

**SYNOPSIS OF  
THE PROPOSED AMENDMENTS TO THE RULES OF THE  
DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION DIVISION  
RELATING TO AIR QUALITY, CHAPTER 391-3-1**

**Rule 391-3-1-.01(cccc)** the definition of “**Synthetic minor permit,**” is being amended.

**Purpose:** The requirement that synthetic minor permits must be federally enforceable is removed.

**Main Features:** The phrase “federally enforceable limits to restrict potential emissions” is replaced with the phrase “limits that are federally enforceable or enforceable as a practical matter in order to restrict potential emissions.” This is done in order to be consistent with federal requirements.

**Rule 391-3-1-.01(nnnn)** the definition of “Procedures For Testing And Monitoring Sources of Air Pollutants” is being amended.

**Purpose:** The definition of the **Procedures For Testing And Monitoring Sources of Air Pollutants** is being amended to reference the most recent revision of the manual. Procedures are being amended to include new test methods, update current methods for fine particulate matter, clarify monitoring and compliance procedures for multi-pollutant requirements, add and update continuous emission monitoring requirements and add quality assurance provisions consistent with U.S. EPA.

**Main Features:** The reference date for the **Procedures for Testing and Monitoring Sources of Air Pollutants** is being updated to the most recent revision, February 1, 2011. The Table of Contents is being amended to include a new reference test method for total reduced sulfur. Section 1.124 is amended by clarifying the location of the monitoring records for affected facilities. Method 16C is added to measure total reduced sulfur consistent with U.S. EPA additions. Methods 201A and 202 are being replaced in their entirety with the updated procedures consistent with U.S. EPA revisions. Appendix B Performance Specifications 6 and 11 are being added, consistent with U.S. EPA. Appendix B Performance Specification 12A is being amended for consistency with U.S. EPA. Finally, Appendix F Procedure 2 is being added to specify quality assurance provisions, consistent with U.S. EPA.

**Rule 391-3-1-.02(4), “Ambient Air Standards,”** is being amended.

**Purpose:** The purpose of this amendment is to update Georgia’s ambient air standards to be consistent with the Federal ambient air standards.

**Main Features:** New Subparagraph (b)4. is added to include the new 1-hour sulfur dioxide standard. Old Subparagraph (b)4. is re-numbered to (b)5. and revised to be consistent with Federal requirements. The first sentence of Subparagraph (g)1. is revised in order to incorporate the new, lower nitrogen dioxide standard. The last sentence of Subparagraph (g)1. and Subparagraph (g)2. are replaced and Subparagraph (g)3. is added in order to be consistent with Federal requirements.

**Rule 391-3-.02(9)(b), “Emission Standards for Hazardous Air Pollutants,”** is being amended.

**Purpose:** To adopt the Federal Emission Standards into the Georgia Rules by reference and to make minor changes to ensure consistency between the State and Federal programs.

**Main Features:** The latest amendment dates since the last rule making are being incorporated into the rules. Subparagraph (9)(b)171. is revised to correct a date. Language is added to Subparagraph (9)(b)15., which incorporates the general provisions of Part 63 into the Georgia rules, to specify that the phrase “is federally enforceable” within the definition of Potential to emit in Part 63 should read “is federally enforceable or enforceable as a practical matter.” Subparagraph (9)(b)16.(vi) is revised to correct a typographical error.

**Rule 391-3-1-.03(11), “Permit by Rule,”** is being amended.

**Purpose:** This requirement is being amended to revise the applicability provisions of each of the eleven permit-by-rule standards from sources without “federally enforceable” permit conditions to sources without conditions “that are federally enforceable or enforceable as a practical matter.”

**Main Features:** In each of the eleven permits by rule [391-3-1-.03(11)(b)1. through 11.], the applicability provision is changed from facilities “...without existing federally enforceable permit conditions limiting the source to below Part 70 major source thresholds” to facilities “...without existing permit conditions that are federally enforceable or enforceable as a practical matter limiting the source to below Part 70 major source thresholds.”

## STATEMENT OF RATIONALE

### Rules for Air Quality Control

#### **Rule 391-3-1-.01(cccc) – Definition of Synthetic Minor Permit**

The basis of this subparagraph is to define the term “synthetic minor permit.” The purpose of this revision is to remove the requirement that synthetic minor permits must be federally enforceable.

In the late 1980s and early 1990s, EPA prompted states to revise their permitting rules to make many of their permits “federally enforceable.” EPD made rule changes in 1994 to comply with these requirements. Then, beginning in 1995, EPA lost a series of three lawsuits on this issue. The court decisions vacated the “federally enforceable” language in the 40 CFR 52.21 and 40 CFR 70 rules, and remanded the nearly identical language in the 40 CFR 63 rule.

In the wake of these court decisions, EPA issued guidance to states allowing them to issue permits consistent with the court decisions and promised to address the court decisions through rulemaking. Specifically, the guidance removed the requirement that limits on the potential to emit have to be federally enforceable. Instead, restrictions contained in State permits can be treated as acceptable limits on the potential to emit provided that the permit and restrictions are enforceable as a practical matter. (For a limit to be “enforceable as a practical matter,” the limit must be both legally enforceable and practically enforceable. That is, the permitting agency must be able to determine that the source is actually complying with the permit limit. This often requires record-keeping, monitoring, and reporting requirements verifying self-imposed limitations on emissions. In addition to these requirements, a “federally enforceable” limit must also have undergone a public notice and comment process.) This guidance was later extended until EPA completed rulemaking on the matter.

EPA promulgated amendments to 40 CFR 52.21 and 40 CFR 70 based on the court decisions vacating the federal rule language, but states are still operating under guidance issued on 40 CFR 63. The proposed rule changes will make the EPD rules consistent with the court decisions and EPA’s current guidance.

These rule changes have no effect on EPD’s minor source new source review public notification procedures. EPD’s minor source new source review procedures will remain the same.

This revision is administrative in nature and is in no way any more restrictive than the Federal requirements and does not incur any additional costs to the regulated industry or public. This revision is expected to provide more regulatory certainty to regulated industry and EPD.

**Rule 391-3-1-.01(nnnn) – Definition of “Procedures for Testing and Monitoring Sources of Air Pollutants”**

The basis of the definition of “Procedures for Testing and Monitoring Sources of Air Pollutants” is to specify the document that is used to identify those procedures used for testing and monitoring sources of air pollution. The purpose of this rule revision is to update the effective date to reference a revised manual.

This revision is administrative in nature and does not incur any additional costs to EPD or the regulated entity.

**Rule 391-3-1-.02(4) Ambient Air Standards**

The basis of this rule is to specify the ambient air quality standards for the State of Georgia. The purpose of this revision is to revise the standards for sulfur dioxide and nitrogen dioxide to be consistent with the Federal definition.

This revision is administrative in nature, is in no way any more restrictive than the Federal requirements, and does not incur any additional costs to the regulated industry or public.

**Rule 391-3-1-.02(9) – Emission Standards for Hazardous Air Pollutants**

The basis of this rule is to adopt the Federal Emission Standards for Hazardous Air Pollutants by Reference. The purpose for this revision is to include the latest amendment dates and all associated changes made to the Federal NESHAP rules into the Georgia rules, to make a change to the general provisions of Part 63, which are incorporated into the Georgia rules by reference, in order to be consistent with Federal guidance, and to correct a typographical error. For further information regarding the change to the Part 63 general provisions, see the statement of rationale for Definition of Synthetic Minor Permit.

This revision is administrative in nature and is in no way any more restrictive than the Federal requirements and does not incur any additional costs to the regulated industry or public.

**Rule 391-3-1-.03(11) – Permit by Rule**

The basis of this paragraph is to establish a system whereby owners and operators may voluntarily subject sources to specific permits by rule and thus avoid requirements applicable to major sources (such as Title V permits). The purpose of this revision is to change the applicability provisions so that the permit-by-rule standards apply to facilities without either federally enforceable limits or limits that are enforceable as a practical matter. See the statement of rationale for the Definition of Synthetic Minor Permit for further explanation.

These rules changes have no effect on EPD’s permit-by-rule program. EPD’s permit-by-rule procedures will remain the same. This revision is administrative in nature and is in no way any more restrictive than the Federal requirements and does not incur any additional costs to the regulated industry or public. This revision is expected to provide more regulatory certainty to regulated industry and EPD.