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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2007-0401; FRL-8448-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; State Implementation Plan Revision To Implement the Clean Air Interstate Rule

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Massachusetts State Implementation Plan (SIP) submitted on March 30, 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 implements the CAIR requirements for Massachusetts. Therefore, as a consequence of the SIP approval, EPA will also withdraw the CAIR Federal Implementation Plan (CAIR FIP) concerning NO<sub>x</sub> ozone-season emissions for Massachusetts. The CAIR FIPs for all States in the CAIR region were promulgated on April 28, 2006 and subsequently revised on December 13, 2006.

In the SIP revision that EPA is proposing to approve, Massachusetts would meet CAIR requirements by participating in the EPA-administered cap-and-trade program addressing NO<sub>x</sub> ozone-season emissions. Massachusetts's SIP revision is based on EPA's model CAIR NO<sub>x</sub> ozone season rule and is in most respects substantively identical to that model rule. The Massachusetts CAIR program has two major substantive differences from that model rule (expanded applicability, and a different methodology for allocating NO<sub>x</sub> allowances), both of which are consistent with the flexibility allowed under CAIR for state participation in the EPA-administered cap-and-trade program. The SIP revision complies with the statutory and regulatory requirements for approval of a CAIR NO<sub>x</sub> ozone-season program.

**DATES:** Comments must be received on or before August 31, 2007.

**ADDRESSES:** Submit your comments, identified by FDMS Docket ID No. EPA-R01-OAR-2007-0401, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).

3. *Fax*: (617) 918-0047.

4. *Mail*: "FDMS Docket ID No. EPA-R01-OAR-2007-0401", Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023.

5. *Hand Delivery or Courier*: Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. 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 to 4:30, excluding federal holidays.

*Instructions:* Direct your comments to Docket ID No. "FDMS Docket ID No. EPA-R01-OAR-2007-0401". 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 [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](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 [www.regulations.gov](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. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](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. In addition to publicly available docket materials available electronically in [www.regulations.gov](http://www.regulations.gov), the hard copy of these materials, including the state submittal and EPA's technical support document, is available at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions concerning today's proposal, please contact Alison C. Simcox, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1684, fax number (617) 918-0684, e-mail [simcox.alison@epa.gov](mailto:simcox.alison@epa.gov).

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## I. What Action Is EPA Proposing to Take?

EPA is proposing to approve a revision to Massachusetts's SIP, submitted on March 30, 2007. This SIP revision includes a new regulation, 310 CMR 7.32, "Massachusetts Clean Air Interstate Rule," and amendments to existing regulation 310 CMR 7.28, "NO<sub>x</sub> Allowance Trading Program." In its SIP revision, Massachusetts would meet CAIR requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered State CAIR cap-and-trade program addressing NO<sub>x</sub> ozone-season emissions. EPA is proposing to determine that the Massachusetts 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 1. As a consequence of the SIP Approval, the Administrator of EPA will also issue a final rule to withdraw the FIP concerning NO<sub>x</sub> ozone-season emissions for Massachusetts. This action will delete and reserve 40 CFR 52.1140. The withdrawal of the CAIR FIP for Massachusetts is a conforming amendment that must be made once the SIP is approved because EPA's authority to issue the FIP was premised on a deficiency in the SIP for Massachusetts. Once the SIP is fully approved, EPA no longer has authority for the FIP. Thus, EPA will not have the option of maintaining the FIP 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 FIP.

## 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<sub>2.5</sub>) 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 SO<sub>2</sub>, which is a precursor to PM<sub>2.5</sub> formation, and/or NO<sub>x</sub>, which is a precursor to both ozone and PM<sub>2.5</sub> formation. For jurisdictions that contribute significantly to downwind PM<sub>2.5</sub> nonattainment, CAIR sets annual State-wide emission reduction requirements (i.e., budgets) for SO<sub>2</sub> and

annual State-wide emission reduction requirements for NO<sub>x</sub>. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements for NO<sub>x</sub> for the ozone season (May 1st to September 30th). 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) of the Clean Air Act (CAA) with regard to interstate transport with respect to the 8-hour ozone and PM<sub>2.5</sub> 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). The SIPs were due in July 2000, 3 years after the promulgation of the 8-hour ozone and PM<sub>2.5</sub> 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). 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.

