

**PART 62—EXCHANGE VISITOR PROGRAM**

1. The Authority citation for Part 62 continues to read as follows:

**Authority:** 8 U.S.C. 1101(a)(15)(f), 1182, 1184, 1258; 22 U.S.C. 1431–1442, 2451–2460; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105–277, 112 Stat. 2681 *et seq.*; Reorganization Plan No. 2 of 1977, 3 CFR, 1977 Comp. p. 200; E.O. 12048 of March 27, 1978; 3 CFR, 1978 Comp. p. 168.

2. Section 62.31 is amended by revising paragraphs (a), (c)(1) through (c)(3), (e) introductory text, (e)(3) and (e)(5), (j), and (k) to read as follows:

**§ 62.31 Au pairs.**

(a) *Introduction.* This section governs Department of State-designated exchange visitor programs under which foreign nationals are afforded the opportunity to live with an American host family and participate directly in the home life of the host family. All au pair participants provide child care services to the host family and attend a U.S. post-secondary educational institution. Au pair participants provide up to forty-five hours of child care services per week and pursue not less than six semester hours of academic credit or its equivalent during their year of program participation. Au pairs participating in the EduCare program provide up to thirty hours of child care services per week and pursue not less than twelve semester hours of academic credit or its equivalent during their year of program participation.

\* \* \* \* \*

(c) \* \* \*

(1) Limit the participation of foreign nationals in such programs to not more than one year;

(2) Limit the number of hours an EduCare au pair participant is obligated to provide child care services to not more than 10 hours per day or more than 30 hours per week and limit the number of hours all other au pair participants are obligated to provide child care services to not more than 10 hours per day or more than 45 hours per week;

(3) Require that EduCare au pair participants register and attend classes offered by an accredited U.S. post-secondary institution for not less than twelve semester hours of academic credit or its equivalent and that all other au pair participants register and attend classes offered by an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent;

\* \* \* \* \*

(e) *Au pair placement.* Sponsors shall secure, prior to the au pair's departure

from the home country, a host family placement for each participant.

Sponsors shall not:

\* \* \* \* \*

(3) Place an au pair with a host family having children under the age of two, unless the au pair has at least 200 hours of documented infant child care experience. An au pair participating in the EduCare program shall not be placed with a family having pre-school children in the home unless alternative full-time arrangements for the supervision of such pre-school children are in place;

\* \* \* \* \*

(5) Place an au pair with a host family unless a written agreement between the au pair and the host family detailing the au pair's obligation to provide child care has been signed by both the au pair and the host family prior to the au pair's departure from his or her home country. Such agreement shall clearly state whether the au pair is an EduCare program participant or not. Such agreement shall not limit the obligation to provide child care services to not more than 10 hours per day or more than 45 hours per week unless the au pair is an EduCare participant. Such agreement shall limit the obligation of an EduCare participant to provide child care service to not more than 10 hours per day or more than 30 hours per week.

\* \* \* \* \*

(j) *Wages and hours.* Sponsors shall require that au pair participants:

(1) Are compensated at a weekly rate based upon 45 hours of child care services per week and paid in conformance with the requirements of the Fair Labor Standards Act as interpreted and implemented by the United States Department of Labor. EduCare participants shall be compensated at a weekly rate that is 75% of the weekly rate paid to non-EduCare participants;

(2) Do not provide more than 10 hours of child care per day, or more than 45 hours of child care in any one-week. EduCare participants may not provide more than 10 hours of child care per day or more than 30 hours of child care in any one week;

(3) Receive a minimum of one and one half days off per week in addition to one complete weekend off each month; and

(4) Receive two weeks of paid vacation.

(k) *Educational component.* Sponsors shall require that during their period of program participation, all EduCare au pair participants are enrolled in an accredited U.S. post-secondary institution for not less than twelve

semester hours of academic credit or its equivalent and that all other au pair participants are enrolled in an accredited U.S. post-secondary institution for not less than six semester hours of academic credit or its equivalent. As a condition of program participation, host family participants must agree to facilitate the enrollment and attendance of the au pair in an accredited U.S. post-secondary institution and to pay the cost of such academic course work in an amount not to exceed \$1,000 for EduCare au pair participants and in an amount not to exceed \$500 for all other au pair participants.

\* \* \* \* \*

Dated: March 23, 2001.

