

appropriate action to collect the amount of the advance payment from the beneficiary.

(2) If an advance payment was not made to the beneficiary and the beneficiary does not submit a final payment request in accordance with paragraph (b) of this section within 60 days of the date the application was approved, the application will be closed and no future HISA benefits will be furnished to the beneficiary for that application. Before closing the application, VA will send a notice to the beneficiary of the intent to close the file. If the beneficiary does not respond with a suitable update and explanation for the delay within 30 days, VA will close the file and provide a final notice of closure. The notice will include information about the right to appeal the decision.

(e) *Failure to make approved improvements or structural alterations.* If an inspection conducted pursuant to paragraph (c)(1) of this section reveals that the improvement or structural alteration has not been completed as indicated in the final payment request, VA may take appropriate action to collect the amount of the advance payment from the beneficiary. VA will not seek to collect the amount of the advance payment from the beneficiary if the beneficiary provides documentation indicating that the project was not completed due to the fault of the contractor, including bankruptcy or misconduct of the contractor.

(Authority: 38 U.S.C. 501, 1717)

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900-0188.)

[FR Doc. 2014-28373 Filed 12-2-14; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 51, 52, and 97

[EPA-HQ-OAR-2009-0491; FRL-9919-71-OAR]

RIN 2060-AS40

### Rulemaking To Amend Dates in Federal Implementation Plans Addressing Interstate Transport of Ozone and Fine Particulate Matter

**AGENCY:** Environmental Protection Agency.

**ACTION:** Interim final rule with request for comment.

**SUMMARY:** The Environmental Protection Agency (EPA) is amending the *Code of*

*Federal Regulations* (CFR) to correctly reflect the compliance deadlines for the Cross-State Air Pollution Rule (CSAPR) as revised by the effect of the action of the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit or Court) granting the EPA's motion to lift the previous stay of CSAPR and delay (toll) its deadlines by three years. With these ministerial amendments, the CFR text will correctly indicate that CSAPR's Phase 1 emissions budgets apply in 2015 and 2016 and that CSAPR's Phase 2 emissions budgets and assurance provisions apply in 2017 and beyond. The ministerial amendments similarly correct dates in the CFR text related to specific activities required or permitted under CSAPR by regulated sources, the EPA, and states, as well as dates related to the sunset of the Clean Air Interstate Rule (CAIR) upon its replacement by CSAPR. The amendments are necessary to clarify the timing of requirements and elections under CSAPR as shown in the CFR text so that compliance can begin in an orderly manner on January 1, 2015, consistent with the Court's order. The EPA is also taking comment on the amendments being made in this interim final rule and will consider whether to retain these revisions as promulgated or whether further revisions are necessary to make the CSAPR compliance deadlines consistent with the Court's order.

**DATES:** This final rule is effective on December 3, 2014. The EPA will consider comments on this interim final rule received on or before February 2, 2015.

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

- [www.regulations.gov](http://www.regulations.gov): Follow the online instructions for submitting comments.
- Email: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
- Fax: (202) 566-9744.
- Mail: EPA Docket Center, Air and Radiation Docket, Mail Code 2822T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Attn: Docket ID No. EPA-HQ-OAR-2009-0491.
- Hand delivery: EPA Docket Center, William Jefferson Clinton Building West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004, Attn: 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. 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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through [www.regulations.gov](http://www.regulations.gov) your email 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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.

**Docket:** The EPA is including this action in Docket ID No. EPA-HQ-OAR-2009-0491, which is also the docket for the original CSAPR rulemaking and other related rulemakings. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Docket, William Jefferson Clinton Building West, Room 3334, 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 and Radiation Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Beth A. Murray, Clean Air Markets Division, Office of Atmospheric Programs, U.S. Environmental Protection Agency, MC 6204M, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone

number: (202) 343-9115; email address: *murray.beth@epa.gov*. Electronic copies of this document can be accessed through the EPA Web site at: *http://www.epa.gov/airmarkets*.

**SUPPLEMENTARY INFORMATION:** *Regulated Entities*. Entities regulated by CSAPR are fossil fuel-fired boilers and

stationary combustion turbines that serve generators producing electricity for sale, including combined cycle units and units operating as part of systems that cogenerate electricity and other useful energy output. Regulated categories and entities include:

Category	NAICS * code	Examples of potentially regulated industries
Industry .....	221112	Fossil fuel electric power generation.

\* North American Industry Classification System

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated. This table lists the types of entities of which the EPA is now aware that could potentially be regulated. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by CSAPR, you should carefully examine the applicability provisions in 40 CFR 97.404, 97.504, 97.604, and 97.704. If you have questions regarding the applicability of CSAPR to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

*Judicial Review.* Judicial review of this rule is available only by filing a petition for review in the D.C. Circuit on or before February 2, 2015. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of EPA final action under the CAA that is “nationally applicable” or that the Administrator determines is of “nationwide scope or effect” is available only in the D.C. Circuit. Because this rule amends regulations that apply to sources in 28 states, it is “nationally applicable” within the meaning of section 307(b)(1). For the same reason, the Administrator determines that this rule is of “nationwide scope or effect” for purposes of section 307(b)(1). CAA section 307(b)(1) also provides that filing a petition for reconsideration by the Administrator of this rule does not affect the finality of the rule for the purposes of judicial review, does not extend the time within which a petition for judicial review may be filed, and does not postpone the effectiveness of the rule. Under CAA section 307(b)(2), the requirements established by this rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

*Outline.* The following outline is provided to aid in locating information in this preamble.

I. Overview

- II. Specific Amendments to CSAPR Dates
  - A. Emissions Limitations and Assurance Provisions
  - B. Monitoring System Certification and Emissions Reporting
  - C. Allocation and Recordation of Emission Allowances
  - D. Optional SIP Revisions
  - E. Sunsetting of CAIR
- III. Legal Authority, Administrative Procedures, and Findings of Good Cause
- IV. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer Advancement Act
  - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
  - K. Congressional Review Act

**I. Overview**

The EPA issued the Cross-State Air Pollution Rule (CSAPR) <sup>1</sup> in July 2011 to address CAA requirements concerning interstate transport of air pollution and to replace the previous Clean Air Interstate Rule (CAIR) which the D.C. Circuit remanded to the EPA for replacement.<sup>2</sup> Following the original rulemaking, CSAPR was amended by three further rules known as the Supplemental Rule,<sup>3</sup> the First Revisions

Rule,<sup>4</sup> and the Second Revisions Rule.<sup>5</sup> As amended, CSAPR requires 28 states to limit their state-wide emissions of sulfur dioxide (SO<sub>2</sub>) and/or nitrogen oxides (NO<sub>x</sub>) in order to reduce or eliminate the states’ unlawful contributions to fine particulate matter and/or ground-level ozone pollution in other states. The emissions limitations are defined in terms of maximum state-wide “budgets” for emissions of annual SO<sub>2</sub>, annual NO<sub>x</sub>, and/or ozone-season NO<sub>x</sub> by each state’s large electricity generating units (EGUs). The emissions budgets are implemented in two phases of generally increasing stringency, with the Phase 1 budgets originally scheduled to apply to emissions in 2012 and 2013 and the Phase 2 budgets originally scheduled to apply to emissions in 2014 and later years.

