

EPA APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS—Continued

Provision	State effective date	EPA approval date	Federal Register citation
Greensboro Interagency Transportation Conformity Memorandum of Agreement.	1/01/02	12/27/02	[insert FR page citation from publication date]
Gaston, North Carolina Interagency Transportation Conformity Memorandum of Agreement.	1/01/02	12/27/02	[insert FR page citation from publication date]

[FR Doc. 02–32549 Filed 12–26–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC–94;100–200305; FRL–7429–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving 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 was submitted in response 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 reductions from internal combustion engines beginning in 2004. On December 26, 2000, EPA determined that North Carolina had failed to submit a SIP in response to the NO_x SIP Call, thus starting a 18 month clock for the mandatory imposition of sanctions and the obligation for EPA to promulgate a Federal Implementation Plan (FIP) within 24 months. On September 18, 2001, North Carolina submitted a NO_x SIP that was automatically deemed complete on March 18, 2002, stopping the sanctions clock. Through this **Federal Register** notice, both the sanctions clock and EPA's FIP obligation are terminated.

Separately, a vehicle inspection and maintenance program (I/M) achieving NO_x reductions has been approved. The NC NO_x SIP 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 proposed approval of this rule on June 24, 2002, (67 FR 42519) and received no adverse comments. Therefore, EPA is approving 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.

EFFECTIVE DATE: This final rule is effective on January 27, 2003.

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:

I. Background

On September 18, 2001, the North Carolina Department of Environmental and Natural Resources (NCDENR) submitted a revision to its SIP to meet the requirements of the NO_x SIP Call.

The revision consisted of the adoption of a new chapter, NCAC 2D .1400 Nitrogen Oxides Emissions containing thirteen new regulations: .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. On June 24, 2002, (67 FR 42519) EPA published a notice of proposed rulemaking (NPR) to approve the September 18, 2001, SIP revision. That NPR provided for a public comment period ending on July 24, 2002. A detailed description of this SIP revision and EPA's rationale for approving it was provided in the proposed notice and will not be restated here. No significant or adverse comments were received on EPA's proposal. Within the June 24, 2002, NPR, EPA explained that the North Carolina NO_x Call Rule could not receive final approval until North Carolina had submitted and received full approval of their I/M regulations. North Carolina submitted these regulations to EPA on August 7, 2002. A direct final notice approving these regulations was published on October 30, 2002, (67 FR 66096) and no adverse comments were received. The approval of these regulations is therefore effective on December 30, 2002, as stated in the direct final approval.

II. Final Action

EPA is approving North Carolina's SIP revision including its NO_x Reduction and Trading Program and Internal Combustion engine rule, which was submitted on September 18, 2001. EPA finds that North Carolina's submittal is fully approvable because it meets the requirements of the NO_x SIP Call.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 (Pub. L. 104–4).

This 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 approves 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 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. The approval of the North Carolina NO_x Reduction and Trading Program does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 25, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: December 2, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart II—North Carolina

2. In § 52.1770 paragraph (b) is revised and paragraph (c) is amended:

a. In table one, under subchapter 2D by adding, in numerical order, a new entry for “Section .1400 Nitrogen Oxides Emissions.”

b. Under section .1400 by adding, in numerical order, for new entries “.1401”, “.1402”, “.1403”, “.1404”, “.1409”, “.1416”, “.1417”, “.1418”, “.1419”, “.1420”, “.1421”, “.1422”, and “.1423”.

The revised and added material is set forth as follows:

§ 52.1770 Identification of plan.

* * * * *

(b) Incorporation by reference.

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to December 1, 2002, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after December 1, 2002, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 4 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of December 1, 2002.

(3) Copies of the materials incorporated by reference may be inspected at the Region 4 EPA Office at 61 Forsyth Street, SW., Atlanta, GA 30303; the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC; or at the EPA, Air and Radiation Docket and Information Center, Room B–108, 1301 Constitution Avenue, (Mail Code 6102T) NW., Washington, DC 20460.

