

PART 39—RULES CONCERNING CERTIFICATION OF THE ELECTRIC RELIABILITY ORGANIZATION; AND PROCEDURES FOR THE ESTABLISHMENT, APPROVAL, AND ENFORCEMENT OF ELECTRIC RELIABILITY STANDARDS

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 16 U.S.C. 824a.

■ 2. Amend § 39.11 by adding paragraph (c) as follows:

§ 39.11 Reliability reports.

* * * * *

(c) The Electric Reliability Organization shall make available to the Commission, on a non-public and ongoing basis, access to the Transmission Availability Data System, Generating Availability Data System, and protection system misoperations databases, or any successor databases thereto.

Note: The following text will not appear in the Code of Federal Regulations.

Availability of Certain North American Electric Reliability Corporation Databases to the Commission

(Issued September 17, 2015)

LaFLEUR, Commissioner, *concurring*: Today's order proposes to revise the Commission's regulations to provide the Commission and its staff with access, on a non-public and ongoing basis, to three databases maintained by the North American Electric Reliability Corporation (NERC): (1) The Transmission Availability Data System (TADS), (2) the Generating Availability Data System (GADS), and (3) the protection system misoperations database. As explained in the order, the Commission concludes that access to these databases would support its work under section 215(d)(5) of the Federal Power Act (FPA) to monitor reliability trends and issues that may warrant the development of new or modified reliability standards.

On rare occasions, the Commission has exercised its authority to direct NERC to develop new standards to address reliability risks not covered in existing standards, such as geomagnetic disturbances and physical security. While I do not expect the Commission to frequently invoke that authority going forward, I agree that the information in these databases would assist the Commission with its responsibilities under section 215(d)(5), as well as its understanding of NERC's assessments under section 215(g). Access to these databases could therefore support the Commission's oversight of several steps

of the reliability cycle, including event analysis, establishment of metrics, setting reliability priorities, and improving the standards development and review process.

I recognize, however, that under section 215 of the FPA, NERC and the Commission have a unique relationship, since Congress vested a significant amount of authority over the standards process in the Electric Reliability Organization (*i.e.*, NERC) and clearly prescribed the Commission's oversight role. It is important that we recognize the distinction between that oversight role and NERC's primary responsibility to monitor reliability issues and propose standards to address them. Ultimately, I believe our efforts to sustain and improve the reliability of the bulk electric system are furthered by mutual trust and shared priorities between the Commission and NERC.

I understand that today's proposal might be controversial within the NERC community. I therefore welcome comment on the proposal, including any potential issues or concerns not identified in the NOPR, to provide a full record for the Commission to consider in deciding whether to proceed to a final rule.

Accordingly, I respectfully concur.

Cheryl A. LaFleur

Commissioner

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0581; FRL-9934-69-Region 7]

Approval and Promulgation of Air Quality Implementation Plans; Missouri; Regional Haze Five-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to the Missouri State Implementation Plan (SIP) submitted by the State of Missouri on August 5, 2014. Missouri's SIP submission ("progress report SIP") addresses requirements of the Clean Air Act (CAA or Act) and EPA's rules that require states to submit periodic reports describing progress toward reasonable progress goals (RPGs) established for regional haze and a

determination of the adequacy of the state's existing SIP addressing regional haze ("regional haze SIP"). EPA is proposing approval of Missouri's progress report SIP submission on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period for regional haze.

DATES: Comments must be received on or before October 29, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2015-0581 by one of the following methods:

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

2. *Email:* krabbe.stephen@epa.gov.

3. *Mail or Hand Delivery or Courier:* Stephen Krabbe, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2015-0581. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>. The 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 email comment directly to EPA without going through www.regulations.gov, your email 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, any form of encryption, and be free of any defects or viruses.

Docket. All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. EPA requests that 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: Stephen Krabbe, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7483 or by email at krabbe.stephen@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” or “our” refer to EPA. This section provides additional information by addressing the following:

- I. What is the background for EPA’s Proposed action?
- II. What are the requirements for the regional haze progress report SIPs and adequacy determinations?
 - A. Regional Haze Progress Report SIP
 - B. Adequacy Determination of the Current Regional Haze SIP
- III. What is EPA’s analysis of Missouri’s progress report SIP and adequacy determination?
 - A. Regional Haze Progress Report SIPs
 1. 40 CFR 51.308(g)(1)
 2. 40 CFR 51.308(g)(2)
 3. 40 CFR 51.308(g)(3)
 4. 40 CFR 51.308(g)(4)
 5. 40 CFR 51.308(g)(5)
 6. 40 CFR 51.308(g)(6)
 7. 40 CFR 51.308(g)(7)
 - B. Determination of Adequacy of Existing Regional Haze Plan
- IV. Impact of CAIR and CSAPR on Missouri’s Progress Report
- V. What action is EPA proposing to take?