As the mechanism for achieving compliance with the emissions limitations, CSAPR establishes federal implementation plans (FIPs) that require large EGUs in each affected state to participate in one or more new emissions trading programs that supersede the existing CAIR emissions trading programs. Interstate trading of CSAPR’s emission allowances is permitted, but the rule includes “assurance provisions” designed to ensure that individual states’ emissions in each Phase 2 compliance period do not exceed the states’ respective emissions budgets for that period by more than specified “variability limits.”

CSAPR allows states to elect to revise their state implementation plans (SIPs) to modify or replace the FIPs while continuing to rely on the rule’s trading programs for compliance with the emissions limitations, and establishes certain requirements and deadlines

<sup>1</sup> Federal Implementation Plans; Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 FR 48208 (August 8, 2011).

<sup>2</sup> See *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir.), modified, 550 F.3d 1176 (D.C. Cir. 2008).

<sup>3</sup> Federal Implementation Plans for Iowa, Michigan, Missouri, Oklahoma, and Wisconsin and Determination for Kansas Regarding Interstate

Transport of Ozone, 76 FR 80760 (December 27, 2011).

<sup>4</sup> Revisions to Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone, 77 FR 10324 (February 21, 2012).

<sup>5</sup> Revisions to Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone, 77 FR 34830 (June 12, 2012).

related to those optional SIP revisions.<sup>6</sup> The rule also contains provisions that sunset CAIR compliance requirements on a schedule coordinated with the implementation of CSAPR compliance requirements.

Certain industry and state and local government petitioners challenged CSAPR in the D.C. Circuit and filed motions seeking a stay of the rule pending judicial review.<sup>7</sup> On December 30, 2011, the Court granted a stay of the rule, ordering the EPA to continue administering CAIR on an interim basis.<sup>8</sup> In a subsequent decision on the merits, the Court vacated CSAPR based on a subset of petitioners' claims, but on April 29, 2014, the U.S. Supreme Court reversed that decision and remanded the case to the D.C. Circuit for further proceedings.<sup>9</sup> Throughout the initial round of D.C. Circuit proceedings and the ensuing Supreme Court proceedings, the stay remained in place and the EPA has continued to implement CAIR. Following the Supreme Court decision, in order to allow CSAPR to replace CAIR in an equitable and orderly manner while further D.C. Circuit proceedings are held to resolve petitioners' remaining claims, the EPA filed a motion asking the D.C. Circuit to lift the stay and to toll by three years all CSAPR compliance deadlines that had not passed as of the date of the stay

order.<sup>10</sup> On October 23, 2014, the Court granted the EPA's motion.<sup>11</sup>

This action makes ministerial amendments to the dates in the CSAPR regulatory text in 40 CFR parts 51, 52, and 97 to clarify how the EPA will implement the rule consistent with the D.C. Circuit's order lifting the stay and tolling the rule's deadlines. Generally, this action tolls by three calendar years dates and years in the regulatory text as previously amended that had not passed as of December 30, 2011, the date of the stay order.<sup>12</sup> The ministerial amendments restore parties and the rule to the status that would have existed but for the stay albeit three years later, preserve the rule's internal consistency, render moot questions as to whether the Court's order might not have tolled some of the individual dates being amended, and provide clarity to stakeholders and the public, thereby permitting orderly implementation of the rule.

The most fundamental amendments make clear that, consistent with the Court's order, compliance with CSAPR's Phase 1 emissions budgets is now required in 2015 and 2016 (instead of 2012 and 2013) and compliance with the rule's Phase 2 emissions budgets and assurance provisions is now required in 2017 and beyond (instead of 2014 and beyond).<sup>13</sup> Other amendments toll specific deadlines for sources to certify monitoring systems and to start reporting emissions, for the EPA to allocate and record emission allowances, and for states to take optional steps to modify or replace their CSAPR FIPs through SIP revisions.

Dates are also tolled in the regulatory provisions that sunset CAIR upon its replacement by CSAPR, and a new deadline is set for removal of CAIR NO<sub>x</sub> allowances from allowance tracking system accounts.<sup>14</sup> The EPA's authority to issue these ministerial amendments is not affected by the continuation of proceedings at the D.C. Circuit to resolve petitioners' remaining claims regarding CSAPR. No regulatory text is amended other than dates and no substantive changes to CSAPR are being made. Section II of this notice provides additional information about the specific amendments.

As permitted under section 307(d)(1) of the CAA where good cause exists, these amendments to CSAPR's dates are being promulgated as a final rule without prior notice or opportunity for public comment, and the amendments are effective immediately upon publication of this notice in the **Federal Register**. At the same time, the EPA is also seeking comment on the content of the amendments and the consistency of the revisions with the Court's order granting the EPA's motion to lift the stay and toll CSAPR compliance deadlines by three years. The EPA is not reopening for comment any provisions of CSAPR other than the dates and years amended in this interim final rule. The EPA will consider any comments received and issue a final rule that either confirms these revisions or makes any further revisions that may be needed for implementation on the revised compliance schedule. Section III of this notice provides additional information on this rulemaking procedure and on the EPA's findings of good cause to issue an immediately effective final rule without prior notice or opportunity for public comment.

## II. Specific Amendments to CSAPR Dates

This action amends dates appearing in regulatory text in 40 CFR parts 51, 52, and 97. Most of the amendments, addressing virtually all aspects of implementation of the CSAPR FIPs and trading programs, toll dates in the CSAPR trading program provisions in subparts AAAAA, BBBBB, CCCCC, and DDDDD of part 97 and in the additional CSAPR FIP provisions in §§ 52.38 and 52.39. The other amendments,

<sup>6</sup> CSAPR does not restrict states' ability to adopt SIP revisions to meet their emissions limitations through mechanisms other than the rule's trading programs.

<sup>7</sup> Separate challenges seeking judicial review of the Supplemental Rule, the First Revisions Rule, and the Second Revisions Rule are currently being held in abeyance at the D.C. Circuit.

<sup>8</sup> Order, Document #1350421, *EME Homer City Generation, L.P. v. EPA*, No. 11-1302 (D.C. Cir. issued Dec. 30, 2011). Although the Court did not explicitly address the stay order's effect on requirements established by the Supplemental Rule, the EPA issued a notice indicating that, because of the close relationship between CSAPR as originally promulgated and the Supplemental Rule, the Agency would treat both rules in the same manner and would not expect covered sources in the states addressed by the Supplemental Rule to comply with the Supplemental Rule's requirements for the duration of the stay. 77 FR 5710 (February 6, 2012). As discussed below, now that the Court has lifted the stay, the EPA expects covered sources in states addressed by the Supplemental Rule to comply with the Supplemental Rule's requirements consistent with the new compliance schedule established by the Court's order and this interim final rule.