**Helena Kane Finn,**

*Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. 01–12375 Filed 5–15–01; 8:45 am]

BILLING CODE 4710–05–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[AL–057–200105; FRL–6980–5]

**Approval and Promulgation of Implementation Plans: Alabama: 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 Alabama on March 12, 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<sub>x</sub> SIP Call." This revision establishes and requires a nitrogen oxides (NO<sub>x</sub>) allowance trading program for large electric generating and industrial units, and reductions for cement kilns, beginning in 2004. The intended effect of this SIP revision is to reduce emissions of NO<sub>x</sub> in order to help attain the national ambient air quality standard for ozone. EPA is proposing to approve Alabama's NO<sub>x</sub> Reduction and Trading Program because it meets the requirements of the Phase I NO<sub>x</sub> SIP Call that will significantly reduce ozone transport in the eastern United States. EPA has deemed the

submittal is administratively and technically complete, and a letter of completeness was sent to Alabama Department of Environmental Management (ADEM) on April 26, 2001.

**DATES:** Written comments must be received on or before June 15, 2001.

**ADDRESSES:** All comments should be addressed to: Sean Lakeman at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

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. Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110-2059.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Regulatory Planning 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. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

**SUPPLEMENTARY INFORMATION:** On October 13, 2000, ADEM submitted a draft NO<sub>x</sub> emission control rule to the EPA for pre-adoption review, requesting parallel processing to the development of the rule at the State level and included a schedule for development and adoption of the rule by the State. On March 12, 2001, ADEM submitted final revisions to its SIP to meet the requirements of the Phase I NO<sub>x</sub> SIP Call. The revisions comply with the requirements of the Phase I NO<sub>x</sub> SIP Call. Included in this document are revisions to chapter 335-3-1 General Provisions and chapter 335-3-8 Control of Nitrogen Oxide Emissions. 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<sub>x</sub> SIP Call general requirements?
- D. What is EPA's NO<sub>x</sub> budget and allowance trading program?
- E. What guidance did EPA use to evaluate Alabama's submittal?
- F. What is the result of EPA's evaluation of Alabama's program?

#### II. Alabama's Control of NO<sub>x</sub> Emissions

- A. When did Alabama submit the SIP revision to EPA in response to the NO<sub>x</sub> SIP Call?
- B. What is the Alabama's NO<sub>x</sub> Budget Trading Program?

C. What is the Compliance Supplement Pool?

D. What is the New Source Set-Aside program?

#### III. Proposed Action

#### IV. Administrative Requirements

#### I. EPA's Action

##### A. What Action Is EPA Proposing Today?

EPA is proposing to approve revisions to Alabama's SIP concerning the adoption of its NO<sub>x</sub> Reduction and Trading Program, submitted on March 12, 2001.

##### B. Why Is EPA Proposing This Action?

EPA is proposing this action because Alabama's NO<sub>x</sub> Reduction and Trading Program regulations meet the requirements of the Phase I NO<sub>x</sub> SIP Call. Therefore, EPA is proposing full approval of Alabama's NO<sub>x</sub> Reduction and Trading Program.

##### C. What Are the NO<sub>x</sub> 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<sub>x</sub> SIP Call." See 63 FR 57356. The NO<sub>x</sub> SIP Call requires 22 States and the District of Columbia to meet statewide NO<sub>x</sub> emission budgets during the five month period between May 1 and October 1 in order to reduce the amount of ground level ozone that is transported across the eastern United States.

EPA identified NO<sub>x</sub> emission reductions by source category that could be achieved by using cost-effective measures. The source categories included were electric generating units (EGUs) and non-electric generating units (non-EGUs), internal combustion engines and cement kilns were also included. EPA determined state-wide NO<sub>x</sub> emission budgets based on the implementation of these cost effective controls for each affected jurisdiction to be met by the year 2007. Internal combustion engines are not addressed by Alabama in this response to Phase I, but will be in Phase II. However, the NO<sub>x</sub> SIP Call allowed states the flexibility to decide which source categories to regulate in order to meet the statewide budgets. In the NO<sub>x</sub> SIP Call notice, EPA suggested that imposing statewide NO<sub>x</sub> emissions caps on large fossil-fuel fired industrial boilers and EGUs would provide a highly cost effective means for states to meet their NO<sub>x</sub> budgets. In fact, the

state-specific budgets were set assuming an emission rate of 0.15 pounds NO<sub>x</sub> per million British thermal units (lb. NO<sub>x</sub>/mmBtu) at EGUs, multiplied by the projected heat input (mmBtu) from burning the quantity of fuel needed to meet the 2007 forecast for electricity demand. See 63 FR 57407. The calculation of the 2007 EGU emissions assumed that an emissions trading program would be part of an EGU control program. The NO<sub>x</sub> SIP Call state budgets also assumed on average a 30 percent NO<sub>x</sub> reduction from cement kilns, and a 60 percent reduction from industrial boilers and combustion. The non-EGU 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.

