

FACT SHEET
Proposed Revisions to the Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone

ACTION

EPA is proposing technical adjustments to the final Cross-State Air Pollution Rule (CSAPR). CSAPR is a sound, achievable, market-based program that will deliver strong public health protections. No changes are being proposed or contemplated to the core elements of the program. The proposed revisions will not affect the significant air quality improvements slated to occur under CSAPR, nor have a major impact on CSAPR's goal to reduce interstate transport of pollution to help downwind states in their efforts to attain and maintain the National Ambient Air Quality Standards (NAAQS). Instead, these revisions provide important technical adjustments that will promote the development of allowance market liquidity and smooth the transition from the Clean Air Interstate Rule (CAIR) programs to the CSAPR programs starting in 2012. The revisions reflect new information with technical merit that was brought to the EPA by stakeholders from a small number of units after the final CSAPR was published.

The proposal revises some discrepancies affecting state budgets in Florida, Louisiana, Michigan, Mississippi, Nebraska, New Jersey, New York, Texas, and Wisconsin and new unit set-asides in Arkansas and Texas. This action revises unit-level allocations in Alabama, Indiana, Kansas, Kentucky, Ohio and Tennessee to better account for utility consent decrees. The proposal also amends the assurance penalty provisions for all states within the programs thus increasing the opportunity for market-based compliance options until January 2014. Finally, the proposed rule revises typographical errors in the final CSAPR.

The proposal will be open to public comment for 30 days from publication in the Federal Register.

STATE BUDGETS AND NEW UNIT SET ASIDES

Florida – This action would revise assumptions in the CSAPR analysis used to determine Florida's budget that did not reflect the unavailability of a nuclear unit. These revisions would result in an increase to Florida's 2012 ozone-season NO_x budget with corresponding revisions to assurance levels and new unit set-asides.

Louisiana—This action would revise assumptions in the CSAPR analysis used to determine Louisiana's budget that did not account for operational requirements at specific units. These revisions would result in an increase to Louisiana's ozone season NO_x budget with corresponding revisions to assurance levels and new unit set-asides.

Michigan – This action would revise an assumption in the CSAPR analysis used to determine Michigan's budget that included a selective catalytic reduction (SCR) control on a source in Michigan that did not have an SCR. This revision would result in an increase to Michigan's annual NO_x budget with corresponding revisions to assurance levels and new unit set-asides. This revised assumption would also affect the calculation of Michigan's potential ozone season

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NO_x budget if that state is included in the CSAPR ozone season NO_x program as proposed in the Supplemental Notice of Proposed Rulemaking (76 FR 40662, July 11, 2011). EPA will address this issue, along with other public comments submitted on that rule, when the Agency finalizes it later this year.

Mississippi—This action would revise assumptions in the CSAPR analysis used to determine Mississippi's budget that did not account for operational requirements at specific units. These revisions would result in an increase to Mississippi's ozone season NO_x budget with corresponding revisions to assurance levels and new unit set-asides.

Nebraska – This action would revise an assumption in the CSAPR analysis used to determine Nebraska's budget that included an SCR control on a source in Nebraska that did not have an SCR. This revision would result in an increase to Nebraska's annual NO_x budget with corresponding revisions to assurance levels and new unit set-asides.

New Jersey – This action would revise assumptions in the CSAPR analyses used to determine New Jersey's budgets that included SCR and scrubber controls on a source in New Jersey that did not have either as well as an assumption that did not reflect operational requirements at specific units. This revision would result in an increase to New Jersey's annual SO₂ budget, annual NO_x budget, and ozone season NO_x budget with corresponding revisions to assurance levels and new unit set-asides.

New York – This action would revise assumptions in the CSAPR analyses used to determine New York's budget that did not account for operational requirements at specific units. These revisions would result in an increase to New York's annual SO₂ budget, annual NO_x budget, and ozone season NO_x budget with corresponding revisions to assurance levels and new unit set-asides.

Texas – This action would revise two assumptions in the CSAPR analysis used to determine Texas' SO₂ budget. First, three flue gas desulfurization (FGD, or scrubber) controls were included on sources that did not have FGDs. Second, full flue gas treatment was assumed in existing scrubbers at five facilities. These technical adjustments would result in an increase to Texas' SO₂ budget with corresponding revisions to assurance levels and new unit set-asides. In addition, this action would revise assumptions that did not reflect operational requirements at specific units. This revision would result in an additional increase to Texas' ozone season NO_x and annual NO_x budgets with corresponding revisions to assurance levels and new unit set-asides.