<sup>9</sup> *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014), reversing 696 F.3d 7 (D.C. Cir. 2012).

<sup>10</sup> Respondents' Motion to Lift the Stay Entered on December 30, 2011, Document #1499505, *EME Homer City Generation, L.P. v. EPA*, No. 11-1302 (D.C. Cir. filed June 26, 2014) [EPA Motion]; see also Reply in Further Support of Motion to Lift Stay, Document #1508914, *EME Homer City Generation, L.P. v. EPA*, No. 11-1302 (D.C. Cir. filed August 22, 2014) [EPA Reply]. Both documents are available in the docket.

<sup>11</sup> Order, Document #1518738, *EME Homer City Generation, L.P. v. EPA*, No. 11-1302 (D.C. Cir. issued Oct. 23, 2014).

<sup>12</sup> As discussed in section II of this preamble, the amendments also toll certain dates in the regulatory text before December 30, 2011, that are used to establish deadlines occurring after December 30, 2011.

<sup>13</sup> The EPA is also administratively converting the 2012-vintage and 2013-vintage CSAPR emission allowances previously recorded in tracking system accounts into 2015-vintage and 2016-vintage allowances, respectively. In light of the Court's order tolling compliance deadlines and the applicable Phase 1 and Phase 2 emissions budget periods, and given the need for the vintages of the rule's emission allowances to correctly reflect the revised emissions budget periods, the EPA considers this one-time conversion to be a reasonable exercise of the Agency's plenary authority under 40 CFR 97.427, 97.527, 97.627, and 97.727 to correct errors in CSAPR tracking system accounts.

<sup>14</sup> The EPA removed CAIR annual NO<sub>x</sub> and ozone-season NO<sub>x</sub> allowances from tracking system accounts before the stay, as required under the rule, but then restored the allowances to the accounts following the Court's order to continue implementing CAIR during the stay. CSAPR does not call for removal of CAIR SO<sub>2</sub> allowances, which are the same SO<sub>2</sub> allowances used in the Title IV Acid Rain Program.

addressing the sunset of CAIR obligations and the CAIR trading programs, toll or otherwise reset dates in scattered sections of parts 51 and 52. No regulatory text other than dates is amended and no substantive changes to CSAPR are being made. The remainder of this section discusses the functions of the various dates being changed and identifies the specific CFRs being amended.

The EPA interprets the Court's order lifting the stay as already tolling CSAPR deadlines that had not passed as of the date of the Court's previous stay order, with the consequence that the corresponding regulatory text amendments in this action do not alter legal requirements or options but merely amend regulatory text to accurately reflect the timing of legal requirements and options as revised by the Court. With respect to the possibility that some of the dates amended in this action might not have been tolled by the Court's order, all of the date changes are required to serve the purpose of the rule—to address states' interstate transport obligations in an efficient and equitable manner—and the purpose of the Court's order—to allow the rule to be implemented in accordance with the EPA's motion. The rule's various dates are elements of a carefully integrated design, and uncoordinated changes could disrupt that design and lead to inefficient and inequitable results. Therefore, to the extent that any of the date changes in this action may be outside the scope of the tolling already ordered by the Court, those changes are nevertheless necessary to provide for efficient, equitable, and orderly implementation of the rule consistent with the Court's order. The necessity of specific date changes is further discussed below.

#### A. Emissions Limitations and Assurance Provisions

The most fundamental amendments in this action toll the years in which compliance with CSAPR's emissions limitations and assurance provisions is required, as well as the years in which the rule's Phase 1 and Phase 2 emissions budgets, Phase 1 and Phase 2 "set-asides,"<sup>15</sup> and Phase 2 variability limits apply. The compliance period definitions drive many of the rule's specific requirements, and the budget applicability dates are key specifications affecting the rule's stringency. These date changes were explicitly requested

and discussed in the EPA's motion to lift the stay and toll compliance deadlines by three years.<sup>16</sup> As explained in the motion, tolling these deadlines by three years returns the rule and parties to the status quo that would have existed but for the stay, provides parties with sufficient time to prepare for implementation, and avoids unnecessary regulatory burden by retaining a calendar-year schedule for the rule's annual trading programs. This rule makes no substantive changes to the emissions limitations or assurance provisions other than the revision of the deadlines.

The EPA also explained in the motion that CSAPR would be implemented as previously amended by the Supplemental Rule, the First Revisions Rule, and the Second Revisions Rule, and that dates first established or amended in those later rulemakings would also be tolled.<sup>17</sup> Tolling of these dates is necessary to preserve CSAPR's internal consistency and to provide for efficient and equitable implementation. For example, the Supplemental Rule established dates specifying the applicable compliance periods for the Phase 1 and Phase 2 ozone-season emissions budgets, set-asides, and variability limits that the Supplemental Rule established for five states.<sup>18</sup> If dates first established by the Supplemental Rule were not tolled, in 2015 and 2016 these five states would be subject to Phase 2 emissions budgets while all other states would be subject to Phase 1 emissions budgets, an inequitable outcome. In another example, the First Revisions Rule deferred applicability of CSAPR's assurance provisions from Phase 1 to Phase 2 in order to encourage greater trading activity during Phase 1 and thereby ensure a smooth transition from CAIR.<sup>19</sup> If dates amended by the First Revisions Rule were not tolled from their previously amended starting points, the assurance provisions would apply in 2015, contrary to the rationale supporting their prior deferral until Phase 2.

The date changes relating to the compliance deadlines and applicable periods for the rule's emissions limitations and assurance provisions are reflected in amendments to the following sections of 40 CFR:

- Sections 97.406(c)(3)(i), 97.506(c)(3)(i), 97.606(c)(3)(i), and

97.706(c)(3)(i) (applicable periods for emissions limitations);

- Sections 97.406(c)(3)(ii), 97.506(c)(3)(ii), 97.606(c)(3)(ii), and 97.706(c)(3)(ii) (applicable periods for assurance provisions);

- Sections 97.410(a), 97.510(a), 97.610(a), and 97.710(a) (applicable periods for Phase 1 and Phase 2 emissions budgets and set-asides);

- Sections 97.410(b), 97.510(b), 97.610(b), and 97.710(b) (applicable periods for Phase 2 variability limits); and

- Sections 97.425(b)(1), 97.525(b)(1), 97.625(b)(1), and 97.725(b)(1) (assurance provision administration deadlines).

