

approvable. Details of our review are set forth in a technical support document (TSD), which has been included in the docket for this action. Specifically, in the TSD, we identify how the submitted procedures satisfy our requirements under 40 CFR 93.105 for interagency consultation with respect to the development of transportation plans and programs, SIPs, and conformity determinations, the resolution of conflicts, and the provision of adequate public consultation, and our requirements under 40 CFR 93.122(a)(4)(ii) and 93.125(c) for enforceability of control measures and mitigation measures.

#### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, 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: November 20, 2009.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

[FR Doc. E9-28970 Filed 12-3-09; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-R04-OAR-2009-0793; FRL-9089-3]

#### Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants; Plywood and Composite Wood Products

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to section 112(l) of the Clean Air Act, EPA is proposing to amend regulations to expand the North Carolina Department of Environment and Natural Resources equivalency by permit program coverage to include all 32 sources in North Carolina that are subject to the plywood and composite wood products rule.

**DATES:** Comments must be received in writing by January 4, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0793, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* [page.lee@epa.gov](mailto:page.lee@epa.gov).

3. *Fax:* 404-562-9095.

4. *Mail:* "EPA-R04-OAR-2009-0793", Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier:* Lee Page, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Lee Page, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9131. Mr. Page can also be reached via electronic mail at [page.lee@epa.gov](mailto:page.lee@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules section of this **Federal Register**, EPA is publishing a direct final rule for this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the rule amendment is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: November 16, 2009.

**J Scott Gordon,**

Acting Regional Administrator, Region 4.

[FR Doc. E9-28968 Filed 12-3-09; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 0, 1, 61 and 69

[WC Docket No. 05-25; RM-10593; DA 09-2388]

#### Parties Asked To Comment on Analytical Framework Necessary To Resolve Issues in the Special Access Notice of Proposed Rulemaking

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document invites interested parties to comment on the appropriate analytical framework for examining the various issues that have been raised in the rulemaking proceeding on special access services pending before the Commission.

**DATES:** Comments are due on or before January 19, 2010 and reply comments are due on or before February 17, 2010.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 05-25 and RM-10593, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.
- E-mail: [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message: "get form." A sample form and directions will be sent in response.

- First-class or overnight U.S. Postal Service mail: Secretary, Federal Communications Commission, 445 12th Street, SW., Washington DC 20554.

Detailed instructions for submitting comments, including how to submit comments by hand, messenger delivery or by commercial overnight courier, and additional information on the rulemaking process are contained in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Marvin Sacks, Wireline Competition Bureau, Pricing Policy Division (202) 418-2017, [marvin.sacks@fcc.gov](mailto:marvin.sacks@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Public Notice, DA 09-2388, released on November 5, 2009. The full text of this

document is available for public inspection during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Washington, DC 20554 and may be viewed on the Commission's Web site at <http://www.fcc.gov/>.

Pursuant to the Commission's rules governing notices of proposed rulemakings, 47 CFR 1.415, 1.419, the Commission invites interested parties to comment on an appropriate analytical framework for examining the various issues raised in the *Special Access NPRM*, 70 FR 19381, April 13, 2005. The term "special access services" encompasses all services that do not use local switches; these include services that employ dedicated facilities that run directly between the end user and an IXC's point of presence, where an IXC connects its network with the LEC network, or between two discrete end user locations. In the *Special Access NPRM*, the Commission explained that an examination of the current state of competition for special access facilities is critical to determine whether the Commission's pricing flexibility rules have worked as intended. The Commission invited comment on whether the available data and actual marketplace developments support the predictive judgments that underlie the special access pricing flexibility rules. 47 CFR 69.701 *et seq.* In addition, the Commission sought comment on appropriate measures to ensure that price cap rates for special access services remain just and reasonable after expiration of the CALLS Plan. Subsequently, in the *Special Access Refresh the Record PN*, 72 FR 40814, July 25, 2007, the Commission sought updated information on these issues, and parties continue to provide their views to Commission staff.

Some parties assert that the Commission's current rules are working as intended and contend there is extensive actual and potential competition in the market for special access. Other parties assert that there is little or no competition for special access services, and the current pricing flexibility and price cap regulations have resulted in supracompetitive prices and significant overearning by incumbents. The Commission would benefit from a clear explanation by the parties of how it should use data to determine systematically whether the current price cap and pricing flexibility rules are working properly to ensure just and reasonable rates, terms, and conditions and to provide flexibility in the presence of competition.

Therefore, in the Public Notice, the Commission seeks concrete suggestions

on the appropriate analytical framework for determining whether the current rules are working. For example, should the Commission use a market power analysis to assess the current special access regulatory regime? Suggestions should be both analytically rigorous (i.e., fact-based and systematic) and administratively practical (i.e., requiring a manageable amount of data collection and analysis). Once the Commission adopts an analytical approach enabling a systematic determination of whether or not the current regulation of special access services is ensuring rates, terms, and conditions that are just and reasonable as required by the Act, 47 U.S.C. 201(b), it can determine what, if any, specific problems there are with the current regime and formulate specific solutions as necessary. The analytical framework that parties propose should address how to answer key questions raised in the *Special Access NPRM*, including:

1. Do the Commission's pricing flexibility rules ensure just and reasonable rates?

(A) Are the pricing flexibility triggers, which are based on collocation by competitive carriers, an accurate proxy for the kind of sunk investment by competitors that is sufficient to constrain incumbent LEC prices, including for both channel terminations and inter-office facilities?

(B) If so, are the triggers set at an appropriate level?

2. Do the Commission's price cap rules ensure just and reasonable special access rates?

3. Do the Commission's price cap and pricing flexibility rules ensure that terms and conditions in special access tariffs and contracts are just and reasonable?

Parties should focus their comments on the analytical framework, including applicable law, they believe the Commission should use to arrive at fact-based answers to each of the key questions above. Parties should address whether, in applying their proposed analytical framework, the Commission can answer the questions based upon data contained in the existing record. If so, what record data must the Commission examine to answer the question? If not, precisely what additional data should the Commission collect and from whom, and why? Parties should also identify and address administrative concerns and practical considerations, such as obstacles to obtaining or evaluating specified data, and the time frame they believe would be required to perform their proposed analysis. To facilitate the Commission's review, parties are encouraged to