

implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 14, 2002.

Laura Yoshii,

Deputy Regional Administrator, Region IX.
[FR Doc. 02-15723 Filed 6-21-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC-94;100-200225(a); FRL-7236-2]

Approval and Promulgation of Implementation Plans: North Carolina: Nitrogen Oxides Budget and Allowance Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of North Carolina, through the North Carolina

Department of Environmental and Natural Resources (NCDENR), on September 18, 2001. This revision responds to the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the NO_x SIP Call. This revision establishes and requires a nitrogen oxides (NO_x) allowance trading program for large electric generating and industrial units and internal combustion engines beginning in 2004. The revision includes a budget demonstration and initial source allocations that demonstrate that North Carolina will achieve the required NO_x emission reductions in accordance with the timelines set forth in EPA's NO_x SIP Call. The intended effect of this SIP revision is to reduce emissions of NO_x in order to help areas in the Eastern United States attain the national ambient air quality standard for ozone. EPA is proposing to approve North Carolina's NO_x reduction and trading program because it meets the requirements of the Phase I and Phase II NO_x SIP Call that will significantly reduce ozone transport in the eastern United States.

North Carolina has included credits from an Inspection and Maintenance (I/M) Program as part of its SIP demonstration. North Carolina's I/M rules will be approved in a separate document and will be approved prior to the final approval of this NO_x submittal.

DATES: Written comments must be received on or before July 24, 2002.

ADDRESSES: All comments should be addressed to: Randy Terry at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region 4, Air Planning Branch, 61
Forsyth Street, SW., Atlanta, Georgia
30303-8960.

North Carolina Department of
Environment and Natural Resources,
512 North Salisbury Street, Raleigh,
North Carolina 27604.

FOR FURTHER INFORMATION CONTACT:

Randy Terry, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone

number is (404) 562-9032. Mr. Terry can also be reached via electronic mail at terry.randy@epa.gov.

SUPPLEMENTARY INFORMATION: Section 51.121 of EPA's regulations requires North Carolina to adopt rules to restrict emissions of nitrogen oxides such that the caps specified in the federal rule for North Carolina are attained and maintained. See 40 CFR 51.121. Section 51.121 originally required rules to be submitted to EPA for approval as part of the SIP by September 30, 1999. Because of a court ruling this date was delayed a year, until October 30, 2000. On October 30, 2000, NCDENR submitted temporary NO_x emission control rules to the EPA for adoption. These rules were revised in North Carolina's September 18, 2001, submittal. These rules were submitted to meet the requirements of the NO_x SIP Call until the permanent North Carolina NO_x rules could undergo the entire process of becoming state approved and effective. Although these rules are temporary, they are fully effective and the state has met the requirements in their statute that eliminates the sunset provision. Additionally, on March 21, 2002, North Carolina submitted a response letter to EPA, providing clarification and interpretation of the temporary rules and positively addressing all of EPA's outstanding comments. Therefore, EPA can proceed to propose approving the temporary rule, as established in North Carolina's March 21, 2002 letter, to meet the NO_x SIP Call.

The information in this proposal is organized as follows:

- I. EPA's Action
 - A. What action is EPA proposing today?
 - B. Why is EPA proposing this action?
 - C. What are the NO_x SIP Call general requirements?
 - D. What is EPA's NO_x budget and allowance trading program?
 - E. What guidance did EPA use to evaluate North Carolina's submittal?
 - F. What is the result of EPA's evaluation of North Carolina's program?
- II. North Carolina's Control of NO_x Emissions
 - A. When did North Carolina submit the SIP revision to EPA in response to the NO_x SIP Call?
 - B. What is the North Carolina's NO_x Budget Trading Program?
 - C. What is the Compliance Supplement Pool?
 - D. What is the New Source Set-Aside program?
- III. Proposed Action
 - What is the Relationship of Today's Proposal to EPA's Findings Under the Section 126 Rule?
- IV. Administrative Requirements

I. EPA's Action

A. What Action Is EPA Proposing Today?

EPA is proposing to approve revisions to North Carolina's SIP concerning the adoption of its NO_x Reduction and Trading Program, submitted on October 30, 2000, and revised on September 18, 2001.