#### B. Monitoring System Certification and Emissions Reporting

Several amendments in this action toll CSAPR dates that define deadlines by which owners and operators of affected units must meet monitoring system certification requirements and begin submitting quarterly emissions reports. These date changes are necessary to coordinate the timing of these specific requirements with the revised timing of the rule's emissions limitations and to avoid requiring sources to engage in certification and emissions reporting activities before those activities serve a useful purpose. The EPA's motion indicated that the deadlines for CSAPR's monitoring and reporting obligations would be tolled if the Court granted the motion.<sup>20</sup> This rule makes no substantive changes to the monitoring and reporting requirements other than the revision of the deadlines.

The amendments to the certification and reporting deadlines toll several dates in the regulatory text earlier than December 30, 2011. The reason for tolling these dates is that their function in the rule is to define deadlines originally scheduled to occur after December 30, 2011. Specifically, the original regulatory text provides that units in operation for at least six months before implementation of the rule's first emissions limitations—defined in the existing regulatory text as "unit[s] that commence[] commercial operation before July 1, 2011"—become subject to reporting obligations for annual emissions occurring as of January 1, 2012, and are required to complete monitoring system certification by that same date.<sup>21</sup> In contrast, units in

<sup>16</sup> See, e.g., EPA Motion at 1, 14–16, 18.

<sup>17</sup> See, e.g., EPA Motion at 14, 16–17.

<sup>18</sup> The five states with emissions limitations established in the Supplemental Rule are Iowa, Michigan, Missouri, Oklahoma, and Wisconsin.

<sup>19</sup> See 77 FR 10324, 10330–32 (February 21, 2012).

<sup>20</sup> See EPA Motion at 14 and note 5.

<sup>21</sup> See, e.g., 40 CFR 97.430(b)(1) and 97.434(d)(1)(i). The analogous compliance deadline in the original regulatory text for requirements related to ozone-season NO<sub>x</sub> emissions is May 1, 2012. See 40 CFR 97.530(b)(1) and 97.534(d)(1)(i) and (2)(ii)(A).

<sup>15</sup> CSAPR sets aside portions of each state's emissions budgets for potential allocation to new units in the state. For states with areas of Indian country within their borders, the rule establishes additional set-asides for new units in those areas.

operation for less than six months before implementation of the rule's first emission limitations—defined in the existing regulatory text as “unit[s] that commence[ ] commercial operation on or after July 1, 2011”—are given potentially later deadlines.<sup>22</sup> Similarly, because the reporting deadlines for the newer units are defined in part by reference to events that could have occurred before implementation of the rule's first emissions limitations, in order to avoid creation of reporting deadlines before January 1, 2012, the existing regulatory text contains language providing that reporting obligations do not apply with respect to “the third or fourth quarter of 2011.”<sup>23</sup> This action amends these 2011 dates, changing them to 2014 dates consistent with the change in initial implementation of the rule's emissions limitations from 2012 to 2015 as ordered by the Court. If these amendments were not made, the regulatory text could require some sources commencing commercial operation on or after July 1, 2011, and before January 1, 2015, to begin reporting under CSAPR prior to 2015, a result that would be unnecessary, inefficient, inequitable, and inconsistent with the Court's order.

The date changes related to CSAPR's compliance deadlines for monitoring system certification and the applicable periods for emissions reporting are reflected in amendments to the following sections of 40 CFR:

- Sections 97.430(b)(1), 97.530(b)(1), 97.630(b)(1), and 97.730(b)(1) (certification deadlines for units that commence commercial operation at least six months before the first compliance period);
- Sections 97.430(b)(2), 97.530(b)(2)–(3), 97.630(b)(2), and 97.730(b)(2) (certification deadlines for newer units);
- Sections 97.434(d)(1)(i), 97.534(d)(1)(i) and (2)(ii)(A), 97.634(d)(1)(i), and 97.734(d)(1)(i) (applicable periods for emissions reporting by units that commence commercial operation at least six months before the first compliance period); and
- Sections 97.434(d)(1)(ii), 97.534(d)(1)(ii) and (2)(ii)(B), 97.634(d)(1)(ii), and 97.734(d)(1)(ii) (applicable periods for emissions reporting by newer units).

### C. Allocation and Recordation of Emission Allowances

Some of the amendments in this action toll dates defining CSAPR

deadlines by which the EPA must allocate and record emission allowances. The date changes are necessary to coordinate these deadlines with the rule's compliance deadlines as revised by the Court's order and to preserve states' opportunities under the rule to substitute their own preferred allowance allocations for the EPA's default allocations. More specifically, to facilitate allowance trading and compliance planning activities, the rule's recordation deadlines require recordation of most CSAPR allowances up to four years in advance of the respective compliance periods. The rule also establishes default procedures by which the EPA allocates allowance quantities equal to each state's emissions budgets among the EGUs in the state, but after the first compliance year the rule permits states to replace the EPA's default allocations for most units through SIP revisions, as discussed below.<sup>24</sup> States' opportunities to replace the default allocations extend only to allowances that have not yet been recorded. If the dates in the regulatory text defining the recordation deadlines were not tolled consistent with the revised compliance deadlines established by the Court's order, the unrevised recording deadlines could unnecessarily prevent states from controlling the allocations of allowances for certain compliance periods because the allowances would already have been recorded. This rule makes no substantive changes to the allowance allocation and recordation provisions other than the revision of the deadlines.

The EPA notes that the allocation date amendments include tolling a particular phrase from “after 2011” to “after 2014”.<sup>25</sup> The phrase concerns allowance allocations to units that cease operations, and the effect of the change is that by default (*i.e.*, unless the state revises the allocations) a retiring unit will continue to receive allocations of allowances for five compliance periods after the unit's last year of operation, which in the case of a unit retiring between 2010 and 2014 would be the rule's first five compliance periods from 2015 through 2019. The phrase “after 2011” indicates a date after December 30, 2011, making this a deadline that had not passed as of the date of the stay, and the EPA's reply regarding the motion to lift the stay explicitly

confirmed the intention to toll these specific dates.<sup>26</sup>

The EPA also notes that some of the recordation deadlines being amended were initially established in the Supplemental Rule. These deadlines apply to the recordation of allowances for CSAPR's first two compliance periods and affect only the ozone-season allowances for the five states covered by the Supplemental Rule.<sup>27</sup> If the recordation deadlines established in the Supplemental Rule were not tolled—specifically, the March 26, 2012, recordation deadline for allowances for the rule's second compliance year—while the analogous deadlines established for other states in the original CSAPR rulemaking were tolled, these five states alone would lack the opportunity to revise allowance allocations for the rule's second compliance period, an inappropriate, unnecessary, and inequitable result.