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 SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season trading programs, as appropriate. The CAIR FIP SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> 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 (SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> 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<sub>x</sub> 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<sub>2.5</sub> 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 SO<sub>2</sub> and NO<sub>x</sub> and is to be implemented in two phases. The first phase of NO<sub>x</sub> reductions starts in 2009 and continues through 2014, while the first phase of SO<sub>2</sub> reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO<sub>x</sub> and SO<sub>2</sub> 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 SO<sub>2</sub> and NO<sub>x</sub> 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<sub>x</sub> SIP Call trading programs in their CAIR NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> SIP Call trading sources that are not EGUs under CAIR in the CAIR NO<sub>x</sub> ozone season trading program;
  2. Provide for State allocation of NO<sub>x</sub> annual or ozone season allowances using a methodology chosen by the State;
  3. Provide for State allocation of NO<sub>x</sub> 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 SO<sub>2</sub>, NO<sub>x</sub> annual, or NO<sub>x</sub> ozone season trading programs under the opt-in provisions in the model rules.
- An approved CAIR full SIP revision addressing EGUs' SO<sub>2</sub>, NO<sub>x</sub> annual, or NO<sub>x</sub> ozone season emissions will replace the CAIR FIP for that State for the respective EGU emissions.

#### V. Analysis of Massachusetts's CAIR SIP Submittal

A summary of EPA's review of Massachusetts's CAIR program is given below. Additional details regarding requirements of Massachusetts's 310 CMR 7.32 regulation and EPA's evaluation of this regulation are detailed in a memorandum dated July 16, 2007, entitled "Technical Support Document (TSD) for revisions to the Massachusetts SIP: 310 CMR 7.32 ("Massachusetts Clean Air Interstate Rule")." The TSD and Massachusetts's CAIR SIP submittal are available in the docket supporting this action.

##### A. State Budgets for Allowance Allocations

The CAIR NO<sub>x</sub> 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 pounds per million British thermal units (lb/mmBtu), for phase 1 of the CAIR program (2009–2014) and by 0.125 lb/mmBtu, for phase 2 of the CAIR program (2015 and thereafter) to obtain regional NO<sub>x</sub> budgets for 2009–2014 and for 2015 and thereafter, respectively. EPA derived the State NO<sub>x</sub> annual and ozone season budgets from the regional budgets using State heat input data adjusted by fuel factors. Massachusetts, however, is only required to participate in the CAIR NO<sub>x</sub> ozone-season program, not the CAIR NO<sub>x</sub> annual or SO<sub>2</sub> trading programs. Therefore, only CAIR NO<sub>x</sub> ozone-season budgets apply to the Massachusetts CAIR program.

In today's action, EPA is proposing approval of Massachusetts's SIP revision at 310 CMR 7.32. This SIP revision adopts the budgets established for the State in CAIR, *i.e.*, 7,551 tons of NO<sub>x</sub> ozone-season emissions for CAIR phase 1 and 6,293 tons for CAIR phase 2, plus an additional 363 tons of NO<sub>x</sub> ozone-season emissions for both phases 1 and 2 to account for NO<sub>x</sub> emissions from "non-EGU" units from the Massachusetts NO<sub>x</sub> SIP Call trading program (see section V.B. below). The total NO<sub>x</sub> ozone-season budget is therefore 7,914 tons of NO<sub>x</sub> ozone-season emissions for CAIR phase 1 and 6,656 tons for CAIR phase 2. Massachusetts's SIP revision sets this budget as the total number of allowances (with each allowance authorizing one ton of NO<sub>x</sub> ozone-season emissions) available for allocation for each year under the EPA-administered CAIR cap-and-trade program.