B. Why Is EPA Proposing This Action?

EPA is proposing this action because North Carolina's NO_x reduction and trading program regulations, as explained in North Carolina's March 21, 2002 letter, meet the requirements of the Phase I and Phase II NO_x SIP Call. Therefore, EPA is proposing full approval of North Carolina's NO_x Reduction and Trading Program.

C. What Are the NO_x SIP Call General Requirements?

On October 27, 1998, EPA published a final rule entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the NO_x SIP Call. See 63 FR 57356. The NO_x SIP Call requires 22 states and the District of Columbia to meet statewide NO_x emission budgets during the five month period from May 1 through September 30, called the ozone season (or control period), in order to reduce the amount of ground level ozone that is transported across the eastern United States. A court decision by the United States Court of Appeals at the District of Columbia Circuit (D.C. Circuit) on March 3, 2000, concerning the NO_x SIP call (*Michigan v. EPA*, 213 F.3d 663 (D.C. Cir 2000)) reduced the number of states from 22 to 19.

EPA identified NO_x emission reductions by source category that could be achieved by using highly cost-effective controls. The source categories included were large electric generating units (EGUs) and non-electric generating units (non-EGUs), internal combustion (IC) engines, and cement kilns. EPA determined state-wide NO_x emission budgets based on the implementation of these cost effective controls for each affected jurisdiction to be met by the year 2007. Although states are not required to address IC engines until Phase II of the NO_x SIP call, North Carolina has addressed IC engines in this revision. The NO_x SIP Call allows states the flexibility to decide which source categories to regulate in order to meet the statewide budgets.

In the NO_x SIP Call notice, EPA suggested that imposing statewide NO_x emissions caps on large EGUs and non-EGUs would provide a highly cost effective means for states to meet their NO_x budgets. In fact, the state-specific budgets were set assuming an emission rate of 0.15 pounds NO_x per million British thermal units (lb. NO_x/mmBtu) at EGUs, multiplied by the projected heat input (mmBtu/hr). The NO_x SIP Call state budgets also assumed on average a 60 percent reduction from non-EGUs. The non-EU control assumptions were applied at units where the heat input capacities were greater than 250 mmBtu per hour, or in cases where heat input data were not available or appropriate, at units with actual emissions greater than one ton per day. The NO_x SIP Call regulation gives the state the flexibility to determine what control strategy to use to meet the statewide NO_x budget.

To assist the states in their efforts to meet the SIP Call, the NO_x SIP Call notice included a model NO_x allowance trading regulation, called "NO_x Budget Trading Program for State Implementation Plans (40 CFR part 96) that could be used by states to develop their regulations. The NO_x SIP Call notice explained that if states developed an allowance trading regulation consistent with the EPA model rule, they could participate in a regional allowance trading program that would be administered by the EPA. See 63 FR 57458–57459.

There were several periods during which EPA received comments on various aspects of the NO_x SIP Call emissions inventories. On March 2, 2000, EPA published additional technical amendments to the NO_x SIP Call in the **Federal Register** (65 FR 11222). On March 3, 2000, the D.C. Circuit issued its decision on the NO_x SIP Call that largely upheld EPA's position. *Michigan v. EPA*, 213 F.3d 663. The D.C. Circuit denied petitioners' requests for rehearing or rehearing en banc on July 22, 2000. However, the D.C. Circuit Court remanded four specific elements to EPA for further action: The definition of electric generating unit, the level of control for stationary internal combustion engines, the geographic extent of the NO_x SIP Call for Georgia and Missouri, and the inclusion of Wisconsin. On March 5, 2001, the U.S. Supreme Court declined to hear an appeal by various utilities, industry groups and a number of upwind states from the D.C. Circuit's ruling on EPA's NO_x SIP rule.

