

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2007-0276; FRL-8456-7]

Revisions to the California State Implementation Plan, Mojave Desert Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Mojave Desert Air Quality Management District (MDAQMD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from the usage of solvents. We are proposing to approve a local rule to regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by October 17, 2007.

ADDRESSES: Submit comments, identified by docket number R09-OAR-2007-0276, by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.

2. *E-mail:* steckel.andrew@epa.gov.

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. www.regulations.gov is an "anonymous access" system, and EPA will not know

your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia Allen, EPA Region IX, (415) 947-4120, allen.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local MDAQMD Rule 442. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: July 25, 2007.

Jane Diamond,

Acting Regional Administrator, Region IX.
[FR Doc. E7-18067 Filed 9-14-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2007-0782; FRL-8469-3]

Approval and Promulgation of Implementation Plans; Missouri; Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Missouri State Implementation Plan (SIP) submitted on May 18, 2007. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005, and subsequently revised on April 28, 2006, and December 13, 2006. EPA is proposing to determine that the SIP revision fully meets the CAIR requirements for Missouri. If EPA approves the revisions, we will also withdraw the CAIR Federal Implementation Plans (CAIR FIPs) concerning SO₂, NO_x annual, NO_x ozone season emissions for Missouri. The CAIR FIPs for all States in the CAIR region were promulgated on April 28, 2006, and subsequently revised on December 13, 2006.

CAIR requires States to reduce emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) that significantly contribute to, and interfere with maintenance of, the national ambient air quality standards for fine particulates and/or ozone in any downwind state. CAIR establishes State budgets for SO₂ and NO_x and requires States to submit SIP revisions that implement these budgets in States that EPA concluded did contribute to nonattainment in downwind states. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participating in the EPA-administered cap-and-trade programs. In the SIP revision that EPA is proposing to approve, Missouri would meet CAIR requirements by participating in the EPA-administered cap-and-trade programs addressing SO₂, NO_x annual, and NO_x ozone season emissions.

DATES: Comments must be received on or before October 17, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-

OAR-2007-0782, by one of the following methods:

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

2. *E-mail*: jay.michael@epa.gov.

3. *Mail*: Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier*: Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. 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 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2007-0782. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning this proposal, please contact Michael Jay at (913) 551-7460 or by e-mail at jay.michael@epa.gov.

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I. What Action Is EPA Proposing to Take?

EPA is proposing to approve a revision to Missouri's SIP submitted on May 18, 2007. In its SIP revision, Missouri would meet CAIR requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered State CAIR cap-and-trade programs addressing SO₂, NO_x annual, and NO_x ozone season emissions. EPA is proposing to determine that the SIP as revised will meet the applicable requirements of CAIR. Any final action approving the SIP will be taken by the Regional Administrator for Region 7. If the EPA approves this revision, the Administrator of EPA will also issue a final rule to withdraw the FIPs concerning SO₂, NO_x annual, NO_x ozone season emissions for Missouri. This action would delete and reserve 40 CFR 52.1341 and 40 CFR 52.1342, relating to the FIP obligations for Missouri. The withdrawal of the CAIR

FIPs for Missouri is a conforming amendment that must be made once the SIP is approved because EPA's authority to issue the FIPs was premised on a deficiency in the SIP for Missouri. Once the SIP is fully approved, EPA no longer has authority for the FIPs. Thus, EPA will not have the option of maintaining the FIPs following the full SIP approval. Accordingly, EPA does not intend to offer an opportunity for a public hearing or an additional opportunity for written public comment on the withdrawal of the FIPs.

II. What Is the Regulatory History of the CAIR and the CAIR FIPs?

The Clean Air Interstate Rule (CAIR) was published by EPA on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the national ambient air quality standards (NAAQS) for fine particles (PM_{2.5}) and/or 8-hour ozone in downwind States in the eastern part of the country. As a result, EPA required those upwind States to revise their SIPs to include control measures that reduce emissions of SO₂, which is a precursor to PM_{2.5} formation, and/or NO_x, which is a precursor to both ozone and PM_{2.5} formation. For jurisdictions that contribute significantly to downwind PM_{2.5} nonattainment, CAIR sets annual State-wide emission reduction requirements (i.e., budgets) for SO₂ and annual State-wide emission reduction requirements for NO_x. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements for NO_x for the ozone season (May 1 to September 30). Under CAIR, States may implement these reduction requirements by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures.