The date changes related to administrative deadlines and applicable periods for allocation and recordation of allowances are reflected in amendments to the following sections of 40 CFR:

- Sections 97.411(a)(1), 97.511(a)(1), 97.611(a)(1), and 97.711(a)(1) (applicable periods for default allowance allocations to existing units);
- Sections 97.411(a)(2), 97.511(a)(2), 97.611(a)(2), and 97.711(a)(2) (applicable periods for default allowance allocations to retired units);
- Sections 97.411(b)(1), 97.511(b)(1), 97.611(b)(1), and 97.711(b)(1) (administrative deadlines for default allowance allocations from new unit set-asides);
- Sections 97.411(b)(2), 97.511(b)(2), 97.611(b)(2), and 97.711(b)(2) (administrative deadlines for allowance allocations from Indian country new unit set-asides);
- Sections 97.411(c)(1), 97.511(c)(1), 97.611(c)(1), and 97.711(c)(1) (applicable periods for correction of incorrect allowance allocations);
- Sections 97.412(a), 97.512(a), 97.612(a), and 97.712(a) (applicable periods for default allowance allocations from new unit set-asides);
- Sections 97.412(b), 97.512(b), 97.612(b), and 97.712(b) (applicable periods for allocations from Indian country new unit set-asides);
- Sections 97.421(a)–(f), 97.521(a)–(f), 97.621(a)–(f), and 97.721(a)–(f) (administrative deadlines and applicable periods for allowance recordation for existing units); and
- Sections 97.421(g)–(i), 97.521(g)–(i), 97.621(g)–(i), and 97.721(g)–(i)

<sup>22</sup> See, e.g., 40 CFR 97.430(b)(2) and 97.434(d)(1)(ii).

<sup>23</sup> See, e.g., 40 CFR 97.434(d)(1)(ii).

<sup>24</sup> States are not permitted to revise the recordation provisions or the provisions governing allocation of allowances from the Indian country new unit set-asides.

<sup>25</sup> See, e.g., 40 CFR 97.411(a)(2).

<sup>26</sup> See EPA Reply, attached Supplemental Declaration of Reid Harvey, ¶7.

<sup>27</sup> See 40 CFR 97.521(a)–(b).

(administrative deadlines and applicable periods for allowance recordation from new unit set-asides and Indian country new-unit set-asides).

#### D. Optional SIP Revisions

Some of the amendments in this action toll deadlines for filings by states that elect to submit SIP revisions to modify or replace the CSAPR FIPs in order to replace the default allowance allocations. The rule sets deadlines for submission of these SIP revisions (and for associated notifications) that are coordinated with the rule's deadlines for allowance recordation. Tolling of these dates is necessary to preserve this coordination and to restore to states the same SIP revision opportunities that would have existed if the rule had not been stayed. The EPA's reply regarding the motion to lift the stay explained in detail the intention for these deadlines to be tolled if the Court granted the motion.<sup>28</sup> This rule makes no substantive changes to the provisions providing optional SIP revisions other than the revision of the deadlines.

As indicated in the EPA's reply, only the SIP revision and notification deadlines that had not passed as of the date of the stay would be tolled. This restriction applies to a CSAPR deadline of October 17, 2011—which is not being tolled—for states to notify the EPA of their intent to submit SIP revisions modifying allowance allocations for the rule's second compliance period (except with respect to obligations established in the Supplemental Rule). For the twelve states that notified the EPA by that deadline of their intent to submit SIP revisions modifying allowance allocations for the second compliance year, the deadline for submission of those SIP revisions is being tolled from April 1, 2012, to April 1, 2015.<sup>29</sup> The states that did not provide notification prior to the October 17, 2011, deadline will not have an opportunity to modify allowance allocations for that compliance year. Pursuant to a November 7, 2011, deadline in the rule—which is also not being tolled—the EPA duly recorded allowances for those states using the EPA's default allocations, and removal of those allowances from tracking system accounts to provide states with a new reallocation opportunity would be inequitable because allowance trades affecting these allowances have already taken place. Separate deadlines

applicable to all states relating to optional SIP revisions to revise allowance allocations for later compliance periods are being tolled.<sup>30</sup>

The EPA notes that some of the SIP revision-related deadlines being amended were initially established in the Supplemental Rule. These deadlines apply to SIP revisions replacing default allowance allocations for CSAPR's second compliance period but affect only the ozone-season allowances for the five states covered by the Supplemental Rule.<sup>31</sup> Specifically, the regulatory text as currently amended provides that these states must notify the EPA by March 6, 2012, of their intent to modify allowance allocations for the rule's second compliance year and must submit the corresponding SIP revisions by October 1, 2012. If these deadlines established in the Supplemental Rule were not tolled, while the April 1, 2012, deadline described above for other states was tolled, these five states alone would lack the opportunity to revise allowance allocations for the rule's second compliance period, an inappropriate, unnecessary, and inequitable result.

The date changes related to notification and SIP revision filing deadlines for states' that elect to modify or replace the FIPs are reflected in amendments to the following sections of 40 CFR:

- Sections 52.38(a)(3) and (b)(3), and 52.39(d) and (g) (SIP revisions to modify the FIP default allowance allocations for the second compliance year);
- Sections 52.38(a)(4) and (b)(4), and 52.39(e) and (h) (SIP revisions to modify the FIP default allowance allocations for the third compliance year and beyond);
- Sections 52.38(a)(5) and (b)(5), and 52.39(f) and (i) (SIP revisions to replace the FIPs for the third compliance year and beyond); and
- Sections 97.421(b), 97.521(b), 97.621(b), and 97.721(b) (interaction of SIP revision-related filing deadlines and allowance recordation deadlines for the second compliance year).

#### E. Sunsetting of CAIR

The remaining amendments in this action toll or reset deadlines associated with the sunsetting of CAIR. In 2008, the DC Circuit remanded CAIR to the EPA for replacement.<sup>32</sup> Since that

remand, the EPA has continued to implement CAIR in accordance with that and subsequent Court orders, first while CSAPR was developed and in the period leading up to its planned 2012 implementation, and then while CSAPR was stayed. When CSAPR is implemented in 2015, CAIR will sunset in compliance with the terms of the 2008 remand. The amendments in this action toll the dates in the existing regulatory text reflecting the originally planned 2012 sunset, replacing them with dates reflecting the 2015 sunset consistent with the Court's order lifting the stay of CSAPR.