I. What is the background for EPA’s Proposed action?

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress toward the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state’s existing regional haze SIP. 40 CFR 51.308(h). The first progress report SIP is due five years after submittal of the initial regional haze SIP. The Missouri Department of Natural Resources (MDNR) submitted the state’s first regional haze SIP on August 5, 2009, and supplemented on January 30, 2012, in accordance with 40 CFR 51.308(b).¹

On February 14, 2014, MDNR provided to the Federal Land Managers a revision to Missouri’s SIP reporting on progress made during the first implementation period toward RPGs for Class I areas in the state and Class I areas outside the state that are affected by Missouri sources. Missouri has two Class I areas, Mingo National Wildlife Refuge (Mingo) and Hercules Glades Wilderness Area (Hercules Glades). Missouri also hosts an additional Interagency Monitoring of Protected Visual Environments (IMPROVE)

¹ On June 26, 2012, EPA finalized a limited approval of Missouri’s August 5, 2009, regional haze SIP to address the first implementation period for regional haze (77 FR 38007). In a separate action, published on June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the Missouri regional haze SIP because of the State’s reliance on the Clean Air Interstate Rule to meet certain regional haze requirements, which EPA replaced in August 2011 with the Cross-State Air Pollution Rule (CSAPR) (76 FR 48208 (Aug. 8, 2011)). In the aforementioned June 7, 2012, action, EPA finalized a Federal Implementation Plan (FIP) for Missouri to replace the State’s reliance on CAIR with reliance on CSAPR. Following these EPA actions, the D.C. Circuit issued a decision in *EME Homer City Generation, L.P. v. EPA* (“*EME Homer City*”), 696 F. 3d 7 (D.C. Cir. 2012), vacating CSAPR and keeping CAIR in place pending the promulgation of a valid replacement rule. On April 29, 2014, the U.S. Supreme Court reversed the D.C. Circuit opinion vacating CSAPR, and remanded the case for further proceedings. *EME Homer City*, 572 U.S. 134 S. Ct. 1584. In the interim, CAIR remained in place. On October 23, 2014, the D.C. Circuit granted EPA’s motion to lift the stay on CSAPR. Order of October 23, 2014, in *EME Homer City*, D.C. Cir. No. 11–1302. EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit’s order. 79 FR 71663 (December 3, 2014) (interim final rulemaking). Subsequent to the interim final rulemaking, EPA began implementation of CSAPR on January 1, 2015. Section IV of this notice addresses the impact of CAIR and CSAPR on Missouri’s progress toward RPGs for this five year progress report SIP.

monitoring site, located at El Dorado Springs.² Notification was published on MDNR’s Air Pollution Control Program Web site on April 28, 2014. A public hearing was held on held at the St. Louis Regional Office on Thursday, May 29, 2014.

On August 5, 2014, MDNR submitted the five year progress report SIP to EPA. This progress report SIP and accompanying cover letter also included a determination that the state’s existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. EPA is proposing to approve Missouri’s progress report SIP on the basis that it satisfies the requirements of 40 CFR 51.308(g) and 51.308(h).

II. What are the requirements for the regional haze progress report SIPs and adequacy determinations?

A. Regional Haze Progress Report SIP

Under 40 CFR 51.308(g), states must submit a regional haze progress report as a SIP revision every five years and must address, at a minimum, the seven elements found in 40 CFR 51.308(g). As described in further detail in section III below, 40 CFR 51.308(g) requires a description of the status of measures in the approved regional haze SIP; a summary of emissions reductions achieved; an assessment of visibility conditions for each Class I area in the state; an analysis of changes in emissions from sources and activities within the state; an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded progress in Class I areas impacted by the state’s sources; an assessment of the sufficiency of the approved regional haze SIP; and a review of the state’s visibility monitoring strategy.

B. Adequacy Determinations of the Current Regional Haze SIP

Under 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. As described in further detail in section III below, 40 CFR 51.308(h) requires states to either: (1) Submit a negative declaration to EPA

² The El Dorado Springs IMPROVE monitoring site is a Protocol monitoring site that is maintained by MDNR to also measure visibility impairment in Missouri, but it is not located in a Federal Class I area. It was established to aid in determining impacts to portions of the country where no Class I areas exist.

that no further substantive revision to the state's existing regional haze SIP is needed; (2) provide notification to EPA (and other states(s) that participated in the regional planning process) if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in other state(s) that participated in the regional planning process, and collaborate with these other state(s) to develop additional strategies to address deficiencies; (3) provide notification with supporting information to EPA if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in another country; or (4) revise its regional haze SIP to address deficiencies within one year if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress in one or more Class I areas due to emissions from sources within the state.

III. What is EPA's analysis of Missouri's regional haze progress report and adequacy determination?

On August 5, 2014, MDNR submitted a revision to Missouri's regional haze SIP to address progress made toward RPGs of Class I areas in the state and Class I areas outside the state that are affected by emissions from Missouri's sources. This progress report SIP also included a determination of the adequacy of the state's existing regional haze SIP. Missouri has two Class I areas within its borders, and maintains an additional IMPROVE monitoring site. MDNR utilized particulate matter source apportionment (PSAT) techniques for photochemical modeling conducted by the Central Regional Air Planning Association (CENRAP) to identify two Class I areas in nearby Arkansas potentially impacted by Missouri sources: Upper Buffalo Wilderness Area (UBWA) and Caney Creek Wilderness Area (CCWA). 77 FR 38007.

A. Regional Haze Progress Report SIPs

The following sections summarize: (1) Each of the seven elements that must be addressed by the progress report under 40 CFR 51.308(g); (2) how Missouri's progress report SIP addressed each element; and (3) EPA's analysis and proposed determination as to whether the state satisfied each element.

1. 40 CFR 51.308(g)(1)

40 CFR 51.308(g)(1) requires a description of the status of implementation of all measures

included in the regional haze SIP for achieving RPGs for Class I areas both within and outside the state.