CAIR explains to subject States what must be included in SIPs to address the requirements of section 110(a)(2)(D)(i) of the Clean Air Act (CAA) with regard to interstate transport with respect to the 8-hour ozone and PM_{2.5} NAAQS. EPA made national findings, effective on May 25, 2005, that the States had failed to submit SIPs meeting the requirements of section 110(a)(2)(D)(i). The SIPs were due in July 2000, 3 years after the promulgation of the 8-hour ozone and PM_{2.5} NAAQS. These findings started a 2-year clock for EPA to promulgate a Federal Implementation Plan (FIP) to address the requirements of section 110(a)(2)(D)(i). Under CAA section

110(c)(1), EPA may issue a FIP anytime after such findings are made and must do so within two years unless a SIP revision correcting the deficiency is approved by EPA before the FIP is promulgated.

Missouri submitted its SIP in response to EPA's section 110(a)(2)(D)(i) finding, which EPA approved in a rule published May 8, 2007 (72 FR 25975). In that rule, EPA stated that Missouri had met its obligation with regard to interstate transport by adoption of the CAIR model rule. EPA also stated that it would review and act on Missouri's CAIR rule in a separate rulemaking. This document proposes action on Missouri's CAIR rule as explained below.

On April 28, 2006, EPA promulgated FIPs for all States covered by CAIR in order to ensure the emissions reductions required by CAIR are achieved on schedule. Each CAIR State is subject to the FIPs until the State fully adopts, and EPA approves, a SIP revision meeting the requirements of CAIR. The CAIR FIPs require EGUs to participate in the EPA-administered CAIR SO₂, NO_x annual, and NO_x ozone season trading programs, as appropriate. The CAIR FIP SO₂, NO_x annual, and NO_x ozone season trading programs impose essentially the same requirements as, and are integrated with, the respective CAIR SIP trading programs. The integration of the FIP and SIP trading programs means that these trading programs will work together to create effectively a single trading program for each regulated pollutant (SO₂, NO_x annual, and NO_x ozone season) in all States covered by the CAIR FIP or SIP trading program for that pollutant. The CAIR FIPs also allow States to submit abbreviated SIP revisions that, if approved by EPA, will automatically replace or supplement certain CAIR FIP provisions (e.g., the methodology for allocating NO_x allowances to sources in the State), while the CAIR FIP remains in place for all other provisions.

On April 28, 2006, EPA published two additional CAIR-related final rules that added the States of Delaware and New Jersey to the list of States subject to CAIR for PM_{2.5} and announced EPA's final decisions on reconsideration of five issues, without making any substantive changes to the CAIR requirements.

III. What Are the General Requirements of CAIR and the CAIR FIPs?

CAIR establishes State-wide emission budgets for SO₂ and NO_x and is to be implemented in two phases. The first phase of NO_x reductions starts in 2009 and continues through 2014, while the

first phase of SO₂ reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_x and SO₂ starts in 2015 and continues thereafter. CAIR requires States to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs; or (2) adopting other control measures of the State's choosing and demonstrating that such control measures will result in compliance with the applicable State SO₂ and NO_x budgets.

The May 12, 2005, and April 28, 2006, CAIR rules provide model rules that States must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs.

With two exceptions, only States that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for States that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for States that include all non-EGUs from their NO_x SIP Call trading programs in their CAIR NO_x ozone season trading programs.

IV. What Are the Types of CAIR SIP Submittals?

States have the flexibility to choose the type of control measures they will use to meet the requirements of CAIR. EPA anticipates that most States will choose to meet the CAIR requirements by selecting an option that requires EGUs to participate in the EPA-administered CAIR cap-and-trade programs. For such States, EPA has provided two approaches for submitting and obtaining approval for CAIR SIP revisions. States may submit full SIP revisions that adopt the model CAIR cap-and-trade rules. If approved, these SIP revisions will fully replace the CAIR FIPs. Alternatively, States may submit abbreviated SIP revisions. These SIP revisions will not replace the CAIR FIPs; however, the CAIR FIPs provide that, when approved, the provisions in these abbreviated SIP revisions will be used instead of or in conjunction with, as appropriate, the corresponding provisions of the CAIR FIPs (e.g., the NO_x allowance allocation methodology).

