

preconstruction approvals or permits, construction, and volatile organic compounds.

Georgia Rule 391-3-1-.03(8) provides for permitting of new and modified major sources. Paragraph 1 of Georgia Rule 391-3-1-.03(8)(c) was revised to conform to the statutory language in section 173(a)(1)(A) of the Act, concerning emission offsets. Paragraphs 2 and 3 were not changed and require a proposed source to comply with the lowest achievable emission rate and to demonstrate statewide compliance under the Act by the owner or operator of the proposed source. Paragraph 4 was revised to conform to the statutory language in section 173(a)(5) by requiring an analysis of alternatives to any proposed source. Paragraph 5 was not changed and requires a finding that the State Implementation Plan (SIP) is being carried out in accordance with the requirements of part D of Title I of the Act.

Georgia Rule 391-3-1-.03(8)(c), Permits, was amended in 1986 to add six new paragraphs (paragraphs 6 to 11) to meet the requirements of 40 CFR 51.165(a)(3)(i), (3)(ii)(C)-(D), (3)(ii)(F)-(G), and (4)(i)-(xxvii). The new paragraph of 391-3-1-.03(8)(c) specified as paragraph six (6) meets the requirements of 40 CFR 51.165(a)(3)(i). Paragraph six (6) is more stringent than the latter in stating that "the offset baseline for determining credits for emission reductions at a source is the applicable emission limit in this Chapter or the actual emissions at the time the application to construct is filed, whichever is less." Regulation 40 CFR 51.165(a)(3)(i) simply states that "the baseline for determining credit for emission reductions is the emissions limit under the applicable State Implementation Plan in effect at the time the application to construct is filed, except that the offset baseline shall be the actual emissions of the source from which the offset credit is obtained \* \* \*. In addition, paragraph six (6) incorporates the stipulation that "creditable reductions must occur within two years prior to the filing of the permit application and the time the newly permitted source emissions commence."

Georgia Rule 391-3-1-.03(8)(c), paragraph seven (7) specifies that in order to be used for offset credits, a "shutdown or curtailment of production" occurring prior to the date of the new source application must occur "less than one year prior to the date of permit application," and the new source must be a replacement for the shutdown in whole or in part. Paragraph seven (7) meets the

requirements of 40 CFR 51.165(a)(3)(ii)(C).

Paragraph eight (8) of Georgia Rule 391-3-1-.03(8)(c) states, "No emission offset credit may be allowed for replacing one VOC compound with another of less reactivity." This paragraph is more stringent than the corresponding Federal regulation, 40 CFR 51.165(a)(3)(ii)(D), which allows for certain exceptions.

Paragraph nine (9) of Georgia Rule 391-3-1-.03(8)(c) is identical to 40 CFR 51.165(a)(3)(ii)(F), except in an apparent typographical error, paragraph nine refers to 40 CFR Part 52, Appendix S, rather than 40 CFR Part 51, Appendix S. Because there is no Appendix S to Part 52, EPA believes that a typographical error occurred and interprets the paragraph to refer to 40 CFR Part 51, Appendix S. Paragraph ten (10), although worded differently, is identical in meaning to 40 CFR 51.165(a)(3)(ii)(G). Paragraph eleven (11) is identical in meaning to 40 CFR 51.165(a)(4)(i)-(xxvii), but stated in a different manner.

Georgia Rule 391-3-1-.03(8)(c) was amended in 1992 to add two new paragraphs to meet the NSR requirements of the amended Act. Paragraph 12 was added to meet the offset requirements and paragraph 13 was added to identify additional provisions for the ozone nonattainment areas. Paragraph 12 is nearly identical to the statutory language in section 173(c) of the Act. Paragraph 13 is nearly identical to the statutory language in section 182(c), especially section 182(c)(6-8, 10), of the Act.

The 1992 submittal also deleted Georgia Rule 391-3-1.03(8)(f). The requirement in this paragraph regarding de minimis levels was incorporated in the paragraph (8)(c).

The 1986 submittal adopted the definition of "stationary source" which was promulgated on June 25, 1982 (47 FR 27554), by EPA. This definition excludes all vessel emissions in determining if the source is major. On January 17, 1984, the Court of Appeals for the District of Columbia Circuit overturned and remanded to EPA for further consideration the vessel emission exemption portion of EPA's new source review regulations. EPA has not yet completed its reconsideration of how vessel emissions are to be treated. However, Georgia has submitted a written statement specifying that waterways (of the appropriate depth and width) to afford passage of ships and barges are not located within the Atlanta nonattainment area, the only such area in Georgia. Therefore, EPA is approving the amendments to Georgia Rules 391-3-1-.01 and 391-3-1-.03.

The proposal (June 3, 1988 (53 FR 20347)) referenced that Georgia lacked provisions for source responsibility (40 CFR 51.165(a)(5)(ii)). The Georgia Environmental Protection Division notified EPA on February 28, 1989, that they intend to apply Georgia Rule 391-3-1-.03(8)(c) to any source which becomes a major source or undergoes modification due to a change in operation and not covered in an enforceable permit. EPA believes that this satisfies the requirement of 40 CFR 51.165(a)(5)(ii).

On October 14, 1981, the EPA revised the NSR regulations in 40 CFR Part 51 to give states the option of adopting the "plantwide" definition of stationary source which provides that only physical or operational changes that result in a net increase in emissions at the entire plant require a NSR permit. For example, if a plant increased emissions from one piece of process equipment but reduced emissions by the same amount at another piece of process equipment, then there would be no net increase in emissions at the plant and therefore, no "modification" to the "source." The plantwide definition is in contrast to the so-called "dual" definition [or definitional structure like that in the 1979 offset ruling (44 FR 3274), which has much the same effect as the dual definition]. Under the dual definition, the emissions from each physical or operational change are gauged without regard to reductions elsewhere at the plant.

In the October 1981 **Federal Register** document, EPA set forth its rationale for allowing use of the plantwide definition (46 FR 50766-50769). In EPA's view, allowing use of the plantwide definition was a reasonable accommodation of the conflicting goals of part D of the Act. The Act provided for reasonable further progress (RFP) and timely attainment of National Ambient Air Quality Standards (NAAQS), while also allowing for maximum state flexibility and economic growth. EPA recognized that the plantwide definition would bring fewer plant modifications into the nonattainment permitting process, but emphasized that this generally would not interfere with RFP and timely attainment primarily because the states, under the demands of part D, eventually would have adequate SIPs in place. For instance, EPA stated:

Since demonstration of attainment and maintenance of the NAAQS continues to be required, deletion of the dual definition increases State flexibility without interfering with timely attainment of the ambient standards and so is consistent with Part D [46 FR 50767 col. 2].