Missouri evaluated the status of all measures included in its 2009 regional haze SIP in accordance with 40 CFR 51.308(g)(1). Specifically, in its progress report SIP, Missouri summarizes the status of the emissions reduction measures that were included in the final iteration of the CENRAP regional haze emissions inventory and RPG modeling. Such control measures included the CAIR, BART, Tier 2 Federal emissions standards for passenger vehicles, EPA's Clean Air Nonroad Diesel Rule (Tier 4), and the NO_x SIP Call. Missouri found that these ongoing air pollution control programs are sufficient to meet the 2018 RPGs for Mingo and Hercules Glades Class I areas, and that programs such as CAIR, CSAPR, and BART were very cost-effective in reducing visibility impairment at Missouri's Class I areas.

Missouri also discusses the status of those measures that were not included in the final CENRAP emissions inventory and were not relied upon in the initial regional haze SIP to meet RPGs. The state notes that the emissions reductions from these measures could aid in reducing visibility impairment and in achieving the RPGs in Missouri's Class I areas. The measures include the 2010 SO₂ NAAQS Attainment Demonstrations, Illinois Multi-Pollutant Regulation, Federal Tier 3 vehicle emission and fuel standards, and the 2007 Federal Heavy-Duty Highway Rule.

In addition, Missouri addressed facilities with expected emission changes to occur between 2012 and 2017. These changes were not included in the 2009 initial regional haze SIP modeling, as they are not yet permanent and enforceable.

EPA proposes to find that Missouri's analysis adequately addresses 40 CFR 51.308(g)(1). The state documents the implementation status of measures from its regional haze SIP and describes significant measures resulting from EPA regulations other than the regional haze program as they pertain to the state's sources. The progress report SIP highlights the effect of several Federal control measures both nationally and in the CENRAP region, and when possible, in the state.

Regarding the status of BART and reasonable progress control requirements for sources in the state, Missouri's progress report SIP notes that of the twenty-six potential BART sources identified, only one source was subject to BART. This remaining source, Holcim (US) Inc. (Holcim-Clarksville), located in Clarksville, Missouri, entered

into a consent agreement with MDNR, and set emissions limits for SO₂ and NO_x to be met as expeditiously as practicable, but no later than four years after approval of Missouri's regional haze plan. EPA approved their regional haze plan on June 26, 2012 (77 FR 38007), including the consent agreement with Holcim-Clarksville, therefore compliance must be achieved no later than June 26, 2016. Since the consent agreement was signed and initial regional haze plan approved, Holcim-Clarksville discontinued Portland cement manufacturing and hazardous waste fuel burning operations. Remaining operations at the facility include receiving, storing, and shipping. Thus the facility's new SO₂ and NO_x potential emissions are both zero tons per year, which is included in the state-issued operating permit. Because no other sources were found to be subject to BART, the state found that other emission controls or alternative measures in place of BART were not necessary, and no further discussion of the status of controls was necessary in the progress report SIP.

EPA proposes to conclude that Missouri has adequately addressed the status of control measures in its regional haze SIP as required by 40 CFR 51.308(g)(1). Missouri describes the implementation status of measures from its regional haze SIP, including the status of control measures to meet BART and reasonable progress requirements, the status of significant measures resulting from EPA regulations, as well as measures that came into effect since the CENRAP analyses for the regional haze SIP were completed.

2. 40 CFR 51.308(g)(2)

40 CFR 51.308(g)(2) requires a summary of the emissions reductions achieved in the state through the measures subject to 40 CFR 51.308(g)(1).

In its regional haze SIP and progress report SIP, Missouri focuses its assessment on NO_x and SO₂ emissions from electric generating units (EGUs) because available information from multiple sources (CENRAP, EPA's Clean Air Markets Division (CAMD), etc.) determined that these compounds accounted for the majority of the visibility-impairing pollution in the Central Region.

During the period from 2007–2012, SO₂ emissions decreased by 45.6% as a result of several factors, including installation of controls, units switching to cleaner fuels, load shifting from dirtier units to cleaner units, and an overall decrease in demand for

generation.³ Missouri noted that the downward trend continued, even though demand increased during the period from 2009 through 2011.

Additionally, there was a 43.4 percent decrease in pounds of SO₂ generated per MMBtu of energy produced. Missouri stated this decrease in emissions, while demand remained relatively steady, indicates that the reductions reflect cleaner generation and not decreased electricity demand.

During that same period, NO_x emissions generally decreased, as did the generation rate of NO_x. However, neither NO_x emissions nor NO_x generation trended downward every year.

Missouri noted that as additional controls are installed to meet the stringent requirements of CSAPR, the Industrial Boiler Maximum Achievable Control Technology (MACT) regulation, and the Mercury and Air Toxics Standard (MATS),⁴ emission rates are expected to decrease even further. Missouri asserts that the current downward trend, particularly for SO₂ as the species of predominant concern to visibility impairment at Mingo and Hercules Glades, plus the imminent implementation of additional federal regulations, reinforces their determination that Missouri's Class I areas will meet the established RPGs in the required timeframe.

EPA proposes to conclude that Missouri has adequately addressed 40 CFR 51.308(g)(2). The state provides actual emissions reductions of NO_x and SO₂ from EGUs in Missouri that have occurred since Missouri submitted its regional haze SIP. Missouri appropriately focused on SO₂, and to a lesser extent, NO_x, emissions from its EGUs in its progress report SIP because it previously identified these emissions as the most significant contributors to visibility impairment at Missouri's Class I areas. Given the large SO₂ and NO_x reductions at EGUs that have actually occurred, further analysis of emissions from other sources or other pollutants was ultimately unnecessary in this first implementation period. Because no additional controls were found to be needed for reasonable progress for the first implementation period for evaluated sources in Missouri, EPA proposes to find that no further discussion of emissions reductions from

controls was necessary in this progress report SIP.

