

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; 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, these proposed PM<sub>2.5</sub> NAAQS attainment determinations do 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: May 25, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region 3.*

Dated: June 24, 2011.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2011-18427 Filed 7-20-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2011-0451; FRL-9441-1]

#### Approval and Promulgation of Air Quality Plans: State of Missouri

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve an April 20, 2011, request from the State of Missouri to exempt sources of Nitrogen Oxides (NO<sub>x</sub>) in the Missouri portion of the St. Louis (MO-IL) metropolitan 8-hour ozone nonattainment area from the Clean Air Act (CAA) requirements for NO<sub>x</sub> Reasonably Available Control Technology (RACT) for purposes of attaining the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Missouri NO<sub>x</sub> RACT waiver request for its portion of the St.

Louis metropolitan 8-hour ozone nonattainment area is based on the most recent three years of complete, quality-assured ozone monitoring data, which demonstrate that additional reductions of NO<sub>x</sub> emissions in the Area would not contribute to attainment of the 1997 8-hour ozone NAAQS.

**DATES:** Comments on this proposed action must be received in writing by August 22, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2011-0451, by mail to Ms. Lachala Kemp, Air Planning and Development Branch, U.S. EPA Region 7, 901 North 5th Street, Kansas City, Kansas 66101. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

#### FOR FURTHER INFORMATION CONTACT:

Lachala Kemp, Air Planning and Development Branch, 901 N. 5th Street, Kansas City, Kansas 66101 at 913 551 7214, or by e-mail at [kemp.lachala@epa.gov](mailto:kemp.lachala@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the State's request to exempt sources of NO<sub>x</sub> in the Missouri portion of the St. Louis (MO-IL) metropolitan 8-hour ozone nonattainment area from the CAA requirements for NO<sub>x</sub> RACT for purposes of attaining the 1997 8-hour ozone NAAQS. EPA is approving the Missouri's SIP revision as a direct final rule without prior proposal because the Agency views this as a non-controversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule, which is located in the rules section of this **Federal Register**.

Dated: July 12, 2011.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2011-18182 Filed 7-20-11; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-B-1038]

#### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule; correction.

**SUMMARY:** On March 25, 2009, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 74 FR 12799. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for Monroe County, Kentucky, and Incorporated Areas. Specifically, it addresses the following flooding sources: Bailey Branch (backwater effects from Cumberland River), Butler Branch (backwater effects from Cumberland River), Cumberland River, McFarland Creek (backwater effects from Cumberland River), Meredith Creek (backwater effects from Cumberland River), Meshack Creek (backwater effects from Cumberland River), Murphy Branch (backwater effects from Cumberland River), and Ward Branch (backwater effects from Cumberland River).

**DATES:** Comments are to be submitted on or before October 19, 2011.

**ADDRESSES:** You may submit comments, identified by Docket No. FEMA-B-1038, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-4064 or (e-mail) [luis.rodriguez1@dhs.gov](mailto:luis.rodriguez1@dhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-4064 or (e-mail) [luis.rodriguez1@dhs.gov](mailto:luis.rodriguez1@dhs.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities

participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management

requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

#### Corrections

In the proposed rule published at 74 FR 12799 in the March 25, 2009, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled "Monroe County, Kentucky, and Incorporated Areas" addressed the flooding source Cumberland River. That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, and/or communities

affected for that flooding source. In addition, it did not include the following flooding sources: Bailey Branch (backwater effects from Cumberland River), Butler Branch (backwater effects from Cumberland River), McFarland Creek (backwater effects from Cumberland River), Meshack Creek (backwater effects from Cumberland River), Murphy Branch (backwater effects from Cumberland River), and Ward Branch (backwater effects from Cumberland River). In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

