013) and (g) (state effective September 13, 2011).
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[FR Doc. 2017–16490 Filed 8–14–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 160920866–7167–02]

RIN 0648–XF573

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish in the West Yakutat District of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of sablefish by vessels using trawl gear in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary because the 2017 total allowable catch of sablefish allocated to vessels using trawl gear in the West Yakutat District of the GOA will be reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), August 9, 2017, through 2400 hours, A.l.t., December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2017 total allowable catch (TAC) of sablefish allocated to vessels using trawl gear in the West Yakutat District of the GOA is 211 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032, February 27, 2017).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2017 TAC of sablefish allocated to vessels using trawl gear in the West Yakutat District of the GOA will be reached. Therefore, NMFS is requiring that sablefish caught by vessels using trawl gear in the West Yakutat District of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of sablefish by vessels using trawl gear in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 8, 2017.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 9, 2017.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–17137 Filed 8–9–17; 4:15 pm]

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