

United States shareholder of FC8, within the meaning of section 951(b), owns all of the common shares. FC8 and Corp G each use the calendar year as a taxable year. FP and Corp G are shareholders of FC8 for all of 2004. For 2004, FC8 has \$100x of earnings and profits, and income of \$100x with respect to which amounts are required to be included in gross income of United States shareholder under section 951(a). In 2004, FC8 distributes as a dividend \$20x to FP with respect to FP's preferred shares. FC8 makes no other distributions during that year.

(ii) *Analysis.* Pursuant to paragraph (e)(3)(ii)(B) of this section, the redemption rights of the preferred shares will not be treated as a discretionary distribution right under paragraph (e)(3)(ii)(A) of this section. Further, if FC8 were treated as having redeemed any preferred shares under paragraph (e)(3)(i) of this section, the redemption would be treated as a distribution to which section 301 applies under section 302(d) due to FP's constructive ownership of the common shares. However, pursuant to paragraph (e)(4) of this section, no amount of earnings and profits would be allocated to the preferred shareholders on the hypothetical distribution date, under paragraph (e)(3)(i) of this section, as a result of FC8's right to redeem, in whole or in part, the preferred shares. FC8's redemption rights with respect to the preferred shares cannot affect the allocation of earnings and profits between FC8's shareholders. Therefore, the redemption rights are not restrictions or other limitations within the meaning of paragraph (e)(5) of this section. Additionally, the non-discretionary distribution rights of the preferred shares are not restrictions or other limitations within the meaning of paragraph (e)(5) of this section. Therefore, if the total \$100x of earnings were distributed on December 31, 2004, \$20x would be distributed with respect to FP's preferred shares and the remainder, \$80x, would be distributed with respect to Corp G's common shares. Accordingly, under paragraph (e)(3)(i) of this section, Corp G's pro rata share of FC8's subpart F income is \$80 for taxable year 2004.

*Example 8. (i) Facts.* FC9, a controlled foreign corporation within the meaning of section 957(a), has outstanding 40 shares of common stock and 60 shares of 6-percent, nonparticipating, nonvoting, preferred stock with a par value of \$100x per share. Individual J, a United States shareholder of FC9, within the meaning of section 951(b), who uses the calendar year as a taxable year, owns 30 shares of the common stock, and 15 shares of the preferred stock during tax year 2004. The remaining 10 common shares and 45 preferred shares of FC9 are owned by Foreign Individual N, a foreign individual. Individual J and Individual N are shareholders of FC9 for all of 2004. For taxable year 2004, FC9 has \$1,000x of earnings and profits, and income of \$500x with respect to which amounts are required to be included in gross income of United States shareholders under section 951(a).

(ii) *Analysis.* The non-discretionary distribution rights of the preferred shares are not a restriction or other limitation within the meaning of paragraph (e)(5) of this

section. If the total \$1,000x of earnings and profits were distributed on December 31, 2004, \$360x ( $0.06 \times \$100x \times 60$ ) would be distributed with respect to FC9's preferred stock and \$640x ( $\$1,000x$  minus \$360x) would be distributed with respect to its common stock. Accordingly, of the \$500x with respect to which amounts are required to be included in gross income of United States shareholders under section 951(a), \$180x ( $\$360x/\$1,000x \times \$500x$ ) is allocated to the outstanding preferred stock and \$320x ( $\$640x/\$1,000x \times \$500x$ ) is allocated to the outstanding common stock. Therefore, under paragraph (e)(3)(i) of this section, Individual J's pro rata share of such amounts for 2004 is  $\$285x [(\$180x \times 15/60) + (\$320x \times 30/40)]$ .

(7) *Effective date.* These regulations apply for taxable years of a controlled foreign corporation beginning on or after January 1, 2005.

Approved: July 16, 2004.

**Nancy Jardini,**

*Acting Deputy Commissioner for Services and Enforcement.*

[FR Doc. 04-17907 Filed 8-5-04; 8:45 am]

**BILLING CODE 4830-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 51, 72, 73, 74, 77, 78, and 96

[OAR-2003-0053; FRL-7794-4]

RIN 2060-AL76

#### Availability of Additional Information Supporting the Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule)

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

**ACTION:** Notice of data availability for the Clean Air Interstate Rule (CAIR).

**SUMMARY:** The EPA is providing notice that it has placed in the docket for the CAIR (Docket No. OAR-2003-0053) additional information relevant to the rulemaking, including, among other things, a new modeling platform that EPA proposes to use to support the proposed rule. This new modeling platform consists of new meteorological data, updated emissions data, an updated air quality model, and revised procedures for projecting future air quality concentrations. The additional information also includes revised state NO<sub>x</sub> budgets.