EPA published a proposal that addresses the remanded portion of the NO_x SIP Call on February 22, 2002 (67

FR 8396). Any additional emissions reductions required as a result of a final rulemaking on that proposal will be reflected in the second phase portion (Phase II) of the State's emission budget. In a memo dated April 11, 2000, EPA adjusted North Carolina's NO_x emission budget to reflect the Court's decision regarding internal combustion engines and cogeneration facilities. Although the Court did not order EPA to modify North Carolina's budget, the EPA believes these adjustments were consistent with the Court's decision. However, in its SIP revision, North Carolina declined to use the revised budget as set forth in the April 11, 2000 memo and chose to use the more stringent budget set forth in the March 2, 2000, document (65 FR 11222). North Carolina has agreed to revise these reductions if they differ in the final Phase II notice.

D. What Is EPA's NO_x Budget and Allowance Trading Program?

EPA's model NO_x budget and allowance trading rule, 40 CFR part 96, sets forth a NO_x allowance trading program for large EGUs and non-EGUs. A state can voluntarily choose to adopt EPA's model rule in order to allow sources within its borders to participate in regional allowance trading. The NO_x SIP Call notice contains a full description of the EPA's model NO_x budget trading program. See 63 FR 57514–57538 and 40 CFR part 96. Additionally, states can adopt a modified trading rule that will still ensure the budgets are met. North Carolina opted to modify EPA's trading rule consistent with the flexibility offered to the states.

Allowance trading, in general, uses market forces to reduce the overall cost of compliance for pollution sources, such as power plants, while maintaining emission reductions and environmental benefits. One type of market-based program is an emissions budget and allowance trading program, commonly referred to as a "cap and trade" program.

In a cap and trade program, the state (or EPA) sets a regulatory limit, or emissions budget, in mass emissions (budget) from a specific group of sources. The budget limits the total number of allowances for each source covered by the program during a particular control period. When the budget is set at a level lower than the current emissions, the effect is to reduce the total amount of emissions during the control period. After setting the budget, the state (or EPA) then assigns, or allocates, allowances to the participating entities up to the level of

the budget. Each allowance authorizes the emission of a quantity of pollutant, e.g., one ton of airborne NO_x.

At the end of the control period, each source must demonstrate that its actual emissions during the control period were less than or equal to the number of available allowances it holds. Sources that reduce their emissions below their allocated allowance level may sell their extra allowances. Sources that emit more than the amount of their allocated allowance level may buy allowances from the sources with extra reductions. In this way, the budget is met in the most cost-effective manner.

E. What Guidance Did EPA Use To Evaluate North Carolina's Submittal?

The final NO_x SIP Call rule included a model NO_x budget trading program regulation. See 40 CFR part 96. EPA used the model rule and 40 CFR 51.121–51.122 to evaluate North Carolina's NO_x reduction and trading program SIP submittal. North Carolina's submittal includes the IC engine requirements, but IC engines are not a part of North Carolina's trading program.

F. What Is the Result of EPA's Evaluation of North Carolina's Program?

After review of North Carolina's September 18, 2001, NO_x SIP submittal, EPA has determined that it meets the requirements of the NO_x SIP Call and is therefore approvable. The North Carolina NO_x reduction and trading program is consistent with EPA's guidance and meets the requirements of both the Phase I and II NO_x SIP Call. EPA finds the NO_x control measures (i.e. required reductions for large EGUs, non-EGUs, and IC engines) in North Carolina's NO_x reduction and trading program approvable. Also, EPA finds that the submittal contains the necessary information to demonstrate that North Carolina has the legal authority to implement and enforce the control measures and that the State will appropriately distribute the compliance supplement pool. Furthermore, EPA proposes to find that the submittal demonstrates that the requirements concerning compliance dates and schedules, monitoring, recordkeeping, and emission reporting will be met.

II. North Carolina's Control of NO_x Emissions

A. When Did North Carolina Submit the SIP Revision to EPA in Response to the NO_x SIP Call?

On October 30, 2000, NCDENR submitted temporary NO_x emissions control rules to meet the requirements of the Phase I and Phase II NO_x SIP Call

and included a schedule for adoption of the final permanent version. On September 18, 2001, NCDENR submitted a revised version of these rules to meet the requirements of the Phase I and Phase II NO_x SIP Call.