A State submitting a full SIP revision may either adopt regulations that are substantively identical to the model rules or incorporate by reference the model rules. CAIR provides that States may only make limited changes to the

model rules if the States want to participate in the EPA-administered trading programs. A full SIP revision may change the model rules only by altering their applicability and allowance allocation provisions to: (1) Include NO_x SIP Call trading sources that are not EGUs under CAIR in the CAIR NO_x ozone season trading program; (2) provide for State allocation of NO_x annual or ozone season allowances using a methodology chosen by the State; (3) provide for State allocation of NO_x annual allowances from the compliance supplement pool (CSP) using the State's choice of allowed, alternative methodologies; or (4) allow units that are not otherwise CAIR units to opt individually into the CAIR SO₂, NO_x annual, or NO_x ozone season trading programs under the opt-in provisions in the model rules.

An approved CAIR full SIP revision addressing EGUs' SO₂, NO_x annual, or NO_x ozone season emissions will replace the CAIR FIP for that State for the respective EGU emissions.

V. Analysis of Missouri's CAIR SIP Submittal

A. State Budgets for Allowance Allocations

The CAIR NO_x annual and ozone season budgets were developed from historical heat input data for EGUs. Using these data, EPA calculated annual and ozone season regional heat input values, which were multiplied by 0.15 lb/mmBtu, for Phase I, and 0.125 lb/mmBtu, for Phase II, to obtain regional NO_x budgets for 2009–2014 and for 2015 and thereafter, respectively. EPA derived the State NO_x annual and ozone season budgets from the regional budgets using State heat input data adjusted by fuel factors.

The CAIR State SO₂ budgets were derived by discounting the tonnage of emissions authorized by annual allowance allocations under the Acid Rain Program under title IV of the CAA. Under CAIR, each allowance allocated in the Acid Rain Program for the years in Phase I of CAIR (2010 through 2014) authorizes 0.5 ton of SO₂ emissions in the CAIR trading program, and each Acid Rain Program allowance allocated for the years in Phase II of CAIR (2015 and thereafter) authorizes 0.35 ton of SO₂ emissions in the CAIR trading program.

In this action, EPA is proposing approval of Missouri's SIP revision that adopts the budgets established for the State in CAIR, i.e., 59,871 (2009–2014) and 49,892 (2015–thereafter) tons for NO_x annual emissions, 26,678 (2009–2014) and 22,231 (2015–thereafter) tons

for NO_x ozone season emissions, and 137,214 (2010–2014) and 96,050 (2015–thereafter) annual tons for SO₂ emissions. Missouri's SIP revision sets these budgets as the total amounts of allowances available for allocation for each year under the EPA-administered cap-and-trade programs.

B. CAIR Cap-and-Trade Programs

The CAIR NO_x annual and ozone-season model trading rules both largely mirror the structure of the NO_x SIP Call model trading rule in 40 CFR part 96, subparts A through I. While the provisions of the NO_x annual and ozone-season model rules are similar, there are some differences. For example, the NO_x annual model rule (but not the NO_x ozone season model rule) provides for a CSP, which is discussed below and under which allowances may be awarded for early reductions of NO_x annual emissions. As a further example, the NO_x ozone season model rule reflects the fact that the CAIR NO_x ozone season trading program replaces the NO_x SIP Call trading program after the 2008 ozone season and is coordinated with the NO_x SIP Call program. The NO_x ozone season model rule provides incentives for early emissions reductions by allowing banked, pre-2009 NO_x SIP Call allowances to be used for compliance in the CAIR NO_x ozone-season trading program. In addition, States have the option of continuing to meet their NO_x SIP Call requirement by participating in the CAIR NO_x ozone season trading program and including all their NO_x SIP Call trading sources in that program.

The provisions of the CAIR SO₂ model rule are also similar to the provisions of the NO_x annual and ozone season model rules. However, the SO₂ model rule is coordinated with the ongoing Acid Rain SO₂ cap-and-trade program under CAA title IV. The SO₂ model rule uses the title IV allowances for compliance, with each allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO₂ cap-and-trade program, with each such allowance authorizing 1 ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO₂ cap-and-trade program.

EPA also used the CAIR model trading rules as the basis for the trading programs in the CAIR FIPs. The CAIR FIP trading rules are virtually identical

to the CAIR model trading rules, with changes made to account for Federal rather than State implementation. The CAIR model SO₂, NO_x annual, and NO_x ozone season trading rules and the respective CAIR FIP trading rules are designed to work together as integrated SO₂, NO_x annual, and NO_x ozone season trading programs.

