

Georgia Environmental Protection Division

Air Protection Branch

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August 11, 2016

MEMORANDUM

To: Richard E. Dunn, Director
Environmental Protection Division

From: Karen Hays, Chief
Air Protection Branch

Subject: Responses to Comments Received
During the Public Comment Period (July 5 – August 5, 2016)
Proposed Amendments to the Rules for Air Quality Control, Chapter 391-3-1
pertaining to Startup, Shutdown and Malfunction Emissions

On July 1, 2016, EPD issued a public notice requesting comments on the proposed amendments to the Georgia Rules for Air Quality Control, Chapter 391-3-1 pertaining to Startup, Shutdown and Malfunction Emissions. The proposed changes included the following subparagraphs of Rule 391-3-1-.02:

- **Rule 391-3-1-.02(2)(a)7.**, “**Excess Emissions**,” is being renamed “**Startup, Shutdown, and Malfunction Emissions**” and amended to comply with EPA’s Startup, Shutdown and Malfunction (SSM) SIP Call, while addressing process equipment and air pollution control equipment limitations by including the option of complying with alternative work practice standards during periods of startup and shutdown.
- **Rule 391-3-1-.02(2)(a)9.**, “**Startup, Shutdown, and Malfunction Emissions for Certain Rules**,” describes requirements for minimizing excess emissions during periods of startup, shutdown and malfunction for certain Georgia Rules and retains the language of the Excess Emission Rule.
- **Rule 391-3-1-.02(2)(a)11.**, “**Malfunction Emissions**,” is being added to allow compliance with source-specific alternative work practice standards during periods of malfunctions. Rules 391-3-1-.02(2)(a)11.(i) and 391-3-1-.02(2)(a)11.(ii) will be submitted as a SIP revision to EPA.

A public hearing was held at 1:00 p.m. on August 3, 2016, in the EPD Training Center located at 4244 International Parkway, Suite 116, Atlanta, Georgia 30354. No oral comments were received during the public hearing. EPD received seven sets of written comments during the public comment period that ended August 5, 2016 from a regulated utility, a private citizen, four environmental organizations (one joint submittal) and four trade associations. A summary of the comments received and EPD’s responses are attached. Revisions of the proposed amendments are appropriate in response to comments received.

The Division will solicit public input and hold another public hearing, and expects to present the proposed amendments to the DNR Board for consideration at the October 2016 meeting.

KH:EC

Attachment: Responses to Comments

Responses to Comments Received on the Proposed Amendments to the Rules for Air Quality Control, Chapter 391-3-1 pertaining to Startup, Shutdown and Malfunction Emissions
July 5, 2016 through August 5, 2016

On July 5, 2016, the Georgia Environmental Protection Division (EPD) issued a public notice requesting comments on Georgia's proposed amendments to the Rules for Air Quality Control, Chapter 391-3-1 pertaining to Startup, Shutdown and Malfunction (SSM) Emissions. No comments were received during the public hearing on August 3, 2016. Written comments were received from a regulated utility, a private citizen, four environmental organizations and four trade associations. These comments are summarized and followed by EPD's responses below.

Comment: The commenter did not agree with the Proposed Rule and questioned whether the Proposed Rule is written for the citizens of Georgia or for the industry of Georgia, noting the Proposed Rule should be for the environment, air quality and the State of Georgia.

EPD Response: EPD agrees with the commenter that Georgia's Air Quality Rules should protect the environment; no specific changes were requested or made.

Comment: Because EPD's primary consideration should be protection of public health in strict compliance with the Clean Air Act (CAA) and the Georgia Air Quality Control Act, the best approach in responding to the SSM SIP Call is for EPD to simply remove the illegal SSM exemption from the Georgia State Implementation Plan (SIP).

EPD Response: EPD considered all options provided by the U.S. Environmental Protection Agency (EPA) in the SSM SIP Call and determined that development of optional alternative work practice standards was the best path forward for Georgia.

Comment: EPD fails to demonstrate that its proposed reliance on alternative work practice standards is appropriate.

EPD Response: The SSM SIP Call requires Georgia to remove or amend existing paragraph 391-3-1-.02(2)(a)(7), as it applies to regulations adopted into the SIP. It does not preclude the development of alternative emission limitations, including work practices.

Comment: In developing alternative SSM requirements, EPD failed to consider the seven criteria specified by EPA. Additionally, EPD failed to tailor its proposed regulations to specific sources or source categories, but instead applies a blanket set of alternative work practice standards to all sources indiscriminately.

EPD Response: EPD did consider the seven criteria recommended by EPA in their non-binding guidance to the extent that it was reasonable for sources subject to Georgia emission limits. EPD also considered the technical limitations and safety of emissions control devices and sources in developing the general work practice standards (A) through (M).