To assist the states in their efforts to meet the SIP Call, the NO<sub>x</sub> SIP Call final rulemaking notice included a model NO<sub>x</sub> allowance trading regulation, called "NO<sub>x</sub> Budget Trading Program for State Implementation Plans," (40 CFR part 96), that could be used by states to develop their regulations. The NO<sub>x</sub> 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<sub>x</sub> SIP Call emissions inventories. On March 2, 2000, EPA published additional technical amendments to the NO<sub>x</sub> SIP Call in the **Federal Register** (65 FR 11222). On March 3, 2000, the D.C. Circuit issued its decision on the NO<sub>x</sub> SIP Call ruling in favor of EPA on all the major issues. *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir. 2000). The DC Circuit Court denied petitioners' requests for rehearing or rehearing en banc on July 22, 2000. However, the 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<sub>x</sub> 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<sub>x</sub> SIP Call rule.

EPA expects to publish a proposal that addresses the remanded portion of the NO<sub>x</sub> SIP Call Rule. 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. On April 11, 2000, in response to the Court's decision, EPA notified Alabama of the maximum amount of NO<sub>x</sub> emissions allowed for the State during the ozone season. This emission budget reflected adjustments to Alabama's NO<sub>x</sub> emission budget to reflect the Court's decision that Georgia and Missouri should not be included in full. Although the Court did not order EPA to modify Alabama's budget, the EPA believes these adjustments are consistent with the Court's decision.

#### *D. What Is EPA's NO<sub>x</sub> Budget and Allowance Trading Program?*

EPA's model NO<sub>x</sub> budget and allowance trading rule, 40 CFR part 96, sets forth a NO<sub>x</sub> emissions 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 October 27, 1998, **Federal Register** notice contains a full description of the EPA's model NO<sub>x</sub> budget trading program. See 63 FR 57514-57538 and 40 CFR part 96.

Air emissions 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 an emissions budget and allowance trading program, the state or EPA sets a regulatory limit, or emissions budget, in mass emissions 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<sub>x</sub>.

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 Alabama's Submittal?*

The final NO<sub>x</sub> SIP Call rule included a model NO<sub>x</sub> budget trading program regulation. See 40 CFR part 96. EPA used the model rule and 40 CFR 51.121-51.122 to evaluate Alabama's NO<sub>x</sub> reduction and trading program.

#### *F. What Is the Result of EPA's Evaluation of Alabama's Program?*

EPA has evaluated Alabama's March 12, 2001, SIP submittal and finds it approvable. The Alabama NO<sub>x</sub> reduction and trading program is consistent with EPA's guidance and meets the requirements of the Phase I NO<sub>x</sub> SIP Call. EPA finds the NO<sub>x</sub> control measures in the Alabama's NO<sub>x</sub> reduction and trading program approvable. The March 12, 2001, submittal will strengthen Alabama's SIP for reducing ground level ozone by providing NO<sub>x</sub> reductions beginning in 2004. Also, EPA finds that the submittal contained the information necessary to demonstrate that Alabama has the legal authority to implement and enforce the control measures, and to demonstrate their appropriate distribution of the compliance supplement pool. Furthermore, EPA proposes to find that the submittal demonstrates that the compliance dates and schedules, and the monitoring, recordkeeping and emission reporting requirements will be met.

## **II. Alabama's Control of NO<sub>x</sub> Emissions**

#### *A. When Did Alabama Submit the SIP Revision to EPA in Response to the NO<sub>x</sub> SIP Call?*

On October 13, 2000, the Alabama Department of Environmental Management submitted a draft NO<sub>x</sub> emission control rule to the EPA for pre-adoption review, requesting parallel processing to the development of the rule at the State level and included a schedule for adoption of the rule by the State. On March 12, 2001, ADEM submitted a final revision to its SIP to meet the requirements of the Phase I NO<sub>x</sub> SIP Call.

