

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 51, 52, 72, 78, and 97**

[EPA-HQ-OAR-2009-0491; FRL-9194-9]

RIN 2060-AP50

Notice of Data Availability Supporting Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of data availability (NODA) for the Proposed Transport Rule.

SUMMARY: The EPA is providing notice that it is supplementing the record to the Proposed Transport Rule (75 FR 45210). The EPA has placed in the docket for the Proposed Transport Rule (Docket ID No. EPA-HQ-OAR-2009-0491) additional information relevant to the rulemaking, including, among other things, an updated version of the power sector modeling platform that EPA proposes to use to support the final rule. This new power sector modeling platform consists of updated unit level input data (the National Electric Energy Data System (NEEDS v4.10)) and a set of model run results with the updated modeling platform (Integrated Planning Model (IPM) v4.10), detailed documentation of the updated version of the model, and user guides to input assumptions and model outputs. The additional information also includes a list of further planned updates to support the final rulemaking. Except as explained below, EPA is not extending the comment period on the Proposed Transport Rule beyond October 1st, 2010.

DATES: Comments must be received on or before October 15, 2010. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on submitting comments.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2009-0491 by one of the following methods:

- <http://www.regulations.gov>. Follow the online instructions for submitting comments. Attention Docket ID No. EPA-HQ-OAR-2009-0491.

- **Fax:** (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2009-0491.

- **Mail:** EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA-HQ-OAR-2009-0491, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania

Avenue, NW., Washington, DC 20460. Please include 2 copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

- **Hand Delivery:** U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, NW., Room 3334, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OAR-2009-0491. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2009-0491. 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 information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, avoid any form of encryption, and 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 docket are listed in the <http://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 <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA East Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For questions regarding the NEEDS database Version 4.10 contact Erich Eschmann, Clean Air Markets Division, USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Mail Code: 6204J, Washington, DC 20460; telephone number: (202) 343-9128; fax number: (202) 343-2359. For question regarding the IPM Version 4.10 assumptions contact Serpil Kayin, Clean Air Markets Division, USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Mail Code: 6204J, Washington, DC 20460; telephone number: (202) 343-9390; fax number: (202) 343-2359.

SUPPLEMENTARY INFORMATION: Detailed background information describing the proposed rulemaking may be found in a previously published notice: *Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone* (Proposed Transport Rule); Proposed Rule 75 FR 45210, August 2, 2010.

The information placed in the docket is also available for public review on the Web site for this rulemaking at <http://www.epa.gov/airtransport/>. If additional relevant supporting information becomes available in the future, EPA will place this information in the docket and make it available for public review on this Web site. Today's notice of data availability does not extend the comment period for the Proposed Transport Rule, which ends on October 1, 2010. However, during the comment period for the NODA, EPA will accept comments on both the specific data that EPA is placing in the docket as well as any potential impacts of that data on the Proposed Transport Rule until October 15th, 2010.

I. Additional Information on Submitting Comments

A. How can I help EPA ensure that my comments are reviewed quickly?

To expedite review of your comments by Agency staff, you are encouraged to send a separate copy of your comments, in addition to the copy you submit to the official docket, to Murat Kavlak, Clean Air Markets Division, USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Mail Code: 6204J, Washington, DC 20460; telephone number: (202) 343-9634; fax number: (202) 343 2359.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, *regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Gene Sun, Clean Air Markets Division, USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Mail Code: 6204J, Washington, DC 20460; telephone number: (202) 343-9119; fax number: (202) 343 2359.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify the NODA by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain your comments, why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at

your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Web Site for Rulemaking Information

The EPA has previously established a Web site for the proposed rulemaking at <http://www.epa.gov/airtransport>. The Web site includes the proposed rulemaking actions and other related information that the public may find useful in addition to a link to this NODA.

III. New Information Placed in the Docket

The EPA has placed the information described below in the Proposed Transport Rule docket EPA-HQ-OAR-2009-0491.

- An updated version of NEEDS (v4.10). This database provides unit level characteristics of the electric generating units (EGUs) included in the IPM modeling. This includes both units affected by the Proposed Transport Rule and other EGUs (e.g. fossil-fired units smaller than 25 MWe, non-fossil-fired units, and fossil-fired units 25 MWe or greater in States not subject to the Proposed Transport Rule).
- User Guide to NEEDS v4.10.
- Detailed documentation of the IPM v4.10.
- New base case modeling run results with the updated IPM platform (v4.10): Summary Reports (for 2012, 2015, 2020, 2030) and unit level parsed file for 2012 (this modeling run is analogous to the base case run used to support the air quality modeling that determined which States significantly contributed to non-attainment or interference with maintenance in the Proposed Transport Rule).
- New policy case modeling run (identified as “TR SB Limited Trading”) with the updated IPM platform (v4.10): Summary Reports (for 2012, 2015, 2020, 2030) and unit level parsed file for 2014 (this modeling run is analogous to the preferred policy option run in the Proposed Transport Rule).
- New base case run results with the updated IPM platform (v4.10), as described above, except with the Energy Information Administration’s Annual Energy Outlook (AEO) 2010 gas resource assumptions: Summary Reports (for

2012, 2015, 2020, 2030) and unit level parsed file for 2012.

- New policy case (identified as “TR SB Limited Trading”) with the updated IPM platform (v4.10), as described above, except with AEO 2010 gas resource assumptions: Summary Reports (for 2012, 2015, 2020, 2030) and unit level parsed file for 2014.

These policy runs include the same State-level caps that EPA modeled in the Proposed Transport Rule. The caps have not been modified to account for any changes that the new modeling might suggest; they are merely provided for informational purposes to allow commenters to understand the impact that changes in the model platform have on the projected impacts of the caps.