In the SIP revision, Missouri chooses to implement its CAIR budgets by requiring EGUs to participate in EPA-administered cap-and-trade programs for SO₂, NO_x annual, and NO_x ozone season emissions. Missouri has adopted a full SIP revision that adopts with certain allowed changes discussed below, the CAIR model cap-and-trade rules for SO₂, NO_x annual, and NO_x ozone season emissions.

C. Applicability Provisions for non-EGU NO_x SIP Call Sources

In general, the CAIR model trading rules apply to any stationary, fossil fuel-fired boiler or stationary, fossil fuel-fired combustion turbine serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 megawatts electric (MWe) producing electricity for sale.

States have the option of bringing in, for the CAIR NO_x ozone season program only, those units in the State's NO_x SIP Call trading program that are not EGUs as defined under CAIR. EPA advises States exercising this option to add the applicability provisions in the State's NO_x SIP Call trading rule for non-EGUs to the applicability provisions in the State's CAIR NO_x ozone season trading rule, in order to include in the CAIR NO_x ozone season trading program all units required to be in the State's NO_x SIP Call trading program that are not already included in accordance with 40 CFR 96.304. Under this option, the CAIR NO_x ozone season program must cover all large industrial boilers and combustion turbines, as well as any small EGUs (i.e., units serving a generator with a nameplate capacity of 25 MWe or less) that the State currently requires to be in the NO_x SIP Call trading program.

Missouri has chosen to expand the applicability provisions of the CAIR NO_x ozone season trading program to include all current and future non-EGUs in the State's NO_x SIP Call trading program. The NO_x SIP Call region of the State includes the eastern one-third of the State of Missouri (70 FR 46860).

D. NO_x Allowance Allocations

Under the NO_x allowance allocation methodology in the CAIR model trading

rules and in the CAIR FIP, NO_x annual and ozone season allowances are allocated to units that have operated for five years, based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIP also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions.

States may establish in their SIP submissions a different NO_x allowance allocation methodology that will be used to allocate allowances to sources in the States if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative NO_x allowance allocation methodologies, States have flexibility with regard to: (1) The cost to recipients of the allowances, which may be distributed for free or auctioned; (2) the frequency of allocations; (3) the basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and (4) the use of allowance set-asides and, if used, their size.

Missouri has chosen to replace the provisions of the CAIR NO_x annual model trading rule concerning the allocation of NO_x annual allowances with its own methodology. Missouri has chosen to distribute NO_x annual allowances to individual facilities based upon the total of their individual unit's pro-rata share of State's total heat input for all affected units in the State. The State has provided a table in rule 10 CSR 10–6.362 that provides for permanent allocations to units in Phases I and II. Additionally, the State's rule creates an energy efficiency renewable resource set-aside of 300 allowances for each year of the program. The purpose for establishing this set-aside is to serve as an incentive for saving or generating electricity through the implementation of energy efficiency and renewable generation projects. If the number of allowances awarded each year are fewer than allowances allocated to the set-aside, the State will transfer surplus allowances to the accounts of the electric utilities on a pro-rata basis in the same proportion as allocations to the units listed in the rule. Missouri's rule provides that, by May 31 of the year for which allowances are requested from the set-aside, the State will complete the process of determining what projects are eligible and how many allowances

should be provided, and of awarding the allowances to the projects. EPA interprets the rule to provide that, by the May 31 deadline, the State will transfer to the appropriate allowance tracking system accounts the allocations awarded to the eligible projects, as well as the surplus allowances provided to electric utilities.

As with the annual program described above, Missouri has chosen to replace the provisions of the CAIR NO_x ozone season model trading rule concerning allowance allocations with its own methodology. Missouri has chosen to distribute NO_x annual allowances to individual facilities based upon the total of their individual unit's pro-rata share of the State's total heat input for all affected units in the State. The State has provided a table in rule 10 CSR 10–6.364 that provides for permanent allocations to NO_x ozone season units in Phases I and II. As mentioned above, Missouri has chosen to expand the applicability provisions of the CAIR NO_x ozone season trading program to include all current and future non-EGUs in the State's NO_x SIP Call trading program. By doing so, the three non-EGUs listed in Table II of Missouri's NO_x SIP Call rule, 10 CSR 10–6.360, are provided CAIR NO_x ozone season allowances totaling 59 allowances in Table II of 10 CSR 10–6.364 that are in addition to the State's initial allocation for both Phase I and Phase II of the CAIR NO_x ozone season trading program. The number of allowances provided to the non-EGUs in the CAIR NO_x ozone trading program are equivalent to the amount they received under Missouri's NO_x SIP Call rule.