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(c) * * *

TABLE 1—EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Comments
Subchapter 2D				
Air Pollution Control Requirements 2D				
*	*	*	*	*
Section .1400				
Nitrogen Oxides Emissions				
Sect. .1401	Definitions	7/15/02	[Insert FR citation].	
Sect. .1402	Applicability	7/15/02	[Insert FR citation].	
Sect. .1403	Compliance Schedules	7/15/02	[Insert FR citation].	
Sect. .1404	Recordkeeping, Reporting, Monitoring.	7/15/02	[Insert FR citation].	
Sect. .1409	Stationary Internal Combustion Engines.	7/15/02	[Insert FR citation].	
Sect. .1416	Emission Allocations for Utility Companies.	7/15/02	[Insert FR citation].	
Sect. .1417	Emission Allocations for large Combustion Sources.	7/15/02	[Insert FR citation].	
Sect. .1418	New Electric Generating Units, Large Boilers, and Large I/C Engines.	7/15/02	[Insert FR citation].	
Sect. .1419	Nitrogen Oxide Budget Trading Program.	7/15/02	[Insert FR citation].	
Sect. .1420	Periodic Review and Re- allocations.	7/15/02	[Insert FR citation].	
Sect. .1421	Allocation for New Growth of Major Point Sources.	7/15/02	[Insert FR citation].	
Sect. .1422	Compliance Supplement Pool and Early Emission Reduction Credits.	7/15/02	[Insert FR citation].	
Sect. .1423	Large Internal Combustion Engines.	7/15/02	[Insert FR citation].	

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**DEPARTMENT OF HEALTH AND
HUMAN SERVICES****Health Resources and Services
Administration****45 CFR Part 4****Service of Process: Amendment for
Materials Related to Petitions Under
the National Vaccine Injury
Compensation Program****AGENCY:** Health Resources and Services
Administration, HHS.**ACTION:** Final rule.

SUMMARY: Current regulations regarding service of legal process provide that all service of process relating to petitions for compensation under the National Vaccine Injury Compensation Program (VICP) are to be sent to the Director, Bureau of Health Professions (BHP), Health Resources and Services Administration (HRSA). Because the

Acting Administrator, HRSA has recently reestablished the Division of Vaccine Injury Compensation (DVIC) within the Office of Special Programs (OSP), this final rule amends the regulations regarding service of process to provide that all petitions for compensation under the VICP are to be sent to the Director, Division of Vaccine Injury Compensation, Office of Special Programs, Health Resources and Services Administration. This amendment is purely technical.

DATES: This regulation is effective on January 27, 2003.

FOR FURTHER INFORMATION CONTACT: Thomas E. Balbier, Jr., Director, DVIC, OSP, HRSA, 4350 East West Highway, 10th Floor, Bethesda, Maryland 20814; telephone number: (301) 443-6593. For information about how to file petitions for compensation, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C. 20005, telephone number: (202) 219-9657.

SUPPLEMENTARY INFORMATION: 45 CFR 4.6 provides that service of the Secretary's copies of petitions for

compensation under the VICP and of related filings are to be served upon the Director, BHP, which until October 15, 2001, included DVIC. DVIC administers all of the statutory authorities of the Secretary related to the operation of the VICP. On October 15, 2001, the Acting Administrator, HRSA, published in the **Federal Register** a "Statement of Organization, Functions, and Delegations of Authority (66 FR 52421)," which set forth organizational changes within BHP and other organizations within HRSA. Included among those changes was the reorganization of DVIC from BHP into OSP, HRSA.

Because DVIC has been reorganized from BHP to OSP within HRSA, the Secretary is amending the regulations governing service of process of materials relating to petitions under the VICP to reflect the appropriate addressee for proper service of such materials.

**Justification for Omitting Notice of
Proposed Rulemaking**

This amendment to 45 CFR 4.6 is a technical amendment to reflect a reorganization of HRSA. Since this is a