- User Guide to IPM v4.10 output files (system summary report and parsed files).
- A description of how to build an alternative gas resource assumption input for modeling (an intermediate option between AEO 2010 and EPA gas resource assumptions).
- A summary of other planned input updates to be implemented in the final rulemaking (further described below).

EPA proposes to use this version of the IPM model in the final Transport Rule, modified to address any comments that EPA receives as part of the transport rulemaking effort and other power sector analysis. Changes from the projections relied on in the proposed rule, from using an updated model, could impact the final rulemaking in a number of ways including, but not limited to:

1. Changing emission projections that were used to determine which downwind areas have air quality concerns (i.e., non-attainment or maintenance) absent this rulemaking and to determine which States contribute to those problems.
2. Changing cost and emission projections used in the multi-factor test to determine the amount of emissions that represent significant contribution.

EPA believes that the assumptions regarding natural gas resources in the primary IPM v4.10 base case are the appropriate ones to use. EPA is however providing information on an alternative set of assumptions (AEO 2010), as well as a third way that gas price assumptions could be developed. EPA requests comment on the appropriate natural gas assumptions to use.

EPA intends to update the NO_x rates for fossil-fuel fired units in the final rule to reflect the more recent 2009 data. IPM v4.10 and the previous version of IPM used for the Proposed Transport Rule analysis relied on 2007 unit level NO_x rates. The updated NO_x rates will more

accurately portray the unit level control installations that have occurred at power plants during the past several years. In general, about 25% of coal plants have a 2009 NO_x rate that reflects a change from the 2007 that is greater than 0.1 lb/mmbtu and 10% of the 2007 value. The 2009 unit level data can be retrieved from EPA's Data and Maps at <http://camddataandmaps.epa.gov/gdm/>.

EPA also intends to update information related to new units, new installation of pollution controls, and planned retirements. Information on changes in these areas that EPA believes have happened since IPM v4.10 version of the model has been finalized is also included in the docket.

Between now and the time that EPA finalizes the Transport Rule, additional information used to support the final transport rulemaking may be placed in the docket.

Dated: August 25, 2010.

Dina W. Kruger,

Acting Director, Office of Atmospheric Programs.

[FR Doc. 2010-21699 Filed 8-31-10; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R2-ES-2009-0039]
[MO 92210-0-0008]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to List the White-Sided Jackrabbit as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the white-sided jackrabbit as endangered and to designate critical habitat under the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, we find that listing the full species, *Lepus callotis*, is not warranted at this time. We further find that listing one or both of the subspecies, *Lepus callotis callotis* and *Lepus callotis gaillardi*, is not warranted at this time. We find that listing the northern populations of the subspecies *L. c. gaillardi* as a Distinct Population

Segment is not warranted at this time. However, we ask the public to submit to us any new information that becomes available concerning the threats to the full species of the white-sided jackrabbit, or to either of the two currently recognized subspecies, or the species' habitat at any time.

DATES: The finding announced in this document was made on September 1, 2010.

ADDRESSES: This finding is available on the Internet at <http://www.regulations.gov> at Docket Number FWS-R2-ES-2009-0039. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, NM 87113. Please submit any new information, materials, comments, or questions concerning this finding to the above address.

FOR FURTHER INFORMATION CONTACT:

Wally Murphy, Field Supervisor, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, NM 87113; by telephone at 505-346-4781; or by facsimile at 505-346-2542. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Federal Lists of Endangered and Threatened Species that contains substantial scientific or commercial information that listing the species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we will determine that the petitioned action is: (1) Not warranted, (2) warranted, or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are threatened or endangered, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Species. We must publish this 12-month finding in the **Federal Register**.

Previous Federal Action

On October 15, 2008, we received a petition dated October 9, 2008, from WildEarth Guardians requesting that the

white-sided jackrabbit (*Lepus callotis*) be emergency listed as endangered under the Act and critical habitat be designated. Included in the petition was supporting information regarding the species' taxonomy and ecology, historical and current distribution, present status, and actual and potential causes of decline. We acknowledged the receipt of the petition in a letter to WildEarth Guardians, dated November 26, 2008. However, emergency listing a species is not a petitionable action under the Act or the Administrative Procedure Act (APA; 5 U.S.C. Subchapter II), and is treated solely as a petition to list. In our letter we also stated that we had reviewed the petition and determined that available information did not indicate that the species was at significant risk of well-being, thereby necessitating the need to provide the temporary protections under section 4(b)(7) the Act (i.e., emergency listing). In our letter, we advised the petitioner that, to the maximum extent practicable, we would address the petition within 90 days. During our review of the petition, we found that the majority of information cited in the petition was not readily available to us. Therefore, on January 13, 2009, we requested that the petitioner provide additional references. On February 13, 2009, the petitioner provided references. We received a 60-day notice of intent to sue from the petitioner dated January 28, 2009, and on April 15, 2009, the petitioner brought a lawsuit against us for failure to respond to the petition within 90 days of its receipt. On July 22, 2009, we published a 90-day finding indicating that the petition presented substantial information that listing the jackrabbit may be warranted, and initiated a status review (74 FR 36152). This notice constitutes the 12-month finding on the October 9, 2008, petition to list the white-sided jackrabbit as endangered.

The white-sided jackrabbit was first listed as a candidate (Category 2) for Federal listing as either a threatened or endangered species under the Act in the 1982 Candidate Notice of Review (47 FR 58454, December 30, 1982). Category 2 status included those taxa for which information in the Service's possession indicated that a proposed listing rule was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not available to support a proposed rule. In the Candidate Notice of Review published on February 28, 1996, we announced a revised list of animal and plant taxa that were regarded as candidates for possible addition to the