

Missouri Department of Natural Resources  
**Regulatory Impact Report**  
In Preparation For Proposing  
New Rules 10 CSR 10-6.372 and 10 CSR 10-6.374

Applicability: Pursuant to Section 640.015 RSMo, “all rulemakings that prescribe environmental conditions or standards promulgated by the Department of Natural Resources...shall... be based on the regulatory impact report...” This requirement shall not apply to emergency rulemakings pursuant to section 536.025 or to rules of other applicable federal agencies adopted by the Department “without variance.”

Determination: The Missouri Department of Natural Resources has determined this rulemaking prescribes environmental conditions or standards and verifies that this rulemaking is not a simple unvarying adoption of rules from other federal agencies. Accordingly, the Department has produced this regulatory impact report which will be made publicly available for comment for a period of at least 60 days. Upon completion of the comment period, official responses will be developed and made available on the agency web page prior to filing the proposed rulemaking with the Secretary of State. Contact information is at the end of this regulatory impact report.

1. Describe the environmental conditions or standards being prescribed.

The purpose of these rulemakings is to reallocate the annual and ozone season nitrogen oxides (NO<sub>x</sub>) emission allowances established in the U.S. Environmental Protection Agency's (EPA's) Cross-State Air Pollution Rule (CSAPR), starting with allowances distributed for 2014. CSAPR is an EPA-administered emission cap-and-trade program that enables affected utilities to buy and sell emission allowances from other affected facilities in Missouri or other states. CSAPR is being implemented as a Federal Implementation Plan, which is a federal regulation effective without action by states, but states have the option to distribute emission allowances differently from the federal scheme by means of a revision to their State Implementation Plan (SIP).

Two (2) small utilities in the state, Chillicothe Municipal Utilities and Higginsville Municipal Power, were not allocated any annual or ozone season NO<sub>x</sub> allowances in the FIP. These power plants are stand-alone utilities under a common designated trade representative (DR), and therefore do not have the option of trading allowances freely with other facilities under the same DR. This means that these two (2) power plants may have to purchase allowances on the market in order to operate without penalty. The proposed rulemakings would allocate a small number of annual and ozone season NO<sub>x</sub> allowances to Chillicothe and Higginsville without taking allowances from other existing electric generating units (EGUs) in the state. In conjunction with the emission allowance reallocations, the method for determining the new unit allowance distribution along with the public notice and data submission timelines have been incorporated into the rulemaking. Any other outcomes based on further discussions with stakeholders will also be incorporated into these rulemakings.

2. A report on the peer-reviewed scientific data used to commence the rulemaking process.

EPA used peer-reviewed scientific data in preparing CSAPR and a summary of the data was provided with the final rule on August 8, 2011 (76 FR 48208). The Department of Natural Resources has not performed any additional review of scientific data in preparing these new rules.

3. A description of the persons who will most likely be affected by the proposed rule, including persons that will bear the costs of the proposed rule and persons that will benefit from the proposed rule.

These rulemakings will directly impact Chillicothe Municipal Utilities and Higginsville Municipal Power by designating a small number of annual and ozone season NO<sub>x</sub> allowances to them for the control periods beginning in 2014. Additionally, two (2) new units in the state that would have received these allowances from the new unit set-aside pool will no longer have these allowances. One (1) of these two (2) new units is owned by City Utilities of Springfield. The other new unit has multiple owners (Kansas City Power & Light Company, Empire District Electric Company, Missouri Joint Municipal Electric Utility Commission, Kansas Electric Power Cooperative and KCP&L Greater Missouri Operations Company) with Kansas City Power & Light Company the majority owner.

4. A description of the environmental and economic costs and benefits of the proposed rule.

Additional NO<sub>x</sub> allowances will provide the affected units at Chillicothe Municipal Utilities and Higginsville Municipal Power operational flexibility. City Utilities of Springfield and Kansas City Power and Light Company will not receive these allowances from the new unit set-aside pool prescribed in the federal rule.

5. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue.

These rules are not anticipated to have costs that affect this agency or any other state agency to implement and enforce and are not expected to affect state revenue as NO<sub>x</sub> allowances are simply being redistributed under the federal emissions trading programs. EPA will be administering and enforcing the trading programs for all states affected by the federal rules.

6. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction, which includes both economic and environmental costs and benefits.

These new rules maintain requirements prescribed in the federal CSAPR while at the same time redistributing a small amount of annual and ozone season NO<sub>x</sub> allowances. Compared to inaction, this rulemaking will benefit two (2) small utilities in the state that received zero (0) allowances by assigning to them a small number, providing operational flexibility. These new rules will also affect the owners of two (2) new units under the CSAPR program as well, as allowances that would have gone to these new units will go to two (2) small utilities instead.

7. A determination of whether there are less costly or less intrusive methods for achieving the proposed rule.

The department is not aware of a less costly or less intrusive method for achieving the proposed rule amendments.

8. A description of any alternative method for achieving the purpose of the proposed rule that were seriously considered by the department and the reasons why they were rejected in favor of the proposed rule.

Several alternative approaches to redistribute annual and ozone season NO<sub>x</sub> allowances differently than EPA's use of historical emissions were discussed with stakeholders. These alternative methods included using a heat input based method, permit limit caps, and a preferred-unit basis. The heat input based method reallocates allowances using the highest three (3) years of heat input over a five (5) year period. The permit limit cap procedure utilizes permit limits instead of historical emissions for allowance allocation, and the preferred-unit approach applies allowances based on emission rates. However, redistributing allowance was the stakeholder preferred method. This method utilized unused allowances that resulted from federal rounding measures and would have gone to the new unit set-aside pool.

9. An analysis of both short-term and long-term consequences of the proposed rule.

The short-term and long-term consequences of this rulemaking are that two (2) small utilities annual and ozone season NO<sub>x</sub> allowances will be increased, offering flexibility to operate, while at the same time two (2) new units in the state will not receive these allowances.

10. An explanation of the risks to human health, public welfare or the environment addressed by the proposed rule.

The purpose of the proposed rulemaking is to reallocate annual and ozone season NO<sub>x</sub> emission allowances established in CSAPR per a request of two (2) small utilities which received no allowances. Both annual and ozone season NO<sub>x</sub> emissions state-wide will not increase and will remain consistent with the statewide caps, as prescribed under the CSAPR trading programs.

11. The identification of the sources of scientific information used in evaluating the risk and a summary of such information.

Sources of scientific information used in evaluating risk are contained in the supporting documents of the federal CSAPR. These proposed rules are simply redistributing annual and ozone season NO<sub>x</sub> allowances associated with the CSAPR NO<sub>x</sub> trading programs differently, therefore no additional scientific data was necessary to evaluate risk.

12. A description and impact statement of any uncertainties and assumptions made in conducting the analysis on the resulting risk estimate.

EPA's analysis in the federal rulemaking and supporting documents address the impacts and uncertainties of the assumptions made in CSAPR. Since these proposed new rules only redistribute NO<sub>x</sub> allowances, keeping state budget caps the same as the federal rule, they are not intended to be more lenient or more strict than federal guidelines.

13. A description of any significant countervailing risks that may be caused by the proposed rule.

The department is not aware of any assumptions or uncertainties inherent with the proposed rulemakings.

14. The identification of at least one, if any, alternative regulatory approaches that will produce comparable human health, public welfare or environmental outcomes.

Any of the alternative regulatory approaches listed in question 8 above would have produced comparable human health, public welfare or environmental outcomes.

15. Provide information on how to provide comments on the Regulatory Impact Report during the 60-day period before the proposed rule is filed with the Secretary of State.

Formal comments can be provided on either the Regulatory Impact Report or the draft rule text by sending them to the contact listed in question 16.

16. Provide information on how to request a copy of comments or the web information where the comments will be located.

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Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, MO 65102-0176

or

Missouri Air Conservation Commission  
P.O. Box 176  
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or call: (573) 751-4817

Copies of formal comments made on either the Regulatory Impact Report or the draft rule text may be obtained by request from the contact listed above or by accessing the Rules In Development section at web site [www.dnr.mo.gov/env/apcp/RulesDev.htm](http://www.dnr.mo.gov/env/apcp/RulesDev.htm) for this particular rulemaking.