3. 40 CFR 51.308(g)(3)

40 CFR 51.308(g)(3) requires that states with Class I areas provide the following information for the most impaired and least impaired days for each area, with values expressed in terms of five-year averages of these annual values:⁵

- (i) Current visibility conditions;
- (ii) the difference between current visibility conditions and baseline visibility conditions; and
- (iii) the change in visibility impairment over the past five years.

Missouri provides figures with the latest supporting data available at the time that it developed the progress report SIP that address the three requirements of 40 CFR 51.308(g)(3) for Mingo and Hercules Glades. For the first regional haze SIPs, baseline conditions were represented by the 2000–2004 time period. 64 FR 35730. Baseline visibility conditions at Mingo are 28.02 deciviews (dv) for the most impaired (20 percent worst) days and 14.3 dv for the least impaired (20 percent best) days. Current visibility conditions for the five year period from 2008–2012 are 25.7 dv for the 20 percent worst days and 13.1 dv for the 20 percent best days. The difference between current visibility and baseline visibility for the 20 percent worst days is 2.3 dv of improvement (*i.e.*, 28.0–25.7 dv). The difference between current visibility and baseline visibility conditions for the 20 percent best days is 1.2 dv of improvement (*i.e.*, 14.3–13.1 dv). Further, visibility impairment due to SO₂ has shown a downward trend (improved visibility) in terms of the 5-year rolling average for the worst 20 percent days for each of the five-year progress periods evaluated by Missouri. Visibility has also improved in nearly all of the five-year progress periods for SO₂ for the best 20 percent days. Missouri noted that the goal for the 20 percent best sampling days is to show no degradation in visibility conditions from the baseline; and available monitored data for the first planning period showed no degradation, and in fact showed improvement. Missouri noted that for the worst 20 percent days, the established 2018 RPG is 23.71 dv, and that based on the current rate of improvement, it is expected that this RPG will be met.

Hercules Glades has an established baseline condition of 26.75 dv for the most impaired days. Current visibility conditions (for the five year period from 2008–2012) are 23.5 dv for the 20 percent worst days, showing 3.25 dv of improvement. Baseline conditions for the least impaired days are 12.8 dv. Current visibility conditions are 11.3 dv for the 20 percent best days, showing 1.5 dv of improvement. Further, for both the most impaired days and the least impaired days, there has been a steady downward trend in the rolling average visibility, meaning visibility has improved since the baseline for both the worst and the best days. Looking at SO₂, there has been a steady downward trend in visibility impairment since the baseline for the worst 20 percent days, and a general downward trend in visibility impairment since the baseline for the best 20 percent days. Missouri noted that the goal was to show improvement in the worst visibility days, and show no further degradation on the best days; in fact, monitored data showed improvement in both. Missouri also noted that for the worst 20 percent days, the established 2018 RPG is 23.06 dv, and that based on the current rate of improvement, it is expected that this RPG will be met.

Missouri also has an IMPROVE Protocol monitoring site located in El Dorado Springs. This is not a Class I area, but does provide a more comprehensive data set in areas where Class I areas are spread out. Missouri established a baseline condition for the period from 2005–2007, with 26.97 dv for the 20 percent worst days. Missouri stated that the analysis and trends at El Dorado Springs help strengthen the argument that visibility conditions across the entire state, not just at the Class I areas, are improving and are expected to achieve the 2018 RPGs.

Nearby Class I areas in Arkansas were also reviewed in Missouri's progress report SIP. Upper Buffalo Wildlife Area and Caney Creek Wildlife Area both show a downward trend in visibility impairment for the worst 20 percent days. This downward trend is also seen in SO₂ measurements and total light extinction. Missouri notes that this trend at the Class I areas outside the state that are affected by Missouri's sources supports the claim that Missouri's current strategy is still adequate and that reductions achieved in Missouri have benefited areas both in and outside the state.

EPA proposes to conclude that Missouri has adequately addressed 40 CFR 51.308(g)(3). The state provides the information regarding visibility conditions and notes that no changes

³ See also sections III.A.4 and III.A.6 of this action.

⁴ Since the submission of the Regional Haze Progress SIP, the MATS rule was remanded to the D.C. Circuit by the Supreme Court on June 29, 2015, in *Michigan et al. v. Environmental Protection Agency et al.* (Slip. Op. 14–46, _____ U.S. ____ (2015)).

⁵ The “most impaired days” and “least impaired days” in the regional haze rule refers to the average visibility impairment (measured in deciviews) for the twenty percent of monitored days in a calendar year with the highest and lowest amount of visibility impairment, respectively, averaged over a five-year period. 40 CFR 51.301.

are needed to meet the requirements of 40 CFR 51.308(g)(3). The progress report SIP includes current conditions based on the latest available IMPROVE monitoring data for the years 2008–2012, the difference between current visibility conditions and baseline visibility conditions, and the change in visibility impairment over the most recent five-year period for which data were available at the time of the progress report SIP development (*i.e.*, 2008–2012).

4. 40 CFR 51.308(g)(4)

40 CFR 51.308(g)(4) requires an analysis tracking emissions changes of visibility-impairing pollutants from the state's sources by type or category over the past five years based on the most recent updated emissions inventory.