##### B. CAIR Cap-and-Trade Programs

The CAIR NO<sub>x</sub> annual and ozone-season model trading rules both largely mirror the structure of the NO<sub>x</sub> SIP Call model trading rule in 40 CFR part 96, subparts A through I. While the provisions of the NO<sub>x</sub> annual and ozone-season model rules are similar, there are some differences. For example, the NO<sub>x</sub> ozone season model rule reflects the fact that the CAIR NO<sub>x</sub> ozone season trading program replaces the NO<sub>x</sub> SIP Call trading program after the 2008 ozone season and is coordinated with the NO<sub>x</sub> SIP Call program. The NO<sub>x</sub> ozone season model rule provides incentives for early emissions reductions by allowing banked, pre-2009 NO<sub>x</sub> SIP Call allowances to be used for compliance in the CAIR NO<sub>x</sub> ozone-season trading

program. In addition, States have the option of continuing to meet their NO<sub>x</sub> SIP Call requirement by participating in the CAIR NO<sub>x</sub> ozone season trading program and including all their NO<sub>x</sub> SIP Call trading sources in that program. Massachusetts has decided to exercise the option of including all its NO<sub>x</sub> SIP Call units in its State CAIR program. Therefore, the Massachusetts CAIR SIP revision includes amendments to the Massachusetts NO<sub>x</sub> SIP Call trading program (310 CMR 7.28) such that the NO<sub>x</sub> SIP Call trading program applies for the control periods from 2003 through 2008, but is then superseded by the Massachusetts CAIR program (310 CMR 7.32) beginning with the control period in 2009.

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 SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season trading rules and the respective CAIR FIP trading rules are designed to work together as integrated SO<sub>2</sub>, NO<sub>x</sub> annual, and NO<sub>x</sub> ozone season trading programs.

In the SIP revision, Massachusetts chooses to implement its CAIR budgets by requiring EGUs (as well as "non-EGUs" from its NO<sub>x</sub> SIP Call trading program, as discussed below) to participate in EPA-administered cap-and-trade programs for NO<sub>x</sub> ozone-season emissions. Massachusetts has adopted a full SIP revision that adopts, with certain allowed changes discussed below, the CAIR model cap-and-trade rules for NO<sub>x</sub> ozone-season emissions.

##### C. Applicability Provisions for non-EGU NO<sub>x</sub> 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 MWe producing electricity for sale.

States have the option of bringing in, for the CAIR NO<sub>x</sub> ozone season program only, those units in the State's NO<sub>x</sub> SIP Call trading program that are not EGUs as defined under CAIR (herein called "non-EGUs"). EPA advises States exercising this option to add the applicability provisions in the State's NO<sub>x</sub> SIP Call trading rule for "non-EGUs" to the applicability provisions in 40 CFR 96.304 in order to include in the CAIR NO<sub>x</sub> ozone season trading program all units required to be in the

State's NO<sub>x</sub> SIP Call trading program that are not already included under 40 CFR 96.304. Under this option, the CAIR NO<sub>x</sub> 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<sub>x</sub> SIP Call trading program.

Massachusetts has chosen to expand the applicability provisions of the CAIR NO<sub>x</sub> ozone season trading program to include all units in the State's NO<sub>x</sub> SIP Call trading program. Units in the Massachusetts NO<sub>x</sub> SIP Call trading program include units that burn more than 50-percent fossil fuel and that have a maximum heat-input capacity of 250 million British thermal units (MMBtu) or more, or serve a generator with a nameplate capacity of 15 MWe or more. These units are included in the Massachusetts NO<sub>x</sub> SIP Call trading program whether or not they produce electricity for sale, and, as noted above, will be included in the Massachusetts CAIR program beginning with the control period in 2009.

EPA has determined that Massachusetts 310 CMR 7.32 includes the allowable CAIR applicability provisions relating to adding all NO<sub>x</sub> SIP Call trading program units to the Massachusetts CAIR NO<sub>x</sub> ozone season program.

#### D. NO<sub>x</sub> Allowance Allocations

*Deadlines:* There is one technical flaw in the SIP revision, but EPA is proposing to approve the SIP revision despite this flaw. CAIR requires states to submit to EPA the initial allocations for EGUs that started operation before 2001 by October 31, 2006. Massachusetts's proposed SIP revision does not meet this requirement, nor did the state submit those allocations by this date. However, the purpose of this date was to allow EPA sufficient time to process the allocations data. EPA now has the allocations, and no outside party was prejudiced by Massachusetts's failure to meet this date. The TSD associated with this Notice of Proposed Rulemaking explains this issue and EPA's rationale for proposing to approve the SIP revision despite this technical flaw.