Wisconsin – This action revises an assumption in the CSAPR analyses used to determine Wisconsin's SO₂ budget that included a scrubber control in 2014 on a source in Wisconsin that is not expected to have a scrubber online by 2014. This revision would result in an increase to Wisconsin's SO₂ budget with corresponding revisions to assurance levels and new unit set-asides. In addition, this action would revise an assumption that included an SCR control on a source in Wisconsin that did not have an SCR and result in an increase to Wisconsin's annual

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NO_x budget with corresponding revisions to assurance levels and new unit set-asides. This revised assumption would also affect the calculation of Wisconsin's potential ozone season NO_x budget if that state is included in the CSAPR ozone season NO_x program as proposed in the Supplemental Notice of Proposed Rulemaking (76 FR 40662, July 11, 2011). EPA will address this issue, along with other public comments submitted on that rule, when the Agency finalizes it later this year.

Finally, this action would recalculate the new unit set asides for Texas and Arkansas to include two planned facilities, assuring those new facilities of proper new unit allocations.

ASSURANCE PENALTY PROVISIONS

Under the final CSAPR, assurance provisions were included to provide sources within each state with limited, but necessary, flexibility so that they can continue to comply with this rule in years in which more fossil fuel generation occurs than projected in the average base case year.

This proposed rule amends the assurance penalty provisions for all states within the programs so they start in 2014, instead of 2012, to promote the development of allowance market liquidity as these revisions are finalized, thereby smoothing the transition from the CAIR programs to the CSAPR programs in 2012.

CONSENT DECREES

EPA is proposing to revise certain unit-level allocations in six states – Alabama, Indiana, Kansas, Kentucky, Ohio and Tennessee – affected by federally enforceable consent decrees to prevent CSAPR allocations from exceeding the terms of these judicial actions. This action does not add to any state budgets but ensures that these allowances can be fully available for statewide compliance with CSAPR.

FUTURE REVISIONS

EPA is seeking all relevant information that may support similar revisions by the comment deadline on this rulemaking, so that the Agency may consider whether a subsequent and timely rulemaking process should address any further revisions to the final CSAPR state budgets.

BACKGROUND

The CSAPR replaces CAIR starting January 1, 2012. Sources covered by the CSAPR annual SO₂ and NO_x programs must comply – that is, surrender allowances to cover their 2012 annual emissions – in March 2013. Sources covered by the NO_x ozone season program must comply on November 30, 2012 by surrendering allowances sufficient to cover their ozone season NO_x emissions. EPA issued CAIR on May 12, 2005 and the CAIR federal implementation plans (FIPs) on April 26, 2006. In 2008, the US Court of Appeals for the DC Circuit remanded CAIR to the Agency, leaving existing CAIR programs in place while directing EPA to replace them as rapidly as possible with a new rule consistent with the Clean Air Act.

The CSAPR was proposed July 6, 2010. EPA held three public hearings on the proposed rule during the 60-day comment period. EPA also issued three notices of data availability (NODAs)

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to provide additional opportunities for public comment on data, modeling, and other key aspects of the rule. The Agency received hundreds of detailed comments from states, environmental and public health groups, industry, and other stakeholders during the comment periods for the proposed rule and NODAs. The final CSAPR was finalized on July 6, 2011.

HOW TO COMMENT

EPA will accept comment on the proposal for 30 days after publication in the *Federal Register*, unless a public hearing is requested in which event comments must be received within 45 days. Comments, identified by Docket ID No. EPA-HQ-OAR-2009-0491, may be submitted by one of the following methods:

- www.regulations.gov: follow the on-line instructions for submitting comments.
- E-mail: Comments may be sent by electronic mail (e-mail) to a-and-r-Docket@epa.gov.
- Fax: Fax your comments to: 202-566-1741.
- Mail: Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460.
- Hand Delivery or Courier: Deliver your comments to: EPA Docket Center, 1301, Constitution Ave., NW, Room 3334, Washington, D.C. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.
- Public Hearing. If requested, a public hearing will be held on October 28, 2011. The time, location and details of the hearing will be announced separately. Written statements (duplicate copies preferred) should be submitted to Docket ID No. EPA-HQ-OAR-2009-0491.

FOR MORE INFORMATION

To download a copy of the proposed rule, go to www.epa.gov/crossstaterule.

For more information contact: Gabrielle Stevens, U.S. Environmental Protection Agency, Clean Air Markets Division, MC 6204J, Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460, telephone (202) 343-9252, e-mail at stevens.gabrielle@epa.gov.