Several additional CAIR-related amendments reset deadlines for removal of CAIR NO<sub>x</sub> allowances from tracking system accounts. To prevent possible confusion over how many allowances are available for CSAPR compliance after CSAPR supersedes CAIR, CSAPR as originally issued provided for post-2011-vintage CAIR NO<sub>x</sub> allowances to be removed from tracking system accounts on November 7, 2011 (before the stay). The EPA removed the allowances by that deadline but then restored the allowances to the accounts in order to allow CAIR to continue to be implemented consistent with the Court's stay order. This action sets a new deadline of March 3, 2015 for removal of post-2014-vintage CAIR NO<sub>x</sub> allowances, serving the original purpose of avoiding confusion over the number of allowances available for CSAPR compliance. The date changes related to the sunsetting of CAIR and removal of CAIR NO<sub>x</sub> allowances from tracking system accounts are reflected in amendments to the following sections of 40 CFR:

- Section 51.121(r)(2) (NO<sub>x</sub> SIP Call obligations);
- Sections 51.123(ff) and 51.124(s) (CAIR obligations);
- Sections 52.35(f) and 52.36(e) (CAIR FIPs);
- Sections 52.440(c) and 52.441(b) (Delaware);
- Sections 52.484(c) and 52.485(b) (District of Columbia);
- Section 52.984(c) (Louisiana);
- Sections 52.1186(c) and 52.1187(b) (Michigan);
- Sections 52.1584(c) and 52.1585(b) (New Jersey);
- Sections 52.2240(c) and 52.2241(b) (Tennessee);
- Sections 52.2283(b) and 52.2284(b) (Texas); and
- Sections 52.2587(c) and 52.2588(b) (Wisconsin).

<sup>28</sup> See EPA Reply, attached Supplemental Declaration of Reid Harvey, ¶¶8–11.

<sup>29</sup> The twelve states are Alabama, Florida, Kansas, Louisiana, Maryland, Mississippi, Missouri, Nebraska, New York, Ohio, Pennsylvania, and South Carolina.

<sup>30</sup> For example, the deadline to submit SIP revisions addressing allowance allocations for CSAPR's third and fourth compliance periods as revised by the Court's order (*i.e.*, 2017 and 2018) is being tolled from December 1, 2012, to December 1, 2015.

<sup>31</sup> See 40 CFR 52.38(b)(3)(v).

<sup>32</sup> *North Carolina v. EPA*, 550 F.3d 1176, 1178 (DC Cir. 2008).

### III. Legal Authority, Administrative Procedures, and Findings of Good Cause

The EPA's authority to issue the amendments in this action is provided by CAA sections 110 and 301 (42 U.S.C. 7410 and 7601).

The EPA is taking this action as a final rule without prior notice or opportunity for public comment because the EPA finds that the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) good cause exemption applies here. In general, the APA requires that general notice of proposed rulemaking shall be published in the **Federal Register**. Such notice must provide an opportunity for public participation in the rulemaking process. However, the APA does provide an avenue for an agency to directly issue a final rulemaking in certain specific instances. This may occur, in particular, when an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. *See* 5 U.S.C. 553(b)(B).

While CAA section 307(d)(1)(B) also provides that, in general, actions to revise FIPs under CAA section 110(c) are subject to the procedural requirements set forth in section 307(d), including publication of a notice of proposed rulemaking in the **Federal Register** and provision of an opportunity for public comment, section 307(d)(1) also provides that section 307(d) does not apply in the case of any rule or circumstance referred to in APA section 553(b)(B). The EPA finds for good cause under APA section 553(b)(B) that provision of such notice and opportunity for comment in this case is impracticable or unnecessary.

The EPA finds that providing notice and an opportunity for comment before promulgation of the amendments in this final action is impracticable or unnecessary for the following reasons.<sup>33</sup> First, to the extent that this action amends dates in the regulatory text that have already been tolled by the Court's order, providing notice and an opportunity for comment is unnecessary because the revisions are merely a ministerial act intended to implement the Court's order and it would generally serve no useful purpose to provide an

opportunity for public comment or a public hearing on this issue, particularly in the very short timeframe in which the EPA is required to begin implementing CSAPR consistent with the Court's order. The EPA interprets the DC Circuit's order as having already reset all legal deadlines under CSAPR, as amended, that had not passed as of December 30, 2011, the date of the stay.<sup>34</sup> The EPA's action to amend the regulatory text consistent with the effect of the Court's order merely makes the regulatory text consistent with the actual legal requirements as revised by the Court. Such consistency promotes regulatory clarity prior to the revised compliance dates, including the January 1, 2015, start date for compliance with the rule's emissions limitations. Delaying clarification of the regulatory text in order to allow time to conduct notice-and-comment procedures would result in regulatory text that does not accurately reflect the legally effective compliance dates until a rulemaking could be completed. Because completion of a rulemaking with notice-and-comment procedures would not occur until after the start of the first compliance period, the delay in clarification of the regulatory text would create confusion that could disrupt orderly implementation of the rule, contrary to the purpose of the Court's order and the public interest.

Second, to the extent that this action may amend any CSAPR dates that have not already been tolled by the Court's order, providing notice and an opportunity for public comment is impracticable because the ten-week interval between the Court's order and the January 1, 2015, start of compliance is insufficient time for completion of notice-and-comment rulemaking. As discussed in section II of this preamble, several of this action's amendments change dates that were initially established or amended in the Supplemental Rule or the First Revisions Rule, and these dates must be tolled in the current action for consistency with other tolled dates in order to allow equitable and orderly implementation of CSAPR as already amended by these other rules.

Some petitioners responding to the EPA's motion suggested that the Court may lack the power to toll dates in CSAPR's current regulatory text that

were not established in the original CSAPR rulemaking under review by the Court (*e.g.*, dates finalized in the Supplemental and Revisions Rules). If correct, this position would mean that, in this action, with respect to these particular dates, the EPA not only would be altering the appearance of the dates in the regulatory text but also would be amending the effective legal dates themselves. The EPA disagrees with petitioners' narrow view of the Court's equitable powers, but finds that, if this action is indeed amending the effective legal dates, good cause exists to make the amendments without prior notice or opportunity for comment because the changes are necessary for orderly implementation of the rule consistent with the Court's order, and it is impracticable to provide notice and an opportunity for comment prior to the start of implementation. In a similar vein, as also discussed in section II above, the EPA notes that several of this action's amendments toll dates in the regulatory text before December 30, 2011. The EPA interprets the Court's order as tolling these dates because, as explained in section II, their function in the rule is to establish deadlines after December 30, 2011. However, in these instances as well, if this action is indeed amending the effective legal dates, the EPA finds that good cause exists to make the amendments without prior notice or opportunity for comment for the same reasons just stated.

As permitted by APA section 553(d) upon a finding of good cause, the EPA is also making this action tolling the dates in the CSAPR regulatory text effective immediately upon publication in the **Federal Register**. The EPA finds good cause to make this action immediately effective for the following reasons. The Court's order lifting the stay of CSAPR and tolling the rule's deadlines allows implementation of the rule's emission limitations to begin on January 1, 2015. Promptly commencing implementation on January 1, 2015, is in the public interest because the rule will help states meet their interstate transport obligations under the CAA and protect air quality for millions of Americans. Finally, immediately amending the dates in the CSAPR regulatory text—*i.e.*, before the January 1, 2015, start of implementation—in order to clarify and make internally consistent the timing of the rule's requirements and elections will promote orderly implementation consistent with the Court's order.