#### *B. What Is the Alabama's NO<sub>x</sub> Budget Trading Program?*

Alabama proposes, as in the model rule, to allow the large EGUs, boilers and turbines to participate in the multi-state cap and trade program. Cement kilns are not included in the trading program, but will be required to install

low NO<sub>x</sub> burners, mid-kiln system firings or technology that achieves the same emission decreases. Alabama's SIP revision to meet the requirements of the NO<sub>x</sub> SIP Call consists of the revision of chapter 335-3-1 General Provisions and chapter 335-3-8 Control of Nitrogen Oxide Emissions. The regulations under 335-3-8 affect EGUs, non-EGUs, and cement manufacturing facilities. Chapter 335-3-1 added one new regulation (.14) Emissions Reporting Requirements Relating to Budgets for NO<sub>x</sub> Emissions. Chapter 335-3-8 Control of Nitrogen Oxide Emissions added eleven new regulations: (.01) Standards for Portland Cement Kilns; (.04) Standards For Stationary Reciprocating Internal Combustion Engines (reserved); (.05) NO<sub>x</sub> Budget Trading Program; (.06) Authorized Account Representative for NO<sub>x</sub> Budget Sources; (.07) Permits; (.08) Compliance Certification; (.09) NO<sub>x</sub> Allowance Allocations; (.10) NO<sub>x</sub> Allowance Tracking System; (.11) NO<sub>x</sub> Allowance Transfers; (.12) Monitoring and Reporting; and (.13) Individual Unit Opt-ins.

Alabama's NO<sub>x</sub> Reduction and Trading Program establishes and requires a NO<sub>x</sub> allowance trading program for large EGUs and non-EGUs, and reductions from cement kilns. The regulations under 335-3-8 establish a NO<sub>x</sub> cap and allowance trading program for the ozone control seasons beginning May 31, 2004.

The State of Alabama voluntarily chose to follow EPA's model NO<sub>x</sub> budget and allowance trading rule, 40 CFR part 96, that sets forth a NO<sub>x</sub> emissions trading program for large EGUs and non-EGUs. Alabama's NO<sub>x</sub> Reduction and Trading Program is based upon EPA's model rule, therefore, Alabama sources are allowed to participate in the interstate NO<sub>x</sub> allowance trading program that EPA will administer for the participating states. The State of Alabama has adopted regulations that are substantively identical to 40 CFR part 96. Therefore, pursuant to 40 CFR 51.121(p)(1), Alabama's SIP revision is approved as satisfying the State's NO<sub>x</sub> emission reduction obligations. Under 335-3-8, Alabama allocates NO<sub>x</sub> allowances to the EGU and non-EGU units that are affected by these requirements. The NO<sub>x</sub> trading program applies to all fossil fuel fired EGUs with a nameplate capacity greater than 25 MW or more that sell any amount of electricity to the grid as well as any non-EGUs that have a heat input capacity equal to or greater than 250 mmBtu per hour. Each NO<sub>x</sub> allowance permits a source to emit one ton of NO<sub>x</sub> during

the seasonal control period. NO<sub>x</sub> allowances may be bought or sold. Unused NO<sub>x</sub> allowances may also be banked for future use, with certain limitations.

Source owners will monitor their NO<sub>x</sub> emissions by using systems that meet the requirements of 40 CFR part 75, subpart H, and report resulting data to EPA electronically. Each budget source 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 source 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, or Title IV (the Federal Acid Rain program).

Alabama's NO<sub>x</sub> Reduction and Trading Program establishes requirements for cement manufacturing facilities, however, these sources are

subject to NO<sub>x</sub> reduction requirements but do not participate in the NO<sub>x</sub> trading program. Alabama's submittal does not rely on any additional reductions beyond the anticipated Federal measures in the mobile and area source categories.

Alabama's submittal demonstrates that the Phase I NO<sub>x</sub> emission budgets established by EPA will be met as follows:

Source category	EPA 2007 NO <sub>x</sub> budget emissions (tons/season)	Alabama 2007 NO <sub>x</sub> budget emissions (tons/season)
EGUs .....	23,242	23,169
Non-EGUs .....	31,240	31,159
Area Sources .....	21,109	21,109
Non-road Sources .....	13,402	13,402
Highway Sources .....	35,801	35,801
Total .....	124,795	124,640

**C. What Is the Compliance Supplement Pool?**

To provide additional flexibility for complying with emission control requirements associated with the NO<sub>x</sub> SIP Call, the final NO<sub>x</sub> SIP Call rule provided each affected state with a "compliance supplement pool." The compliance supplement pool is a quantity of NO<sub>x</sub> 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<sub>x</sub> SIP Call included these voluntary 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<sub>x</sub> 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 with credits from implementing NO<sub>x</sub> reductions beyond all applicable requirements after September 30, 1999, but before May 31, 2004 (i.e., early reductions). 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). Alabama has opted to not participate in the Early Reduction Credit program. The compliance supplement pool will be reserved for those companies that demonstrate an actual need for the available allowance.