In its progress report SIP, Missouri presents data from a statewide emissions inventories conducted in 2005, 2008, and 2011. This data was reported in the National Emissions Inventory (NEI) for each of those years. Pollutants inventoried include carbon oxides, ammonia, NO_x, coarse particulate matter, fine particulate matter (PM_{2.5}), SO₂, and volatile organic compounds. The emissions inventories from all three datasets include the following sources: Nonpoint, non-road/area, on-road, point, and biogenic sources. Missouri noted that changes in how data is reported under the NEI may impact certain species.

Missouri examined primarily point-source emissions, because control of point sources provides a higher level of reduction certainty than other source sectors, and therefore is the most relevant to visibility improvement. The state noted that the decreasing trend in point source emissions of SO₂ and NO_x are of greatest significance to visibility improvement. Other changes in emission levels that were noted include increases in CO levels and increases in PM_{2.5}. Missouri noted that increases in PM_{2.5} emissions are due to updated stack test emission factors and increased activity at several sources. Missouri also noted that fire source emissions increased for all pollutants between 2008 and 2011, as explained in EPA's 2011 NEIv1 Technical Support Document (November 2013.) This document estimates about 30 percent more acres burned in 2011 than in 2008 due to several forest fires of over 1,000 acres within the Mark Twain National Forest in southern Missouri.

Biogenic emissions also changed between 2008 and 2011, with some pollutants increasing and some decreasing. Missouri notes that the Biogenic Emissions Inventory System

(BEIS) version 3.14, developed by EPA to model the biogenic emissions for the NEI, did not address changes to vegetation or other factors between years, so the state cannot specifically address why some pollutants increased.

Missouri noted that the purpose at this point is to evaluate the paramount pollutants to visibility improvement, SO₂ and NO_x, and notes that both show a steady downward trend over the last five years, which can be linked to steadily improving visibility conditions.

EPA proposes to conclude that Missouri has adequately addressed 40 CFR 51.308(g)(4). While ideally the five-year period to be analyzed for emissions inventory changes is the time period since the current regional haze SIP was submitted, there is an inevitable time lag in developing and reporting complete emissions inventories once quality-assured emissions data becomes available. Therefore, EPA believes there is some flexibility in the five-year time period that states can select, Missouri tracked changes in emissions of visibility-impairing pollutants using the 2005, 2008, and 2011 National Emissions Inventory, the latter of which was the most recent updated inventory of actual emissions for the state at the time that it developed the progress report SIP. EPA believes that Missouri's use of the seven-year period from 2005–2011 reflects a conservative picture of the actual emissions realized between 2005–2014, because there is a general downward trend in both SO₂ and NO_x emissions.

5. 40 CFR 51.308(g)(5)

40 CFR 51.308(g)(5) requires an assessment of any significant changes in anthropogenic emissions within or outside the state that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the state's sources.

In its progress report SIP, Missouri indicates that visibility and pollutant trends from the three monitoring sites have an overall downward trend in visibility impairment. The state noted that an anomalous peak appears in the data for 2010, especially at the El Dorado protocol site. Missouri notes that this can most likely be attributed to a fire event that occurred that year. Missouri State University in Springfield, Missouri, monitored an exceedance of PM_{2.5} on March 6, 2010. Prior to March 6, 2010, there was a prescribed agricultural burn in the region. The state's current Smoke Management Plan (SMP) establishes a basic framework of procedures and requirements for

managing smoke from fires managed for resource benefits. The intent is to mitigate nuisance and public safety hazards; to prevent deterioration of air quality and NAAQS violations; and to address visibility impacts in mandatory federal Class I areas. Missouri noted that if in the future there is a fire event that results in a NAAQS violation or other extreme case, the SMP may be re-evaluated.

EPA proposes to conclude that Missouri has adequately addressed 40 CFR 51.308(g)(5). Missouri demonstrated that there are no significant changes in anthropogenic emissions that have impeded progress in reducing emissions and improving visibility in Class I areas impacted by Missouri's sources. The state referenced its analyses in the progress report SIP identifying an overall downward trend from 2007 to 2012. Further, the progress report SIP shows that Missouri is on track to meet its 2018 emissions projections. Lastly, Missouri acknowledges that plans may be revised as necessary.

6. 40 CFR 51.308(g)(6)

40 CFR 51.308(g)(6) requires an assessment of whether the current regional haze SIP is sufficient to enable Missouri, or other states, to meet the RPGs for Class I areas affected by emissions from the state.

In its progress report, Missouri states that it believes that the elements and strategies outlined in its original regional haze SIP are sufficient to enable Missouri and other neighboring states to meet all the established RPGs. To support this, Missouri notes that based on available monitored data, the current trendline is below the glidepath from baseline conditions to the 2018 RPGs. Visibility is improving at both Class I areas in Missouri, at the El Dorado Springs IMPROVE protocol site, and at the two Class I areas in Arkansas affected by Missouri sources. Thus, Missouri concludes that the realized and planned controls and reductions that form the current strategy for this first implementation period are sufficient to meet the established RPGs.