Comment: Work practice standards are not appropriate for periods of malfunction.

EPD Response: The SSM SIP Call does not prohibit states from developing alternative work practice standards that apply during malfunction events.

Comment: The proposed SIP revision fails to include continuous emissions limitations. Any final rule must include emissions limitations that apply *at all times*.

EPD's proposal in 391-3-1-.02(2)(a)7(ii)(IV)(B) to allow *all* sources to choose from the list of "clean" fuels from Table 3 to Subpart DDDDD of 40 CFR Part 63 (the federal rule governing hazardous air pollutants from industrial, commercial and institutional boilers and process heaters) would allow sources such as power plants to burn fuels such as "fuel oil-soaked rags," "paper," "cardboard," and biomass during startup and shutdown.

EPD only requires that baghouses be operated in keeping with certain manufacturer specifications and protocols and within certain temperature and pressure ranges. EPD should require baghouses to be operated at all times of source operation.

EPD Response: The proposed general work practice standards (IV.A. and IV.B.) apply at all times. Part 1 (IV.A.) applies for all sources, and Part 2 (IV.B.) applies for any source that burns fuel. Using EPA's own approach to developing startup and shutdown work practice standards in federal new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP), EPD considered the technical limitations of sources and pollution control devices in developing the proposed standards.

Comment: The proposed SIP revision fails to require reporting to ensure compliance.

EPD Response: EPA's SSM SIP Call does not require that the state include additional reporting requirements in the SIP revision.

Comment: The proposed SIP revision is vague and excludes definitions for key terms. Without clear definitions and time restrictions for "startup" and "shutdown," for instance, a source could conceivably claim to be operating in startup or shutdown mode (and thus exempt from normal SIP emissions limits) all the way up to full load.

EPD Response: The SSM SIP Call was narrowly focused on emissions limitations applying at all times, and specifically for Georgia addressing paragraph 7 "Excess Emissions." EPA's SSM SIP Call does not require that EPD amend its definitions.

Comment: The clean fuels requirement of the general alternative work practice standards option is without practical regulatory meaning. The proposed clean fuels requirement is also vague to the point of being unenforceable.

EPD Response: The proposed general work practice standard referred to in this comment is similar to the work practice standards used by EPA in the federal rule governing hazardous air pollutants from industrial, commercial and institutional boilers and process heaters (in Subpart DDDDD of 40 CFR Part 63).

Comment: The alternative work practice standards option for similar process equipment inappropriately allows sources to pick and choose which federal standards to follow. EPD's proposal does not clarify whether sources that choose work practices from 40 CFR Part 60 or 63 will also be bound by the relevant federal rule's definitions of startup and shutdown.

EPD Response: The proposed rule specifies which sources may use which EPA approved NESHAP or NSPS work practice standard.

Comment: Any source-specific work practice alternative should be used only as a last resort and must be incorporated into the SIP.

EPD Response: Georgia's proposed rule for case-by-case work practice standards would provide both EPA and the public input in accordance with Georgia's definition of "federally enforceable", and 40 CFR Part 70 and Part 52.21 (PSD).

Comment: EPD fails to demonstrate that the proposed SIP revision will not violate NAAQS or PSD increments.

EPD Response: Georgia EPD provided data to EPA during the SSM SIP Call proposal comment period that verified that SSM events do not contribute significantly to air quality problems in Georgia.

Comment: EPD inappropriately applies the updated SIP revision to NSR Limits. EPD must follow all of the process requirements for each individual NSR permit, including notice and comment reopening of the permits and best available control technology ("BACT") and lowest achievable control technology ("LAER") review.

EPD Response: EPD is not changing BACT emission limits for all PSD-subject facilities. The proposed change is narrowly structured to only affect those BACT emission limits that failed to address startup, shutdown, and malfunction (SSM) during original development. The proposed rule clearly defines the expectations during SSM periods, and adds an element of enforceability for the units that are not required to operate continuous emissions monitors.

Comment (Multiple commenters): The proposed work practice standards are appropriate, reflect continuous alternative emission limitations, and are well-suited for regulating emission resulting from SSM. Commenter also supports EPD's proposed compliance requirements for facilities implementing revised SSM provisions through federally enforceable operating permits and maintaining records for a period of five years demonstrating compliance with applicable requirements. Federally enforceable permits are the appropriate mechanism for implementing SSM requirements because they are subject to public review and comment and have been used successfully for decades to implement compliance requirements including those that require source-specific plans, such as Compliance Assurance Monitoring and NESHAP SSM, Operation & Maintenance, and Performance Evaluation Plans.

EPD Response: EPD agrees.