B. What Is the North Carolina's NO_x Budget Trading Program?

North Carolina proposes, as in the model rule, to allow large EGUs, boilers and turbines to participate in the multi-state cap and trade program. North Carolina does not have any cement kilns and thus does not include them in the NO_x SIP Call. North Carolina's SIP revision to meet the requirements of the NO_x Budget Trading Program includes the adoption of rules 15A NCAC 2D .1401 Definitions, .1402 Applicability, .1403 Compliance Schedules, .1404 Recordkeeping, Reporting, Monitoring, .1409 Stationary Internal Combustion Engines, .1416 Emission Allocations for Utility Companies, .1417 Emission Allocations for Large Combustion Sources, .1418 New Electric Generating Units, Large Boilers, and Large I/C Engines, .1419 Nitrogen Oxide Budget Trading Program, .1420 Periodic Review and Reallocations, .1421 Allocation for New Growth of Major Point Sources, .1422 Compliance Supplement Pool and Early Emission Reduction Credits, and .1423 Large Internal Combustion Engines.

North Carolina's NO_x budget trading program establishes and requires a NO_x allowance trading program for large EGUs and non-EGUs. The regulations under section .1400 establish a NO_x cap and allowance trading program for the ozone control seasons beginning May 1, 2004.

The State of North Carolina has adopted regulations that are consistent with 40 CFR part 96. Therefore, pursuant to 40 CFR 51.121(p)(1), North Carolina's SIP revision is approved as satisfying the State's NO_x emissions reduction obligations. Under section .1400, North Carolina allocates NO_x allowances to the EGU and non-EGU units that are subject to the requirements of the trading program. The NO_x trading program applies to EGUs with a nameplate capacity greater than 25MW that sell electricity to the grid, as well as non-EGUs that have a maximum design heat input greater than 250 mmbtu per hour. Each NO_x allowance permits a source to emit one ton of NO_x during the seasonal control period. NO_x allowances may be bought or sold. Unused NO_x allowances may be banked for future use, with certain limitations.

Section .1400 sets out the NO_x budget trading program. This section, for the

most part, incorporates by reference the EPA model rule, 40 CFR part 96, NO_x Budget Trading Program. However, the section does contain several exceptions to the part 96 rules. These exceptions include the procedures and schedules for submitting and processing permit applications, dates and schedules for complying with monitoring requirements, the provisions on set-asides for new source allocations, and the distribution of the compliance supplement pool. These rules allow sources not covered under the NO_x SIP Call to opt into the NO_x Budget Trading Program. As discussed below, the NO_x budget trading program cannot be used to (1) meet an emission limit if compliance with that emission limit is required as part of the SIP to attain or maintain the ambient air quality standard for ozone; and (2) obtain offsets needed to comply with the offset requirement of the nonattainment area major new source review rule.

In Rule .1403(c)(3), North Carolina deviated from the model rule to require the owner or operator of a source to submit their permit application by October 1, 2003. Rule .1403(c)(3) also requires the owner or operator to install and implement any required monitoring, recordkeeping, and reporting requirements prior to May 1, 2004. EPA has evaluated these deviations and find that they are approvable under the flexibilities provided within the model rule.

Under Rule .1402(h), the State allows a unit that restricts its fuel use to only natural gas or fuel oil and limits its NO_x emissions to 25 tons (through an operating hours limitation) or less during a control period (through a federally enforceable permit) to be exempted from the requirements of the trading program. The State has clearly required that the unit meet both the fuel use and the operating hours restrictions throughout section .1402. Therefore, EPA believes this section is approvable.