EPA proposes to conclude that Missouri has adequately addressed 40 CFR 51.308(g)(6). EPA views this requirement as a qualitative assessment that should evaluate emissions and visibility trends and other readily available information, including expected emissions reductions associated with measures with compliance dates that have not yet become effective. Missouri referenced the improving visibility trends at affected Class I areas and the downward

emissions trends in the state, with a focus on SO₂ and NO_x emissions from Missouri's EGUs that support Missouri's determination that its regional haze SIP is sufficient to meet RPGs for Class I areas in Missouri and outside of Missouri impacted by Missouri sources. EPA believes that Missouri's conclusion regarding the sufficiency of the regional haze SIP is appropriate because of the calculated visibility improvement using the latest available data and the downward trend in SO₂ and NO_x emissions from EGUs in Missouri.

7. 40 CFR 51.308(g)(7)

40 CFR 51.308(g)(7) requires a review of the state's visibility monitoring strategy and an assessment of whether any modifications to the monitoring strategy are necessary. In its progress report SIP, Missouri summarizes the existing IMPROVE monitoring network and its intended continued reliance on IMPROVE for visibility planning. Missouri notes that it will continue IMPROVE monitoring at Hercules Glades and Mingo, consistent with the requirements of 40 CFR 51.308(d)(4)(iv). Missouri also notes that IMPROVE protocol monitoring will continue at El Dorado Springs, since the data can supplement potential data analysis projects which may be needed to address PM_{2.5} NAAQS.

EPA proposes to conclude that Missouri has adequately addressed the sufficiency of its monitoring strategy as required by 40 CFR 51.308(g)(7). Missouri reaffirmed its continued reliance upon the IMPROVE monitoring network.

B. Determination of Adequacy of Existing Regional Haze Plan

Under 40 CFR 51.308(h), states are required to take one of four possible actions based on the information gathered and conclusions made in the progress report SIP.

In its progress report SIP, Missouri took the action provided for by 40 CFR 51.308(h)(1), which allows a state to submit a negative declaration to EPA if the state determines that the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the state's sources. The basis for Missouri's negative declaration is the findings from the progress report (as discussed in section III.A of this action), including the findings that: SO₂ and NO_x emissions from Missouri's sources have decreased below original projections, that visibility has improved at both Class I areas in Missouri, both Class I areas in Arkansas affected by Missouri's sources, and at the IMPROVE

protocol site in Missouri, and that emissions reductions and visibility improvement are expected to continue over the next five years. Based on these findings, EPA proposes to agree with Missouri's conclusion under 40 CFR 51.308(h) that no further substantive changes to its regional haze SIP are required at this time.

IV. What is the impact of CAIR and CSAPR on Missouri's progress report?

Decisions by the Courts regarding EPA rules addressing interstate transport of pollutants have had a substantial impact on EPA's review of the regional haze SIPs of many states. In 2005, EPA issued regulations allowing states to rely on the Clean Air Interstate Rule (CAIR) to meet certain requirements of the Regional Haze Rule. See 70 FR 39104 (July 6, 2005).⁶ A number of states, including Missouri, submitted regional haze SIPs consistent with these regulatory provisions. CAIR, however, was remanded to EPA in 2008, *North Carolina v. EPA*, 550 F. 3d 1176, 1178 (D.C. Cir. 2008), and replaced by CSAPR.⁷ 76 FR 48208 (August 8, 2011). Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR would have superseded the CAIR program. However, numerous parties filed petitions for review of CSAPR, and at the end of 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. Order of December 30, 2011, in *EME Homer City Generation, L.P. v. EPA*, D.C. Cir. No. 11-1302.

EPA finalized a limited approval of Missouri's regional haze SIP on June 26, 2012. 77 FR 38007. In a separate action, published on June 7, 2012, EPA finalized a limited disapproval of the Missouri regional haze SIP because of the state's reliance on CAIR to meet certain regional haze requirements, and issued a Federal Implementation Plan (FIP) to address the deficiencies identified in the limited disapproval of Missouri and other states' regional haze plans. 77 FR 33642 (June 7, 2012). In our FIP, we relied on CSAPR to meet certain regional haze requirements

⁶ CAIR required certain states like Missouri to reduce emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) that significantly contribute to downwind nonattainment of the 1997 National Ambient Air Quality Standard (NAAQS) for fine particulate matter (PM_{2.5}) and ozone. See 70 FR 25162 (May 12, 2005).

⁷ CSAPR was issued by EPA to replace CAIR and to help states reduce air pollution and attain CAA standards. See 76 FR 48208 (August 8, 2011) (final rule). CSAPR requires substantial reductions of SO₂ and NO_x emissions from EGUs in 28 states in the Eastern United States that significantly contribute to downwind nonattainment of the 1997 PM_{2.5} and ozone NAAQS and 2006 PM_{2.5} NAAQS.

notwithstanding that it was stayed at the time. As we explained, the determination that CSAPR will provide for greater reasonable progress than BART is based on a forward-looking projection of emissions and any year up to 2018 would have been an acceptable point of comparison. *Id.* At 33647.