**DATES:** Documents were placed in the CAIR docket on or about July 27, 2004. Comments must be received on or before August 27, 2004. Please refer to **SUPPLEMENTARY INFORMATION** for

additional information on the comment period.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OAR-2003-0053, by one of the following methods:

A. Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: [A-and-R-Docket@epa.gov](mailto:A-and-R-Docket@epa.gov)

D. Mail: Air Docket, Clean Air Interstate Rule, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

E. Hand Delivery: EPA Docket Center, 1301 Constitution Avenue, NW., Room B108, Washington, DC. 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. OAR-2003-0053. The 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.epa.gov/edocket>, 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 EDOCKET, [regulations.gov](http://www.epa.gov/regulations.gov), or e-mail. The EPA EDOCKET and the Federal [regulations.gov](http://www.epa.gov/regulations.gov) Web sites are "anonymous access" systems, 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 EDOCKET or [regulations.gov](http://www.epa.gov/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 is unable to read your comment and contact you for clarification due to technical difficulties, 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. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to Unit I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, 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 general questions concerning today's action, please contact Scott Mathias, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539-01, Research Triangle Park, NC 27711, telephone (919) 541-5310, e-mail at [mathias.scott@epa.gov](mailto:mathias.scott@epa.gov). For legal questions, please contact Howard J. Hoffman, U.S. EPA, Office of General Counsel, Mail Code 2344A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564-5582, e-mail at [hoffman.howard@epa.gov](mailto:hoffman.howard@epa.gov). For questions regarding the new air quality modeling platform, please contact Norm Possiel, U.S. EPA, Office of Air Quality Planning and Standards, Emissions Modeling and Analysis Division, D243-01, Research Triangle Park, NC 27711, telephone (919) 541-5692, e-mail at [possiel.norm@epa.gov](mailto:possiel.norm@epa.gov). For questions regarding the emissions inventories of electric generating units (EGUs) and State budgets, please contact Misha Adamantiades, U.S. EPA, Office of Atmospheric Programs, Clean Air Markets Division, Mail Code 6204J, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 343-9093, e-mail at [adamantiades.mikhail@epa.gov](mailto:adamantiades.mikhail@epa.gov). For questions regarding the emissions inventories for non-EGU sources, please contact Marc Houyoux, U.S. EPA, Office

of Air Quality Planning and Standards, Emissions Modeling and Analysis Division, Mail Code D205-01, Research Triangle Park, NC 27711, telephone (919) 541-4330, e-mail at [houyoux.marc@epa.gov](mailto:houyoux.marc@epa.gov).

**SUPPLEMENTARY INFORMATION:** Detailed background information describing the rulemaking may be found in two previously published notices:

1. Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule); Proposed Rule 69 FR 4566, January 30, 2004;
2. Supplemental Proposal for the Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Proposed Rule 69 FR 32684, June 10, 2004.

The information placed in the docket is also available for public review on the Web site for this rulemaking at <http://www.epa.gov/interstateairquality>. 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.

#### **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 Douglas Solomon, U.S. EPA, Office of Air Quality Planning and Standards, Emissions Modeling and Analysis Division, Mail Code C304-01, Research Triangle Park, NC 27711, telephone (919) 541-4132, e-mail [iaqrcomments@epa.gov](mailto:iaqrcomments@epa.gov).

##### *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](http://www.epa.gov/regulations) 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: Roberto Morales, U.S. EPA, Office of Air Quality Planning and Standards, Mail Code C404-02, Research Triangle Park, NC 27711, telephone (919) 541-0880, e-mail at [morales.roberto@epa.gov](mailto:morales.roberto@epa.gov), Attention Docket ID No. OAR-2003-0053.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- i. Identify the rulemaking 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 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 also established a Web site for this rulemaking at <http://www.epa.gov/interstateairquality>. The Web site includes the rulemaking actions and other related information that the public may find useful.

#### **III. New Information Placed in the Docket**

The EPA has placed the information described below in the CAIR docket OAR-2003-0053.