North Carolina rules require that all sources must comply with part 75 monitoring to participate in the trading program. Source owners will monitor their NO_x emissions by using systems that meet the requirements of 40 CFR part 75, subpart H, and report resulting data to EPA electronically. Each NO_x budget unit complies with the program by demonstrating at the end of each control period that actual emissions do not exceed the amount of allowances held for that period. However, regardless of the number of allowances a unit holds, it cannot emit at levels that would violate other federal or state limits, for example, reasonably available control technology (RACT), new source

performance standards, and title IV (the Federal Acid Rain Program). North Carolina's regulation .1419(h) requires that NO_x emission allocations obtained under the NO_x budget trading program shall not be used to meet the emission limits for a source if compliance with that emission limit is required as part of the SIP to attain or maintain the ambient air quality ozone standard. Sources covered under rule .0531 Nonattainment Area Major Source Review of the North Carolina SIP shall not use the NO_x budget trading program to comply with the requirements of rule .0531.

Rule .1423, Large Internal Combustion Engines, establishes the emission limits and the monitoring, recordkeeping, and reporting requirements for large internal combustion engines covered under Rule 15A NCAC 2D .1418. A detailed list identifies the sources covered under this Rule and gives the basic emission limitations. The rule allows adjustments to be made to the basic emission limitations to account for engine efficiency and details which monitoring procedures to use. The facilities that contain sources affected by the IC engine rule are Transcontinental Gas Pipeline Company, Station 160, in Rockingham county, Transcontinental Gas Pipeline Company, Station 150, in Iredell county, and Transcontinental

Gas Pipeline Company, Station 155, in Davidson county. The rule requires IC engines to reduce emissions by 90 percent. These IC engines are not part of the NO_x budget trading program.

North Carolina's submittal demonstrates that the Phase I and II emissions budgets established by EPA in the March 2, 2000, notice (65 FR 11222) will be met. North Carolina's NO_x budget trading program emissions budget includes reductions based upon an I/M reduction credit. This credit is generated by North Carolina through the implementation of an expanded (I/M) Motor Vehicle Program. With the use of the Mobile 5B model, North Carolina has calculated that it will have a reduction credit to help offset emissions from EGU and non-EGU sources.

North Carolina's SIP submittal demonstrates that the Phase I and Phase II NO_x emission budgets established by EPA will be met as follows:

To determine its total emissions budget for 2007, North Carolina added the total emissions for affected EGUs, combustion turbines (combustion turbine serving a generator with a nameplate capacity greater than 25 megawatts electrical and selling any amount of electricity), affected non-EGUs (those fossil fuel-fired industrial boilers with a maximum design heat

input greater than 250 million Btu per hour), and internal combustion engines (including (1) rich burn stationary IC engines rated at equal or greater than 2,400 brake horsepower, (2) lean burn stationary IC engines rated at equal or greater than 2,400 brake horsepower, (3) diesel stationary IC engines rated at equal or greater than 3,000 brake horsepower, and (4) dual fuel stationary IC engines rated at equal or greater than 2,400 brake horsepower). North Carolina then subtracted from this sum the I/M reduction credit which was gained from the implementation of its expanded I/M Motor Vehicle Program, incorporating the On-Board Diagnostic testing procedure. The difference between the allocations distributed to the participants in the trading program and the total allocations available is the amount of the allocations available for new sources.

North Carolina then used the totals allocated to the State in the March 2, 2000 **Federal Register** Notice (65 FR 11222) for area sources, nonroad mobile sources, and highway mobile sources. The remaining emissions for North Carolina were classified as non-affected point sources (sources which are not required to implement any controls based on the NO_x SIP Call)

NO_x EMISSIONS BUDGET

Source category	EPA 2007 NO _x budget emissions (tons/season)	North Carolina 2007 NO _x budget emissions (tons/season)
EGUs	31,821	31,451
Non-EGUs	26,434	2,205
New Permitted CT's		976
IC Engines		352
I/M Reduction Credit		(4,385)
Credit Available for New Growth		3,306
Non-Affected Point Sources		24,350
Area Sources	11,067	11,067
Non-road Sources	22,005	22,005
Highway Sources	73,695	73,695
Total	165,022	165,022

In the event that the North Carolina NO_x budget is inconsistent with the final budget promulgated by EPA in the Phase II notice, North Carolina will revise its SIP, as clarified in the March 21, 2001 letter.