When we issued this FIP, we anticipated that the requirements of CSAPR would be implemented prior to 2018. *Id.* Following these EPA actions, however, the D.C. Circuit issued a decision in *EME Homer City* (696 F.3d 7 (D.C. Cir. 2012)), vacating CSAPR and ordering EPA to continue administering CAIR pending the promulgation of a valid replacement. On April 28, 2014, the Supreme Court reversed the D.C. Circuit's decision on CSAPR and remanded the case to the D.C. Circuit for further proceedings. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). After the Supreme Court decision, EPA filed a motion to lift the stay on CSAPR and asked the D.C. Circuit to toll CSAPR's compliance deadlines by three years, so that the Phase 1 emissions budgets apply in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit granted EPA's motion. Order of October 23, 2014, in *EME Homer City Generation, L.P. v. EPA*, D.C. Cir. No. 11-1302. EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit's order granting EPA's motion requesting lifting the stay and tolling the rule's deadlines. 79 FR 71663 (December 3, 2014) (interim final rulemaking).⁸

Throughout the litigation described above, EPA has continued to implement CAIR. Thus, at the time that Missouri submitted its progress report SIP revision, CAIR was in effect, and the State included an assessment of the emission reductions from the implementation of CAIR in its report. The progress report discussed the status of litigation concerning CAIR and CSAPR, but because CSAPR was not at that time in effect, Missouri did not take emissions reductions from CSAPR into account in assessing its regional haze implementation plan. For the same reason, EPA is not assessing at this time the impact of CSAPR on our FIP on the ability of Missouri and its neighbors to meet their reasonable progress goals.

⁸ Subsequent to the interim final rulemaking, EPA began implementation of CSAPR on January 1, 2015.

Given the complex background summarized above, EPA is proposing to determine that Missouri appropriately took CAIR into account in its progress report SIP in describing the status of the implementation of measures included in its regional haze SIP and in summarizing the emissions reductions achieved. CAIR was in effect during the 2008–2014 period addressed by Missouri's progress report. EPA approved Missouri's regulations implementing CAIR as part of the Missouri SIP in 2009, and neither Missouri nor EPA has taken any action to remove CAIR from the Missouri SIP. See 40 CFR 52.2520(c). Therefore, Missouri appropriately evaluated and relied on CAIR reductions to demonstrate the State's progress toward meeting its reasonable progress goals.⁹ The State's progress report also demonstrated Class I areas in other states impacted by Missouri sources were on track to meet their reasonable progress goals. EPA's intention in requiring the progress reports pursuant to 40 CFR 51.308(g) was to ensure that emission management measures in the regional haze SIPs are being implemented on schedule and that visibility improvement appears to be consistent with the reasonable progress goals. 64 FR 35713, 35747 (July 1, 1999). As the D.C. Circuit only recently lifted the stay on CSAPR, CAIR was in effect in Missouri through 2014, providing the emission reductions relied upon in Missouri's regional haze SIP. Thus, Missouri appropriately took into account CAIR reductions in assessing the implementation of measures in the regional haze SIP for the 2008–2014 timeframe, and EPA believes that it is appropriate to rely on CAIR emission reductions for purposes of assessing the adequacy of Missouri's progress report demonstrating progress up to the end of 2014 as CAIR remained effective until that date, pursuant to 40 CFR 51.308(g) and (h).

In addition, EPA also believes reliance upon CAIR reductions to show Missouri's progress toward meeting its RPGs from 2008–2014 is consistent with our prior actions. During the continued implementation of CAIR per the direction of the D.C. Circuit through October 2014, EPA has approved redesignations of areas to attainment of the 1997 PM_{2.5} NAAQS in which states

relied on CAIR as an “enforceable measure.” See 77 FR 76415 (December 28, 2012) (redesignation of Huntington-Ashland, West Virginia); and similar examples. While EPA did previously state in a rulemaking action on the Florida regional haze SIP that a five year progress report may be the appropriate time to address changes, if necessary, for reasonable progress goal demonstrations and long term strategies, EPA does not believe the remanded status of CAIR or the implementation of its replacement CSAPR at this time impacts the adequacy of the Missouri regional haze SIP to address reasonable progress from 2008 through 2014 to meet requirements in 40 CFR 51.308(g) and (h) because CAIR was implemented during the time period evaluated by Missouri for its progress report. See generally 77 FR 73369, 73371 (December 10, 2012) (proposed action on Florida haze SIP).

EPA's December 3, 2014, interim final rule sunsets CAIR compliance requirements on a schedule coordinated with the implementation of CSAPR compliance requirements. 79 FR at 71655. As noted above, EPA's June 7, 2012, FIP replaced Missouri's reliance upon CAIR for regional haze requirements with reliance on CSAPR to meet those requirements for the long-term. Because CSAPR should result in greater emissions reductions of SO₂ and NO_x than CAIR throughout the affected region, including in Missouri and neighboring states, EPA expects Missouri to maintain and continue its progress toward its reasonable progress goals for 2018 through continued and additional SO₂ and NO_x reductions. See generally 76 FR 48208 (promulgating CSAPR).

At the present time, the requirements of CSAPR apply to sources in Missouri under the terms of a FIP, because Missouri to date has not incorporated the CSAPR requirements into its SIP. The Regional Haze Rule requires an assessment of whether the current “implementation plan” is sufficient to enable the states to meet all established reasonable progress goals. 40 CFR 51.308(g)(6). The term “implementation plan” is defined for purposes of the Regional Haze Rule to mean “any [SIP], [FIP], or Tribal Implementation Plan.” 40 CFR 51.301. EPA is, therefore, proposing to determine that we may consider measures in any issued FIP as well as those in a state's regional haze SIP in assessing the adequacy of the “existing implementation plan” under 40 CFR 51.308(g)(6) and (h). Because CSAPR will ensure the control of SO₂ and NO_x emissions reductions relied upon by Missouri and other states in

setting their reasonable progress goals beginning in January 2015 at least through the remainder of the first implementation period in 2018, EPA is proposing to approve Missouri's finding that there is no need for revision of the existing implementation plan for Missouri to achieve the reasonable progress goals for the Class I areas in Missouri and for Class I areas in nearby states impacted by Missouri sources.