Comment: EPD should allow certain general work practice standards for malfunctions. Commenter encourages EPD to revise the compliance alternatives proposed in section 391-3-1-.02(2)(a)11.(ii) to address malfunction emissions by also including the general work practice standards provided in proposed section 391-3-1-.02(2)(a)7.(ii)(IV)A. and the specific fuel-

burning and air pollution control devices work practice standards detailed in proposed section 391-3-1-.02(2)(a)7.(ii)(IV)B.(A) through (M).

EPD Response: Malfunctions are not predictable in timing, duration, nature, or intensity and not a good match for the general work practice standards option provided for Startup and Shutdown events.

Comment (multiple commenters): EPD should replace “during” with “resulting from” in applicability provisions of the proposed rule. This focus on causation is appropriate, given the current SSM rule's requirements for employing best operational practices and operating air pollution control equipment to minimize emissions. Implementation of the revised SSM provisions in this manner would be consistent with EPD's prior implementation and promote clarity for determining compliance with applicable standards.

EPD Response: EPD agrees and has changed the wording from “during” to “resulting from” to address these comments.

Comment (multiple commenters): EPD should adjust the rule numbering and not modify the current section 391-3-1-.02(2)(a)7 language. Section 391-3-1-.02(2)(a)7.of EPD's current rules is part of the EPA-approved Georgia SIP. To avoid confusion, EPD should retain the current rule language in section (2)(a)7. and renumber all revised or new provisions so they are in different numbered sections.

EPD Response: EPD agrees that current paragraph 7. shall be retained, but later paragraphs may supersede paragraph 7, depending on the SIP revisions being approved by EPA, or the SSM SIP Call being vacated by the courts. New text in draft paragraph 7. is moved to a new paragraph 11., non-SIP SSM provisions in draft paragraph 9. are moved to new paragraph 13., and malfunction provisions of draft paragraph 11. are moved to new paragraph 12.

Comment (multiple commenters): EPD needs to clarify the relationship between this proposed rule and existing PSD/NSR permits.

EPD Response: EPD agrees that the alternative work practice standards may apply to PSD and NAA NSR limits, provided that the limits and prescribed compliance methodology do not already address startup and shutdown periods. The language has been modified.

Comment (multiple commenters): Control device considerations while using “clean fuels” during startup and shutdown should be clarified in each affected item. Each specific alternative work practice standard proposed for baghouses, ESPs, scrubbers and sorbent injection systems should reference condition IV.B. (H) for further clarification of the requirements during startup and shutdown when burning clean fuels only.

EPD Response: EPD agrees that PM, SO₂, and acid gas controls are not required to operate in startup and shutdown mode while burning natural gas, propane, or distillate oil. Work practice standards for baghouses, cyclones, ESP's, scrubbers, and sorbent injection systems have been revised to cross reference the operation exemption during the firing of certain fuels as already specified in paragraph (H) of General Work Practice Standard Part 2.

Comment (multiple commenters): Sorbent injection system alternative work practice standards should allow parameter monitoring. The sorbent injection system alternative work practice standard must consider that alternate monitoring parameters may be necessary for determining when to initiate sorbent injection.

EPD Response: EPD agrees that direct measurement is not the only way to determine adequate minimum exhaust duct velocity, and has revised paragraph (L) to allow for direct measurement or use alternative operating parameters.

Comment: Commenter expressed support for EPD's approach of general work practice standards for startup and shutdown and adoption of source-specific work practice standard options for both startup/shutdown as well as malfunction events that can be implemented via permit; EPD's decision to maintain the status quo until EPA approves the new rule; "automatic rescission clause" that would trigger in the event the SSM SIP Call is overturned in the courts or by a new EPA administration.

EPD Response: No response needed.

Comment: A complete overhaul of Georgia EPD's current rule is unnecessary. Commenter believes that the current rule 391-3-1-.02(2)(a)7. could be easily converted into a work practice standard with minimal revisions, far short of what EPD has proposed in this rulemaking.

EPD Response: EPD's goal has been to develop revised rules addressing emissions that occur as a result of SSM events that are reasonable, and approvable by EPA. While EPA's guidance may be non-binding, we have given deference to EPA's guidance when appropriate. EPD has attempted to address stakeholder concerns while meeting the demands of EPA's SSM SIP call with this draft rule and draft SIP revision.

Comment: Commenter suggests that EPD make the following revision to subparagraph (ii)(IV)IV. of paragraph 11.:

Failure to implement or follow the source specific malfunction work practice standard during a malfunction shall be a violation of the Georgia Rules for Air Quality Control (391-3-1-.03(2)(g))."

EPD Response: EPD agrees and has made the suggested change.

Comment: EPD should consider clarifying the automatic rescission clauses. The commenter recommends that EPD revise them to read as follows:

"If federal legislation, a federal court, or a subsequent final agency action renders the EPA's SSM SIP Call unenforceable in whole or in part, this rule shall become void to the same extent."

EPD Response: The proposed language is sufficient.