C. What Is the Compliance Supplement Pool?

To provide additional flexibility for complying with emission control requirements associated with the NO_x SIP Call, the final NO_x SIP Call rule provided each affected state with a

compliance supplement pool. The compliance supplement pool is a quantity of NO_x allowances that may be used to cover excess emissions from sources that are unable to meet control requirements during the 2004 and 2005 ozone season. Allowances from the compliance supplement pool will not be valid for compliance past the 2005 ozone season. The NO_x SIP Call included these provisions in order to address commenters' concerns about the possible adverse effect that the control requirements might have on the

reliability of the electricity supply or on other industries required to install controls as the result of a state's response to the NO_x SIP Call.

A state may issue some or all of the compliance supplement pool via two mechanisms. First, a state may issue some or all of the pool to sources that establish a baseline, monitor according to part 75, and demonstrate NO_x reductions in an ozone season beyond any applicable requirements of the Clean Air Act after September 30, 1999, and before May 31, 2004, (*i.e.*, early

reduction credits). This allows sources that cannot install controls prior to May 31, 2004, to purchase other sources' early reduction credits in order to comply. Second, a state may issue some or all of the pool to sources that demonstrate a need for an extension of the May 31, 2004, compliance deadline due to undue risk to the electricity supply or other industrial sectors, and where early reductions are not available. See 40 CFR 51.121(e)(3). Carolina Power and Light Co. and Duke Power Co. have opted to participate in the early reduction credit program.

Rule .1422, Compliance Supplement Pool and Early Emission Reduction Credits sets out the procedures for allocating the compliance supplement pool under 40 CFR 51.121(e)(3). Allocations are given based on early reductions. Carolina Power and Light and Duke Power Company are the only sources eligible for these allocations. To receive the compliance supplement pool allocations, the companies must document a reduction in emissions of nitrogen oxides between September 30, 1999 and May 1, 2003. North Carolina's rule gives the allocations to the two companies up front. The two utility companies are required to submit interim reports in 2001 and 2002 containing information related to early reductions. The rule contains procedures used to reduce the allocations for Carolina Power and Light Co. and Duke Power Co. if either or both do not earn enough early reductions to cover the allocated compliance supplement pool credits. The rule also provides procedures for using the credits in 2003, since North Carolina sources are subject to the 126 Rule. However, since EPA has finalized a rule harmonizing the compliance dates for section 126 and the NO_x SIP Call, this section is moot.

D. What Is the New Source Set-Aside Program?

North Carolina's SIP provides for new source set-asides. 15A NCAC 2D .1421, Allocation for New Growth of Major Point Sources. The Rule establishes an allocation pool from which emission allocations of nitrogen oxides may be allocated to sources permitted after October 31, 2000. It also establishes procedures for requesting allocations and for approving allocations. Eligible sources are EGUs greater than 25 megawatts electrical non-EGUs with a maximum design heat input greater than 250 million Btu per hour. The request cannot exceed the lesser of the estimated emissions during the ozone season or estimated allowable emissions during the ozone season. This section

includes the procedures for approving a request for allowance allocations and allocating allowances, and describes the procedure for determining preliminary allowance allocations. (The preliminary emission allocation is primarily for the source's planning purposes and is not reported to the EPA.) The procedures for determining the final emission allocations are also included. This determination is made at the end of the season so that the allocation that the source receives offsets its actual emissions. The source receives the lesser of its actual emissions, its allowable emissions, and its preliminary allocation from the new source allocation pool. The Director is required to issue final allocations and to notify the source and EPA of the final allocations issued by November 1, and also to make available credits from the I/M motor vehicle program to the new source allocation pool each year beginning in 2008. Any remaining allowances in the new source allocation pool are carried over to the next ozone season. Once a source has made a request for a new source allocation, it does not have to resubmit that request in following years. However, once a source receives an allowance allocation under 15A NCAC 2D .1420, it is no longer eligible for an allocation under 15A NCAC 2D .1421.