*NO<sub>x</sub> allowance-allocation methodology:* Under the NO<sub>x</sub> allowance-allocation methodology in the CAIR model trading rules and in the CAIR FIP, NO<sub>x</sub> annual and ozone-season allowances are allocated to units that have operated for five years (i.e., "existing units"), 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<sub>x</sub> 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<sub>x</sub> 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.

Massachusetts has chosen to replace the provisions of the CAIR NO<sub>x</sub> ozone-season model trading rule concerning allowance allocations with its own methodology. Massachusetts's 310 CMR 7.32 distributes NO<sub>x</sub> ozone-season allowances based upon historical electric and thermal output, rather than heat input. Massachusetts also provides a percentage of allowances for Public Benefit and new unit set-asides.

#### (1) What Types of Set-Asides are Included in Massachusetts CAIR?

Massachusetts 310 CMR 7.32 includes both a Public Benefit set-aside (PBSA) to encourage Energy Efficiency Projects (EEPs) and Renewable Energy Projects (REPs), and a new unit set-aside to allow for addition of new units. Both of these types of set-asides were included in the State's NO<sub>x</sub> SIP Call trading program.

Massachusetts has set a new unit set-aside at 5 percent of the State's CAIR budget for both phases of the CAIR program. Therefore, the new unit set-aside includes 396 CAIR NO<sub>x</sub> ozone-season allowances during CAIR phase 1 (2009–2014), and 333 allowances during CAIR phase 2 (2015 and thereafter).

Massachusetts has set a PBSA at 10 percent of the State's CAIR budget for both phases of the CAIR program. Therefore, the PBSA includes 791 CAIR NO<sub>x</sub> ozone-season allowances during CAIR phase 1 (2009–2014), and 666 allowances during CAIR phase 2 (2015 and thereafter).

#### (2) Banking and Transferring of Set-Asides

The Massachusetts CAIR SIP establishes an account for any unallocated PBSA or new unit set-aside allowances so that these can be allocated in future years. This is similar to the account established under the State's NO<sub>x</sub> SIP Call trading program. If the number of banked set-aside allowances is 10 percent or more of the total Massachusetts CAIR budget after allocations and compliance deductions have been made for a given year, the State will allocate allowances that exceed 5 percent of the State's CAIR budget to existing CAIR NO<sub>x</sub> ozone-season units using the allocation methodology described below.

If Massachusetts approves the allocation of more allowances for EEPs and REPs than are available in the PBSA, Massachusetts will allow transfer of unallocated allowances from the new unit set-aside to the PBSA. However, allowances may not be transferred from the PBSA to the new unit set-aside.

#### (3) Methodology for Allocating CAIR Allowances

Massachusetts has chosen to replace the provisions of the CAIR NO<sub>x</sub> ozone-season model trading rule concerning allowance allocations with a methodology similar to that used in the Massachusetts NO<sub>x</sub> SIP Call trading program. This methodology, which is based on energy output, allocates allowances to existing units and, to the extent possible, to new units based on their steam and/or electricity output. More details on Massachusetts's methodology for allocating CAIR allowances can be found in the TSD associated with this Notice of Proposed Rulemaking.

#### (4) Massachusetts CAIR Permits and Reporting Requirements

The Massachusetts CAIR SIP includes most of the permitting provisions of the CAIR model rule. Massachusetts, however, has modified the rule as it applies to collection of output data and also requires all Massachusetts CAIR units to have Massachusetts CAIR permits.

Under the CAIR model rule, facilities that are subject to the Acid Rain Program or the CAIR NO<sub>x</sub> and SO<sub>2</sub> annual trading programs must report emissions data year-round, but facilities that are only subject to the NO<sub>x</sub> ozone-season trading program need only submit NO<sub>x</sub> emission data to the State during the ozone season. As noted above, Massachusetts is only required to participate in the CAIR NO<sub>x</sub> ozone-

season program. However, under Massachusetts's CAIR NO<sub>x</sub> ozone season allowance trading program, all units recording NO<sub>x</sub> emissions data with Continuous Emission Monitoring Systems (CEMS) are required to submit quarterly data emission reports year-round.