We note that the Regional Haze Rule provides for periodic evaluation and assessment of a state's reasonable progress toward achieving the national goal of natural visibility conditions by 2064 for CAA section 169A(b). The regional haze regulations at 40 CFR 51.308 required states to submit initial SIPs in 2007 providing for reasonable progress toward the national goal for the first implementation period from 2008 through 2018. 40 CFR 51.308(b). Pursuant to 40 CFR 51.308(f), SIP revisions reassessing each state's reasonable progress toward the national goal are due every five years after that time. For such subsequent regional haze SIPs, 40 CFR 51.308(f) requires each state to reassess its reasonable progress and all the elements of its regional haze SIP required by 40 CFR 51.308(d), taking into account improvements in monitors and control technology, assessing the state's actual progress and effectiveness of its long term strategy, and revising reasonable progress goals as necessary. 40 CFR 51.308(f)(1)–(3). Therefore, Missouri has the opportunity to reassess its reasonable progress goals and the adequacy of its regional haze SIP, including its reliance upon CAIR and CSAPR for emission reductions from EGUs, when it prepares and submits its second regional haze SIP to cover the implementation period from 2018 through 2028. As discussed previously in this notice, emissions of SO₂ and NO_x are below original trendline projections for the first implementation period, and in some cases, are below projections for 2018. In addition, the visibility data provided by Missouri shows that their Class I areas and Class I areas affected by Missouri sources are all currently on track to achieve their reasonable progress goals.

V. What action is EPA proposing to take?

EPA is proposing approval of a revision to the Missouri SIP, submitted by the State of Missouri on August 5, 2014, as meeting the applicable regional haze requirements as set forth in 40 CFR 51.308(g) and 51.308(h).

⁹EPA discussed earlier in this notice the significance of reductions in SO₂ and NO_x, as Missouri and the Central Regional Air Planning Association (CENRAP) identified SO₂ and NO_x as the largest contributor pollutants to visibility impairment at Missouri's Class I areas, as well as those Class I areas affected by Missouri's sources, specifically, and in the CENRAP region generally.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 action merely proposes to approve 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 this action does not involve technical standards; 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 proposed rule pertaining to Missouri's regional haze progress report 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, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: September 14, 2015.

Mark Hague,

Acting Regional Administrator, Region 7.

[FR Doc. 2015-24461 Filed 9-28-15; 8:45 am]

BILLING CODE 6560-50-P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

40 CFR Part 1800

[Docket Number: 109002015-1111-08]

RESTORE Act Spill Impact Component Allocation

AGENCY: Gulf Coast Ecosystem Restoration Council

ACTION: Notice of proposed rulemaking.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (Council) is publishing for public and Tribal comment proposed regulations to implement the Spill Impact Component of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act). These regulations will establish the formula allocating funds made available from the Gulf Coast Restoration Trust Fund (Trust Fund) among the Gulf Coast States of Alabama, Florida, Louisiana, Mississippi and Texas ("State" or "States") pursuant to Sec. 1603(3) of the RESTORE Act.

DATES: Comments are due October 29, 2015.

ADDRESSES: Comments may be submitted through one of these methods:

Electronic Submission of Comments: Interested persons may submit comments electronically by sending them to frcomments@restorethegulf.gov. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Council to make them available to the public. In general, the Council will make such comments available for public inspection and copying on its Web site, www.restorethegulf.gov, without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. All comments received,

including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

Mail: Send to Gulf Coast Ecosystem Restoration Council, 500 Poydras Street, Suite 1117, New Orleans, LA 70130.

FOR FURTHER INFORMATION CONTACT:

Please send questions by email to frcomments@restorethegulf.gov, or contact Will Spoon at (504) 239-9814.

SUPPLEMENTARY INFORMATION:

Effective Date

This proposed rule, if and when final, would become effective on the date that the court enters a consent decree among the United States, the Gulf Coast States and BP with respect to the civil penalty and natural resource damages in MDL No. 2179 (United States District Court for the Eastern District of Louisiana).

Background

The Gulf Coast region is vital to our nation and our economy, providing valuable energy resources, abundant seafood, extraordinary beaches and recreational activities, and a rich natural and cultural heritage. Its waters and coasts are home to one of the most diverse natural environments in the world—including over 15,000 species of sea life and millions of migratory birds. The Gulf has endured many catastrophes, including major hurricanes such as Katrina, Rita, Gustav and Ike in the last ten years alone. The region has also experienced the loss of critical wetland habitats, erosion of barrier islands, imperiled fisheries, water quality degradation and significant coastal land loss. More recently, the health of the region's ecosystem was significantly affected by the *Deepwater Horizon* oil spill. As a result of the oil spill, the Council has been given the great responsibility of helping to address ecosystem challenges across the Gulf.

In 2010 the *Deepwater Horizon* oil spill caused extensive damage to the Gulf Coast's natural resources, devastating the economies and communities that rely on it. In an effort to help the region rebuild in the wake of the spill, Congress passed and the President signed the RESTORE Act, Public Law 112-141, Sec. 1601-1608, 126 Stat. 588 (Jul. 6, 2012), codified at 33 U.S.C. 1321(t) and *note*. The RESTORE Act created the Gulf Coast Restoration Trust Fund (Trust Fund) and dedicates to the Trust Fund eighty percent (80%) of any civil and administrative penalties paid under the