III. Proposed Action

EPA is proposing to approve North Carolina's SIP revision consisting of its NO_x reduction and trading program, which was submitted on September 18, 2001. EPA finds that North Carolina's submittal is fully approvable because it meets the both the Phase I and Phase II requirements of the NO_x SIP Call.

What Is the Relationship of Today's Proposal to EPA's Findings Under the Section 126 Rule?

In the April 30, 2002, **Federal Register** document (67 FR 21522), EPA reset the EGU compliance date and other related dates, such as the monitoring certification date, under 40 CFR part 97, also known as the section 126 rule. The EPA also reset the dates for non-EGU sources to match the new date for EGUs. The new compliance date is May 31, 2004. The purpose of the April 30, 2002, document was to realign the section 126 Rule with the NO_x SIP Call.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and

Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 12, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02-15876 Filed 6-21-02; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02-1344; MB Docket No. 02-141; RM-10428]

Radio Broadcasting Services; Belle Haven, Cape Charles, Exmore, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comment on a petition for rulemaking filed on behalf of Commonwealth Broadcasting, LLC, licensee of Station WEXM(FM), Exmore, Virginia, and Sinclair Telecable, d/b/a Sinclair Communications, licensee of Station WROX-FM, Cape Charles, Virginia the proposing the reallocation of Channel 291B from Exmore to Belle Haven, Virginia as the community's first local aural transmission service, and modification of Station WEXM(FM)'s license to reflect the change of community. Station WEXM is licensed on Channel 291A, but was granted a construction permit by one-step application to upgrade to Channel 291B at Exmore (File No. BMPH-20010502AAR). See 66 FR 50576 (October 4, 2001). The petition also requests reallocation of Channel 241B from Cape Charles to Exmore, Virginia and the modification of Station WROX's license to reflect the change of community. Channel 291B can be allotted at Belle Haven at petitioner's requested site 8.5 kilometers (5.3 miles)

west of the community at coordinates NL 37-31-46 and WL 75-54-44. Channel 241B can be allotted at Exmore at a site 29.4 kilometers (18.2 miles) southwest of the community at coordinates NL 37-18-02 and WL 75-59-05.

DATES: Comments must be filed on or before July 29, 2002, and reply comments on or before August 13, 2002.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Howard M. Weiss, Allison Shapiro, Fletcher, Heald & Hildreth P.L.C. 1300 North 17th Street, 11th Floor Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02-141, adopted, May 29, 2002, and released June 7, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, or via e-mail qualexint@aol.com.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by adding Belle Haven, Channel 291B, removing Cape Charles, Channel 241B, and removing Channel 291B and adding 241B at Exmore.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Office of Broadcast License Policy, Media Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MM Docket No. 98-204; DA 02-1025]

En Banc Hearing on Broadcast and Cable EEO Rules and Policies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On May 3, 2002, the Commission released a public notice announcing the June 24, 2002, *en banc* hearing to discuss issues and views on the Commission's proceeding to promulgate new broadcast and cable equal employment opportunity (EEO) rules. The intended effect of this action is to make the public aware of the Commission's *en banc* hearing.

DATES: The *en banc* hearing will convene from 10 a.m. to 1 p.m. on June 24, 2002.

ADDRESSES: The hearing will be held at the Federal Communications Commission, 445 12th Street, SW., Washington, DC, in the Commission Meeting Room (Room TW-C305).

FOR FURTHER INFORMATION CONTACT: Lewis Pulley, Media Bureau, Policy Division. (202) 418-1450.

SUPPLEMENTARY INFORMATION:

1. By Public Notice dated and released May 3, 2002, the Federal Communications Commission announced that it will hold an *en banc* hearing. The purpose of the *en banc* is to assist the Commission in its examination of the EEO rules applicable to broadcast and cable entities. In January 2001, the District of Columbia Circuit Court of Appeals vacated the rules as unconstitutional, finding them insufficiently tailored to address the Commission's efforts to prohibit race and gender discrimination in broadcast and cable employment. Following the court's decision, the Commission