- CAIR Emissions Inventory Overview. This item provides an overview of the development of the updated 2001, 2010, and 2015 emissions inventories.
- Non-Electric Generating Unit (EGU) Nonpoint Control Development. This item describes the development of future base case emissions controls for stationary sources other than utilities.
- Non-EGU Nonpoint Growth Development. This item describes the development of growth factors used to project 2001 emissions for future-year scenarios for stationary sources other than utilities.

- Commercial Marine, Airports, and Trains Approach. This item describes the development of emissions estimates for these three nonroad mobile categories.

- Commercial Marine, Airports, and Trains Data. This file contains the supporting data used in developing emissions estimates for commercial marine vessels, airports and trains.

- Fire Temporal Documentation. This item describes the development of temporal profiles used in estimating emissions from fires.

- 2001 EGU Documentation. This item describes the development of 2001 emissions estimates for sources in the utility sector.

- BEIS3.12 Documentation. This item describes the Biogenic Emissions Inventory System (BEIS) version 3.12, with modifications used in developing the biogenic emissions estimates.

- Mobile NMIM Documentation. This item describes the National Mobile Inventory Model (NMIM).

- Mobile NMIM Usage for CAIR. This file describes how the National Mobile Inventory Model (NMIM) was used for CAIR air quality modeling.

- NEI 2001 to NEEDS Matches. This file contains data on how utilities contained in the 2001 National Emissions Inventory (NEI) were matched to those in the National Electric Energy Database System (NEEDS) 2003 database.

- PM<sub>2.5</sub> Emissions Speciation Updates. This file contains updated factors used to divide emissions of PM<sub>2.5</sub> into component species and a description of the sources of this information.

- Emissions Summary State-Sector Speciation 2001–2010–2015. This file contains annual emissions of VOC, CO, SO<sub>2</sub>, NO<sub>x</sub>, NH<sub>3</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> model species. Data are presented by State and by major sector for the 2001 Base Year, 2010 Base Case, and 2015 Base Case, not including 2010 and 2015 emissions from electric generating units.

- Emissions Summary State-Sector 2001–2010–2015. This file contains annual emissions of VOC, CO, SO<sub>2</sub>, NO<sub>x</sub>, NH<sub>3</sub>, and PM<sub>2.5</sub>. Data are presented by State and by major sector for the 2001 Base Year, 2010 Base Case, and 2015 Base Case, not including 2010 and 2015 emissions from electric generating units.

- Report on 2001 MM–5 Simulations. This report documents the simulations of the Mesoscale Meteorological Model (MM–5) for 2001 and includes an evaluation of selected MM–5 output meteorological data.

- Peer Review of the Community Multiscale Air Quality (CMAQ) Model.

This report contains a summary by the peer review panel of the December 2003 external peer review of CMAQ.

- Community Multiscale Air Quality (CMAQ) Model Documentation Reference. This item identifies publically available references for CMAQ.

- Use of Goddard Earth Observing System—CHEMistry (GEOS—CHEM) Model for CMAQ Boundary Conditions. This item is a presentation on the procedures for developing initial and boundary conditions for the Community Multiscale Air Quality (CMAQ) model from the GEOS—CHEM global chemistry model.

- Disk drive containing selected model input data sets and model codes for the updated CAIR modeling platform. The data on this disk are also available for ftp download. Contact Warren Peters at [peters.warren@epa.gov](mailto:peters.warren@epa.gov) to access these data.

- Configuration of CMAQ for CAIR Annual Simulations. This item identifies the horizontal and vertical configuration of CMAQ as applied by EPA for simulating the CAIR emissions scenarios.

- EPA\_OAQPS CMAQ Evaluation for 2001. This report describes an evaluation by the EPA Office of Air Quality Planning and Standards of CMAQ, as applied for 2001.

- EPA\_ORD Evaluation of CMAQ for 2001. This item contains a presentation on the evaluation by the EPA Office of Research and Development of CMAQ, as applied for 2001.

- Revised Speciated Model Attainment Test. This item describes the revised procedures for the Speciated Modeled Attainment Test (SMAT) and Design Value (DV) averaging technique.

- National Electric Energy Database System (NEEDS), which contains unit level data used in EPA modeling applications.

- Correction to State NO<sub>x</sub> Budgets.

The EPA may place additional documents in the docket, and if EPA does so, EPA will announce their availability by posting a notice on the CAIR Web site <http://www.epa.gov/interstateairquality>.

Dated: July 30, 2004.

**Stephen D. Page,**

*Director, Office of Air Quality Planning and Standards.*

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**BILLING CODE 6560–50–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket No. FEMA–P–7653]

#### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required.