E. Allocation of NO_x Allowances From Compliance Supplement Pool

The CAIR establishes a compliance supplement pool (CSP) to provide an incentive for early reductions in NO_x annual emissions. The CSP consists of 200,000 CAIR NO_x annual allowances of vintage 2009 for the entire CAIR region, and a State's share of the CSP is based upon the projected magnitude of the emission reductions required by CAIR in that State. States may distribute CSP allowances, one allowance for each ton of early reduction, to sources that make NO_x reductions during 2007 or 2008 beyond what is required by any applicable State or Federal emission limitation. States also may distribute CSP allowances based upon a demonstration of need for an extension of the 2009 deadline for implementing emission controls.

The CAIR annual NO_x model trading rule establishes specific methodologies for allocations of CSP allowances. States

may choose an allowed, alternative CSP allocation methodology to be used to allocate CSP allowances to sources in the States.

Missouri has chosen to distribute CSP allowances using an allocation methodology that retains much of the CSP model rule language of 40 CFR 96.143. The State's methodology differs in two main ways. First, the State has added additional criteria for units subject to the Acid Rain Program that do not have an applicable NO_x emission limit to be able to apply for allocations from the CSP by limiting their emissions below what limit would have applied had the unit been limited by Acid Rain Program or State NO_x emission rate limits. Secondly, the State has chosen to modify the distribution methodology in the event the CSP is over-prescribed. If more requests for allocations have been made than CSP allowances exist, the State will divide the CSP into two pools. The smaller of the two pools is for units that combust tires, and the larger pool is for the remaining units.

F. Individual Opt-in Units

The opt-in provisions of the CAIR SIP model trading rules allow certain non-EGUs (i.e., boilers, combustion turbines, and other stationary fossil-fuel-fired devices) that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (i.e., opt into) the CAIR trading program. A non-EGU may opt into one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and recording requirements of 40 CFR part 75. The owners and operators seeking to opt a unit into a CAIR trading program must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to the CAIR trading program. The opt-in provisions provide for two methodologies for allocating allowances for opt-in units, one methodology that applies to opt-in units in general and a second methodology that allocates allowances only to opt-in units that the owners and operators intend to repower before January 1, 2015.

States have several options concerning the opt-in provisions. States may adopt the CAIR opt-in provisions entirely or may adopt them but exclude one of the methodologies for allocating allowances. States may also decline to adopt the opt-in provisions at all.

Missouri has chosen to allow non-EGUs meeting certain requirements to opt into the CAIR trading programs by adopting by reference the entirety of EPA's model rule provisions for opt-in units in the CAIR NO_x annual, CAIR NO_x ozone season, and CAIR SO₂ trading programs.

VI. Proposed Actions

EPA is proposing to approve Missouri's full CAIR SIP revision submitted on May 18, 2007. Under this SIP revision, Missouri is choosing to participate in the EPA-administered cap-and-trade programs for SO₂, NO_x annual, and NO_x ozone season emissions. EPA believes that the SIP revision meets the applicable requirements in 40 CFR 51.123(o) and (aa), with regard to NO_x annual and NO_x ozone season emissions, and 40 CFR 51.124(o), with regard to SO₂ emissions. EPA is proposing to determine that the SIP as revised will meet the requirements of CAIR. If EPA approves this SIP revision, the Administrator of EPA will also issue, without providing an opportunity for a public hearing or an additional opportunity for written public comment, a final rule to withdraw the CAIR FIPs concerning SO₂, NO_x annual, and NO_x ozone season emissions for Missouri. This action would delete and reserve 40 CFR 52.1341 and 40 CFR 52.1342.

VII. Statutory and Executive Order Reviews

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 proposes to approve State law as meeting Federal requirements and would impose no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule would 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 action proposes to approve pre-existing requirements under State law and would 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 proposal also does not have tribal implications because it would 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 proposed action also does not have Federalism implications because it would 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 will result, as a consequence of that approval, in the Administrator's withdrawal of the CAIR FIP. It 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 would approve a State rule implementing a Federal Standard.

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 would 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, Electric utilities, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: September 10, 2007.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E7-18263 Filed 9-14-07; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA-B-7735]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR

60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act.

This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows: