

APPENDIX C

Georgia Upset Rules

Upset Rules: EPA has approved into the Georgia SIP an upset exemption that violates the Clean Air Act and EPA's guidance. Georgia's exemption expressly allows excess emissions resulting from startup, shutdown or malfunction of any source "which occur though ordinary diligence is employed."¹ To qualify for this exemption, sources must show "(I) the best operational practices to minimize emissions are adhered to, and (II) all associated air pollution control equipment is operated in a manner consistent with good air pollution control practice for minimizing emissions, and (III) the duration of excess emissions is minimized."² Excess emissions that are caused "entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented" are not covered by the exemption.³

Georgia's exemption does not apply to sources subject to "Alternative Emission Reduction Options" under Georgia's rules or to federal New Source Performance Standards.⁴

The Georgia Center for Law in the Public Interest raised the illegality of Georgia's SIP upset provision in comments on Georgia's Title V program. EPA responded that the upset provision was a SIP issue and should be dealt with outside the Title V process.

In May of 2002, EPA sent Georgia a letter stating:

The current automatic exemption from an emission standard ... is unacceptable. Based on current guidance as articulated in the above [Startup, Shutdown, Malfunction] memorandum and in combination with regulatory requirements governing the Georgia SIP, the proposed regulation

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The pollution from Georgia Pacific's paper mill affects our health and well being. Upsets from the plant cause pollution that burns our eyes and throats, eats away paint of our cars, and makes our animals sick.

should be reworded to provide that all excess emissions are a violation of the standard and provide for an affirmative defense against an enforcement action if the criteria in paragraph (i) are met.⁵

Despite EPA's letter Georgia's SIP continues to violate the Clean Air Act and EPA guidance.

Reporting: Georgia's upset reporting rules need improvement. Excess upset emissions from a major source lasting four hours or more must be reported with seven days of the upset.⁶ The report must be written and include: (1) the cause of the breakdown, (2) the corrective action taken, and (3) plans to prevent future occurrences. It must be detailed enough to allow the Director to determine if the upset was sudden and unavoidable.⁷

The reports are not required to include the amount of each pollutant emitted. In addition, the fact that upsets lasting less than four hours do not have to be reported is arbitrary. Upsets lasting only a short time can result in significant and toxic emissions.

Data: Due to the inadequacy of Georgia's reporting rules, we did not attempt to obtain specific facility upset data for Georgia facilities.

NOTES

¹ AQC rule 391-3-1-.02(2)(a)(7)(i).

² *Id.*

³ *Id.* at (ii).

⁴ *Id.* at (iii).

⁵ Letter from Kay Prince, Chief Air Planning Branch, EPA Region 4, to Ronald Methier, Chief Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources (May 9, 2002).

⁶ AQC rule 391-3-1-.02 (6)(b)(1)(iv).

⁷ *Id.*