As just described, the EPA finds good cause to take this final action without prior notice or opportunity for public comment and to make this action

<sup>33</sup> The EPA's finding that providing notice and an opportunity for comment before promulgation of the regulatory text amendments in this final action is impracticable, unnecessary, or contrary to the public interest also applies for purposes of section 808(2) of the Congressional Review Act, 5 U.S.C. 808(2), as referenced in section IV.K of this preamble.

<sup>34</sup> The EPA's motion was clear that the requested relief encompassed tolling of not only the "key compliance deadlines" concerning applicability of CSAPR's emissions budgets and assurance provisions but also the "additional deadlines applicable to the EPA, the states, and utilities for reporting and other generally ministerial actions." *See* EPA Motion at 14 and note 5.

effective immediately upon publication in the **Federal Register**. However, the EPA is also implementing this action on an interim basis only and is providing notice and an opportunity for comment on the content of the amendments. In particular, the EPA requests comment on whether, in order to be consistent with the Court's order tolling CSAPR deadlines by three years, the provisions of this interim rule should become permanent or, alternatively, whether any date or year in the regulatory text amended by the interim final rule should either be restored to the date or year as it appeared in the regulatory text prior to promulgation of the interim final rule or should be changed to a date or year different from the date or year set in the interim final rule. The EPA is not reopening for comment any provisions of CSAPR other than the dates and years amended in the interim final rule for consistency with the Court's order tolling CSAPR deadlines by three years. Issuance of this interim final rule, while also requesting comment, enables CSAPR to be implemented in an orderly manner beginning January 1, 2015, consistent with the Court's order and also provides public notice and an opportunity for comment as to whether these revisions should be made permanent or whether further amendments to the regulatory text may be necessary to comply with the Court's order. The EPA anticipates issuing a final rule confirming these revisions or making any further amendments to the CSAPR regulatory text that may be necessary following consideration of any comments received.

#### **IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

##### *A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

##### *B. Paperwork Reduction Act*

This action does not impose any new information collection burden under the Paperwork Reduction Act. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0667. This action simply tolls the deadlines of

CSAPR by three years, including the deadlines for the rule's information collection requirements, consistent with the order of the DC Circuit lifting the previous stay of the rule.

##### *C. Regulatory Flexibility Act*

This action is not subject to the Regulatory Flexibility Act (RFA). The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements because the Agency has invoked the APA "good cause" exemption under 5 U.S.C. 553(b), as discussed in section III of this preamble.

##### *D. Unfunded Mandates Reform Act*

This action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. This action simply tolls the deadlines of CSAPR by three years consistent with the order of the DC Circuit lifting the previous stay of the rule.

##### *E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This action simply tolls the deadlines of CSAPR by three years consistent with the order of the DC Circuit lifting the previous stay of the rule.

##### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175. This action simply tolls the deadlines of CSAPR by three years, consistent with the order of the DC Circuit lifting the previous stay of the rule. Thus, Executive Order 13175 does not apply to this action. Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA consulted with tribal officials while developing CSAPR. A summary of that consultation is provided in the preamble for CSAPR, 76 FR 48208, 48346 (August 8, 2011).

##### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it simply tolls the deadlines of the CSAPR FIPs implementing previously promulgated health or safety-based federal standards, consistent with the order of the DC Circuit lifting the previous stay of the rule.

##### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

##### *I. National Technology Transfer Advancement Act*

This rulemaking does not involve technical standards.

##### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. This action simply tolls the deadlines of CSAPR by three years, consistent with the order of the DC Circuit lifting the previous stay of the rule. Consistent with Executive Order 12898 and the EPA's environmental justice policies, the EPA considered effects on low-income, minority, and indigenous populations while developing CSAPR. The process and results of that consideration are described in the preamble for CSAPR, 76 FR 48208, 48347-52 (August 8, 2011).

##### *K. Congressional Review Act*

This action is subject to the Congressional Review Act (CRA), and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking

procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in section III of this preamble, including the basis for that finding.

#### List of Subjects

##### 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

##### 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

##### 40 CFR Part 97

Environmental protection, Administrative practice and procedure, Air pollution control, Electric power plants, Nitrogen oxides, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: November 21, 2014.

**Gina McCarthy**,  
Administrator.

For the reasons stated in the preamble, parts 51, 52, and 97 of chapter I of title 40 of the *Code of Federal Regulations* are amended as follows:

#### PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

**Authority:** 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

##### §§ 51.121, 51.123, and 51.124 [Amended]

- 2. Part 51 is amended by removing “2012” and adding in its place “2015” in the following places:
- a. Section 51.121(r)(2);
  - b. Section 51.123(ff)(2) through (4); and
  - c. Section 51.124(s)(2).

##### §§ 51.123 and 51.124 [Amended]

■ 3. Part 51 is further amended by removing “December 31, 2011” and adding in its place “December 31, 2014” in the following places:

- a. Section 51.123(ff)(1) introductory text; and
- b. Section 51.124(s)(1) introductory text;

##### § 51.123 [Amended]

■ 4. Section 51.123 is amended in paragraphs (ff)(3) and (4) by removing “November 7, 2011” and adding in its place March 3, 2015”.

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 5. The authority citation for part 52 continues to read as follows:

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

##### §§ 52.35, 52.36, 52.440, 52.441, 52.484, 52.485, 52.984, 52.1186, 52.1187, 52.1584, 52.1585, 52.2240, 52.2241, 52.2283, 52.2284, 52.2587, and 52.2588 [Amended]

- 6. Part 52 is amended by removing “2012” and adding in its place “2015” in the following places:
- a. Section 52.35(f)(2) through (4);
  - b. Section 52.36(e)(2);
  - c. Section 52.440(c)(2) through (4);
  - d. Section 52.441(b)(2);
  - e. Section 52.484(c)(2) through (4);
  - f. Section 52.485(b)(2);
  - g. Section 52.984(c)(2) through (4);
  - h. Section 52.1186(c)(2) through (4);
  - i. Section 52.1187(b)(2);
  - j. Section 52.1584(c)(2) through (4);
  - k. Section 52.1585(b)(2);
  - l. Section 52.2240(c)(2) through (4);
  - m. Section 52.2241(b)(2);
  - n. Section 52.2283(b)(2) and (3);
  - o. Section 52.2284(b)(2);
  - p. Section 52.2587(c)(2) through (4); and
  - q. Section 52.2588(b)(2).