| Flooding source(s)   | Location of referenced elevation**  | *Elevation in feet (NGVD)<br>+Elevation in feet (NAVD)<br>#Depth in feet above ground<br>^Elevation in meters (MSL) |          | Communities affected                   |
|--|---|---|----------|--|
|  |   | Effective   | Modified |  |
| Monroe County, Kentucky, and Incorporated Areas            |   |   |          |  |
| Bailey Branch (backwater effects from Cumberland River).   | From the Cumberland River confluence to approximately 950 feet upstream of the Cumberland River confluence.   | None  | +526     | Unincorporated Areas of Monroe County. |
| Butler Branch (backwater effects from Cumberland River).   | From the Cumberland River confluence to approximately 0.6 mile upstream of the Cumberland River confluence.   | None  | +534     | Unincorporated Areas of Monroe County. |
| Cumberland River .....                                     | Approximately 5,200 feet downstream of the McFarland Creek confluence.  | None  | +518     | Unincorporated Areas of Monroe County. |
|  | At the Glasscock Creek confluence .....   | None  | +536     |  |
| McFarland Creek (backwater effects from Cumberland River). | From the Cumberland River confluence to approximately 0.5 mile upstream of the Cumberland River confluence.   | None  | +519     | Unincorporated Areas of Monroe County. |
| Meredith Creek (backwater effects from Cumberland River).  | From the Cumberland River confluence to approximately 0.7 mile upstream of the Cumberland River confluence.   | None  | +524     | Unincorporated Areas of Monroe County. |
| Meshack Creek (backwater effects from Cumberland River).   | From the Cumberland River confluence to approximately 1,700 feet upstream of the Cumberland River confluence. | None  | +531     | Unincorporated Areas of Monroe County. |
| Murphy Branch (backwater effects from Cumberland River).   | From the Cumberland River confluence to approximately 0.5 mile upstream of the Cumberland River confluence.   | None  | +522     | Unincorporated Areas of Monroe County. |
| Ward Branch (backwater effects from Cumberland River).     | From the Cumberland River confluence to approximately 1,450 feet upstream of the Cumberland River confluence. | None  | +528     | Unincorporated Areas of Monroe County. |

\* National Geodetic Vertical Datum.

+ North American Vertical Datum.

# Depth in feet above ground.

^ Mean Sea Level, rounded to the nearest 0.1 meter.

\*\* BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

#### ADDRESSES

##### Unincorporated Areas of Monroe County

Maps are available for inspection at the Monroe County Courthouse, 200 North Main Street, Tompkinsville, KY 42167.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 8, 2011.

**Sandra K. Knight,**

*Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2011-18351 Filed 7-20-11; 8:45 am]

**BILLING CODE 9110-12-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 216

**RIN 0648-XA480**

#### **Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Operation of the Northeast Gateway Liquefied Natural Gas Port Facility in Massachusetts Bay**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed incidental harassment authorization; request for comments.

**SUMMARY:** NMFS has received an application from Tetra Tech EC, Inc., on behalf of the Northeast Gateway<sup>®</sup> Energy Bridge<sup>™</sup> L.P. (Northeast Gateway or NEG), for authorization to take marine mammals, by harassment, incidental to operating a liquefied natural gas (LNG) port facility by NEG, in Massachusetts Bay for the period of August 2011 through August 2012. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to Northeast Gateway to incidentally take, by harassment, small numbers of marine mammals for a period of 1 year.

**DATES:** Comments and information must be received no later than August 22, 2011.

**ADDRESSES:** Comments should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing e-mail comments on this action is [ITP.Guan@noaa.gov](mailto:ITP.Guan@noaa.gov). Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. A copy of the application and a list of references used in this document may be obtained by

writing to this address, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) and is also available at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm> without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

The Maritime Administration (MARAD) and U.S. Coast Guard (USCG) Final Environmental Impact Statement (Final EIS) on the Northeast Gateway Energy Bridge LNG Deepwater Port license application is available for viewing at <http://www.regulations.gov>.

#### **FOR FURTHER INFORMATION CONTACT:**

Shane Guan, Office of Protected Resources, NMFS, (301) 427-8401.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Sections 101(a)(5)(A)–(D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as:

an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to

certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

#### **Summary of Request**

On April 8, 2011, NMFS received an application from Excelsite Energy, L.P. (Excelsite) and Tetra Tech EC, Inc., on behalf of Northeast Gateway for an authorization to take 13 species of marine mammals by Level B harassment incidental to operations of an LNG port facility in Massachusetts Bay. They are: North Atlantic right whale, humpback whale, fin whale, minke whale, long-finned pilot whale, Atlantic white-sided dolphin, bottlenose dolphin, common dolphin, killer whale, Risso's dolphin, harbor porpoise, harbor seal, and gray seal. Since LNG Port operation activities have the potential to take marine mammals, a marine mammal take authorization under the MMPA is warranted. On May 7, 2007, NMFS issued an IHA to Northeast Gateway and Algonquin Gas Transmission, L.L.C. (Algonquin) to allow for the incidental harassment of small numbers of marine mammals resulting from the construction and operation of the NEG Port and the Algonquin Pipeline Lateral (72 FR 27077; May 14, 2007). Subsequently, NMFS issued three one-year IHAs for the take of marine mammals incidental to the operation of the NEG Port activity pursuant to section 101(a)(5)(D) of the MMPA (73 FR 29485; May 21, 2008; 74 FR 45613; September 3, 2009, and 75 FR 53672; September 1, 2010). The current IHA expires on August 30, 2011. Therefore, the company is seeking a new IHA, because it is believed that marine mammals could be affected by noise generated by operating the dynamic positioning system during the docking of LNG vessels at the NEG Port.