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

The major difference between Alabama's rule and EPA's model rule is in the allocation of allowances. Alabama's SIP provides for no New Source Set-asides. Initial allocations submitted with this revision for the control periods in 2004, 2005, and 2006, and were given to those NO<sub>x</sub> budget units in operation, permitted, or with complete permit application on or before October 2, 2000 (referred to as "baseline units"). After this date there will be no allowances available for new sources unless an existing source shuts down. If an existing unit is shut down, a replacement unit constructed at the same site will be given priority in allowance allocations over new sources. The replacement unit must be of the same or less heat input capacity as the former unit. Once allocations are made to the replacement unit, other new units can qualify for excess allowances resulting from the shutdown. Future allocations will be distributed by April 1st of every third year (2004, 2007, 2010 etc.). Allocations will be calculated for three years each three year period (2004-2006, 2007-2009, etc.). This approach to allocations for new units is

acceptable because it falls within the flexibility of the NO<sub>x</sub> SIP Call requirements for a state's allocation to new sources.

**III. Proposed Action**

EPA is proposing to approve the Alabama's SIP revision consisting of its NO<sub>x</sub> Reduction and Trading Program, which was submitted on March 12, 2001. EPA finds that Alabama's submittal is fully approvable because it meets the requirements of the Phase I NO<sub>x</sub> 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. This proposed 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 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

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), nor will it 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

This proposed approval of the Alabama NO<sub>x</sub> 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.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide,

Ozone, Reporting and recordkeeping requirements.

Dated: May 8, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 01-12355 Filed 5-15-01; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA 150-4108; FRL-6980-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Conversion of the Conditional Approval of the 15 Percent Plan for the Pennsylvania Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area to a Full Approval

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to convert its conditional approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania to a full approval. This revision satisfies the conditions imposed by EPA on our approval of the 15 percent reasonable further progress plan (15% plan) requirement of the Clean Air Act (the Act) for Pennsylvania's portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is proposing to convert its conditional approval of this 15% plan to full approval because the Commonwealth has fulfilled its obligation and satisfied the conditions imposed in EPA's conditional approval of the 15% plan for the Philadelphia area. The intended effect of this action is to convert our conditional approval of Pennsylvania's 15% plan SIP for the Philadelphia area to a full approval.

**DATES:** Written comments must be received on or before June 15, 2001.

**ADDRESSES:** Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. They

are also available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, by phone at: (215) 814-2176 (at the EPA Region III address above), or by e-mail at: rehn.brian@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On June 5, 1998, the Pennsylvania Department of Environmental Protection (PA DEP) submitted a revision to the Pennsylvania State Implementation Plan (SIP) for its portion of the Philadelphia ozone nonattainment area. The revision consists of an amendment to its plan to achieve a 15% reduction from 1990 base year levels in volatile organic compound (VOC) emissions. The previous version of Pennsylvania's 15% plan for its portion of the Philadelphia ozone nonattainment area was conditionally approved by EPA on June 9, 1997 (62 FR 31343). Pennsylvania's June 1998 revision to that 15% plan was done in order to satisfy conditions imposed by EPA in its conditional approval of the Commonwealth's plan.

The Philadelphia ozone nonattainment area consists of six counties in Southern New Jersey (Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem), two counties in Northern Delaware (Kent and New Castle), one county in Maryland (Cecil), and five counties in Southeastern Pennsylvania (Bucks, Chester, Delaware, Montgomery, and Philadelphia). Each of the states comprising the multi-state ozone nonattainment area submitted its own 15% plan to achieve reasonable further progress towards attainment of the ozone standard. EPA has taken separate rulemaking action on each state's plan.

EPA is taking action today on the revised 15% plan SIP for Pennsylvania's portion of the Philadelphia nonattainment area, submitted to EPA by PA DEP on June 5, 1998. These revisions to the plan satisfy the conditions stipulated by EPA in its June 9, 1997 conditional approval of the previous Philadelphia 15% plan. Those approval conditions related to the I/M program upon which the 15% plan relies (and which were conditions of EPA's approval of the I/M program).

EPA is proposing in this rulemaking to convert the June 9, 1997 conditional approval of Pennsylvania's 15% plan for the Philadelphia area to a full approval. The basis for this action is that EPA has determined that Pennsylvania has