##### §§ 52.35, 52.36, 52.440, 52.441, 52.484, 52.485, 52.984, 52.1186, 52.1187, 52.1584, 52.1585, 52.2240, 52.2241, 52.2283, 52.2284, 52.2587, and 52.2588 [Amended]

- 7. Part 52 is further amended by removing “December 31, 2011” and adding in its place “December 31, 2014” in the following places:
- a. Section 52.35(f)(1) introductory text;
  - b. Section 52.36(e)(1) introductory text;
  - c. Section 52.440(c)(1) introductory text;
  - d. Section 52.441(b)(1) introductory text;
  - e. Section 52.484(c)(1) introductory text;
  - f. Section 52.485(b)(1) introductory text;
  - g. Section 52.984(c)(1) introductory text;
  - h. Section 52.1186(c)(1) introductory text;

- i. Section 52.1187(b)(1) introductory text;
- j. Section 52.1584(c)(1) introductory text;
- k. Section 52.1585(b)(1) introductory text;
- l. Section 52.2240(c)(1) introductory text;
- m. Section 52.2241(b)(1) introductory text;
- n. Section 52.2283(b)(1) introductory text;
- o. Section 52.2284(b)(1) introductory text;
- p. Section 52.2587(c)(1) introductory text; and
- q. Section 52.2588(b)(1) introductory text.

##### §§ 52.35, 52.440, 52.484, 52.984, 52.1186, 52.1584, 52.2240, 52.2283, and 52.2587 [Amended]

- 8. Part 52 is further amended by removing “November 7, 2011” and adding in its place March 3, 2015” in the following places:
- a. Section 52.35(f)(3) and (4);
  - b. Section 52.440(c)(3) and (4);
  - c. Section 52.484(c)(3) and (4);
  - d. Section 52.984(c)(3) and (4);
  - e. Section 52.1186(c)(3) and (4);
  - f. Section 52.1584(c)(3) and (4);
  - g. Section 52.2240(c)(3) and (4);
  - h. Section 52.2283(b)(3); and
  - i. Section 52.2587(c)(3) and (4).

##### §§ 52.38 and 52.39 [Amended]

- 9. Sections 52.38 and 52.39 are amended as follows:
- a. By removing “2020” wherever it appears and adding in its place “2023”;
  - b. By removing “2019” wherever it appears and adding in its place “2022”;
  - c. By removing “2018” wherever it appears and adding in its place “2021”;
  - d. By removing “2017” wherever it appears and adding in its place “2020”;
  - e. By removing “2016” wherever it appears and adding in its place “2019”;
  - f. By removing “2015” wherever it appears and adding in its place “2018”;
  - g. By removing “2014” wherever it appears and adding in its place “2017”;
  - h. By removing “2013” wherever it appears and adding in its place “2016”;
  - i. By removing “2012” wherever it appears and adding in its place “2015”.

#### PART 97—FEDERAL NO<sub>x</sub> BUDGET TRADING PROGRAM AND CAIR NO<sub>x</sub> AND SO<sub>2</sub> TRADING PROGRAMS

■ 10. The authority citation for part 97 continues to read as follows:

**Authority:** 42 U.S.C. 7401, 7403, 7410, 7426, 7601, and 7651, *et seq.*

**§§ 97.406, 97.506, 97.606, and 97.706**  
**[Amended]**

- 11. Sections 97.406, 97.506, 97.606, and 97.706 are amended as follows:
  - a. By removing “2014” wherever it appears and adding in its place “2017”; and
  - b. By removing “2012” wherever it appears and adding in its place “2015”.

**§§ 97.410, 97.510, 97.610, and 97.710**  
**[Amended]**

- 12. Sections 97.410, 97.510, 97.610, and 97.710 are amended as follows:
  - a. By removing “2014” wherever it appears and adding in its place “2017”;
  - b. By removing “2013” wherever it appears and adding in its place “2016”; and
  - c. By removing “2012” wherever it appears and adding in its place “2015”.

**§§ 97.411, 97.511, 97.611, and 97.711**  
**[Amended]**

- 13. Sections 97.411, 97.511, 97.611, and 97.711 are amended as follows:
  - a. By removing “2012” wherever it appears and adding in its place “2015”; and
  - b. By removing “after 2011” wherever it appears and adding in its place “after 2014”.

**§§ 97.412, 97.512, 97.612, and 97.712**  
**[Amended]**

- 14. Sections 97.412, 97.512, 97.612, and 97.712 are amended by removing “2012” wherever it appears and adding in its place “2015”.

**§§ 97.421, 97.521, 97.621, and 97.721**  
**[Amended]**

- 15. Sections 97.421, 97.521, 97.621, and 97.721 are amended as follows:
  - a. By removing “2019” wherever it appears and adding in its place “2022”;
  - b. By removing “2018” wherever it appears and adding in its place “2021”;
  - c. By removing “2017” wherever it appears and adding in its place “2020”;
  - d. By removing “2016” wherever it appears and adding in its place “2019”;
  - e. By removing “2015” wherever it appears and adding in its place “2018”;
  - f. By removing “2014” wherever it appears and adding in its place “2017”;
  - g. By removing “2013” wherever it appears and adding in its place “2016”; and
  - h. By removing “2012” wherever it appears and adding in its place “2015”.

**§§ 97.425, 97.525, 97.625, and 97.725**  
**[Amended]**

- 16. Sections 97.425, 97.525, 97.625, and 97.725 are amended by removing “2015” wherever it appears and adding in its place “2018”.

**§§ 97.430, 97.530, 97.630, and 97.730**  
**[Amended]**

- 17. Sections 97.430, 97.530, 97.630, and 97.730 are amended as follows:
  - a. By removing “2012” wherever it appears and adding in its place “2015”; and
  - b. By removing “July 1, 2011” wherever it appears and adding in its place “July 1, 2014”.

**§§ 97.434, 97.534, 97.634, and 97.734**  
**[Amended]**

- 18. Sections 97.434, 97.534, 97.634, and 97.734 are amended as follows:
  - a. By removing “2012” wherever it appears and adding in its place “2015”;
  - b. By removing “the third or fourth quarter of 2011” wherever it appears and adding in its place “the third or fourth quarter of 2014”; and
  - c. By removing “July 1, 2011” wherever it appears and adding in its place “July 1, 2014”.

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**ENVIRONMENTAL PROTECTION**  
**AGENCY****40 CFR Part 52****[EPA-R05-OAR-2014-0747; FRL-9919-83-Region 5]****Approval and Promulgation of Air Quality Implementation Plans; Indiana****AGENCY:** Environmental Protection Agency.**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on September 17, 2014, to revise the Indiana state implementation plan (SIP). The submission revises the Indiana Administrative Code (IAC) definition of “References to the Code of Federal Regulations,” from the 2011 edition to the 2013 edition. There is also a revised definition of “Board.”

**DATES:** This rule is effective on February 2, 2015, unless EPA receives adverse comments by January 2, 2015. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2014-0747 by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.

2. *Email:* [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).3. *Fax:* (312) 692-2450.4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2014-0747. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or email. The [www.regulations.gov](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 email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your email 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, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](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 publicly