Because of the importance to Massachusetts of obtaining emissions data for air-quality planning efforts related to EPA's programs to address Regional Haze and Particulate Matter (PM), which are both year-round air-quality issues, Massachusetts has decided to require that all of the State's CAIR units with CEMS report NO<sub>x</sub> emissions to the State on a year-round basis. Massachusetts will not require units without CEMS to report emissions on a year-round basis. EPA has determined that these modifications of the CAIR NO<sub>x</sub> ozone-season trading rule in regard to collection of output data and CAIR permits are acceptable.

#### *E. 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.

The Massachusetts CAIR SIP does not include opt-in provisions because the

State has chosen to allocate CAIR allowances using an energy-output methodology that cannot be used for opt-in sources under the model CAIR NO<sub>x</sub> ozone-season trading rule. The Massachusetts NO<sub>x</sub> SIP Call trading program (310 CMR 7.28), however, does allow for opt-in sources (although no sources have opted into this program to date). Therefore, sources that wish to be part of the Massachusetts CAIR program can take advantage of the opt-in provisions of the State's NO<sub>x</sub> SIP Call program until the end of 2008.

Beginning with the 2009 ozone season, the NO<sub>x</sub> SIP Call program will be replaced by the State's CAIR Program, and no further opt-in units will be allowed.

#### **VI. Proposed Action**

EPA is proposing to approve Massachusetts's full CAIR SIP revision submitted on March 30, 2007, including regulations 310 CMR 7.32 ("Massachusetts CAIR") and amendments to 310 CMR 7.28 ("NO<sub>x</sub> Allocation Trading Program"). Under this SIP revision, Massachusetts is choosing to participate in the EPA-administered cap-and-trade program for NO<sub>x</sub> ozone-season emissions. The SIP revision meets the applicable requirements in 40 CFR 51.123(aa) with regard to NO<sub>x</sub> ozone-season emissions. EPA is proposing to determine that the SIP as revised will meet the requirements of CAIR. As a consequence of the SIP approval, 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 FIP concerning NO<sub>x</sub> ozone-season emissions for Massachusetts. This action will delete and reserve 40 CFR section 52.1140 in Part 52.

#### **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 Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it 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 Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act.

Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 24, 2007.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*  
[FR Doc. E7-14887 Filed 7-31-07; 8:45 am]

BILLING CODE 6560-50-P

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

[EPA-R09-OAR-2007-0462; FRL-8442-5]

**Revisions to the California State Implementation Plan, Sacramento Metropolitan Air Quality Management District and San Joaquin Valley Air Pollution Control District**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Sacramento Metropolitan Air Quality Management District (SMAQMD) and San Joaquin Valley Air Pollution Control District (SJVAPCD) portions of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) emissions from boilers, process heaters, steam generators, and glass melting furnaces. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** Any comments on this proposal must arrive by August 31, 2007.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2007-0462, by one of the following methods:

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

2. *E-mail:* [steckel.andrew@epa.gov](mailto: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 on-line at <http://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 <http://www.regulations.gov> or e-mail. <http://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 <http://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:** Francisco Dóñez, EPA Region IX, (415) 972-3956, [Donez.Francisco@epa.gov](mailto:Donez.Francisco@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposal addresses the following local rules: SMAQMD 411 and SJVAPCD 4354. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are 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. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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: June 20, 2007.

**Jane Diamond,**

*Acting Regional Administrator, Region IX.*  
[FR Doc. E7-14587 Filed 7-31-07; 8:45 am]

BILLING CODE 6560-50-P

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

[EPA-R07-OAR-2007-0477; FRL-8448-4]

**Approval and Promulgation of Implementation Plans; State of Iowa**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Iowa for maintenance of the sulfur dioxide National Ambient Air Quality Standard in Muscatine, Iowa.

**DATES:** Comments on this proposed action must be received in writing by August 31, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2007-0477 by one of the following methods:

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

2. *E-mail:* [Hamilton.heather@epa.gov](mailto:Hamilton.heather@epa.gov).

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

4. *Hand Delivery or Courier:* Deliver your comments to: Heather Hamilton, 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 to 4:30, excluding legal 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:** Heather Hamilton at (913) 551-7039, or by e-mail at [Hamilton.heather@epa.gov](mailto:Hamilton.heather@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no