Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–1065 to read as follows:

§ 165.T05–1065 Safety Zone; Oregon Inlet, Dare County, NC.

(a) *Location.* The following area is a safety zone: all navigable waters of Oregon Inlet, within 100 yards of active demolition work and demolition equipment, along the old Herbert C. Bonner Bridge, which follows a line beginning at approximate position 35°46′47″ N, 75°32′41″ W, then southeast to 35°46′37″ N, 75°32′33″ W, then southeast to 35°46′09″ N, 75°31′59″ W, then southeast to 35°46′03″ N, 75°31′51″ W, then southeast to 35°46′01″ N, 75°31′40″ W (NAD 1983) in Dare County, NC.

(b) *Definitions.* As used in this section—

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port North Carolina (COTP) for the enforcement of the safety zone.

Captain of the Port means the Commander, Sector North Carolina.

Demolition crews means persons and vessels involved in support of demolition.

(c) *Regulations.* (1) The general regulations governing safety zones in § 165.23 apply to the area described in paragraph (a) of this section.

(2) With the exception of demolition crews, entry into or remaining in this safety zone is prohibited.

(3) All vessels within this safety zone when this section becomes effective must depart the zone immediately.

(4) The Captain of the Port, North Carolina can be reached through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina at telephone number 910–343–3882.

(5) The Coast Guard and designated security vessels enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 MHz) and channel 16 (156.8 MHz).

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This regulation will be enforced from March 4, 2019, through March 30, 2020.

(f) *Public notification.* The Coast Guard will notify the public of the active enforcement times at least 48 hours in advance by transmitting Broadcast Notice to Mariners via VHF–FM marine channel 16.

Dated: March 4, 2019.

Bion B. Stewart,

Captain, U. S. Coast Guard Captain of the Port North Carolina.

[FR Doc. 2019–04219 Filed 3–7–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA–HQ–OAR–2018–0595; FRL–9990–33–OAR]

RIN 2060–AU08

Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_X SIP Call

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is revising some of the regulations that were originally promulgated in 1998 to implement the NO_X SIP Call. The revisions give covered states greater flexibility concerning the form of the nitrogen oxides (NO_X) emissions monitoring requirements that the states must include in their state implementation plans (SIPs) for certain emissions sources. Other revisions remove obsolete provisions and clarify the remaining regulations but do not substantively alter any current regulatory requirements.

DATES: This rule is effective as of March 8, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0595. All documents in the docket are listed on the *http://www.regulations.gov* website. 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 electronically through *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: David Lifland, Clean Air Markets Division, Office of Atmospheric Programs, U.S. Environmental Protection Agency, MC 6204M, 1200 Pennsylvania Avenue NW, Washington, DC 20460; 202–343–9151; *lifland.david@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Overview of the Action

This section provides an overview of the action, including a summary of the amendments and their estimated impacts as well as information concerning potentially affected entities and statutory authority.

Section II provides a summary of the proposal for this action, including background information. In section III, EPA summarizes and responds to comments received on the proposal. EPA's final action is set forth in section IV, and section V discusses the estimated impacts of the amendments. Section VI addresses reviews required under various statutes and executive orders as well as determinations concerning applicable rulemaking and judicial review provisions.

A. Summary of Amendments and Estimated Impacts

On September 27, 2018, EPA published in the **Federal Register** a proposal [1] to amend the existing NO_X SIP Call regulations [2] to allow states to amend their SIPs, for NO_X SIP Call purposes only, to establish emissions monitoring requirements for certain units other than requirements to monitor according to 40 CFR part 75. This action finalizes the amendment generally as proposed, with minor further revisions discussed in section IV of this document. Ultimately, such alternate monitoring requirements could be made available to sources through states' revisions to their SIPs, with consequent potential reductions in some units' monitoring costs. The group of units affected under the SIPs adopted to meet the NO_X SIP Call comprises both existing and new electricity generating units (EGUs) as well as certain other existing and new industrial units (non-EGUs). Within this overall group, the set of existing units potentially affected by the amendment includes approximately 285 non-EGU boilers and combustion turbines and approximately 30 EGUs—specifically, combustion turbines that are considered large EGUs for NO_X SIP Call purposes and that are not required to monitor according to part 75 under other programs such as the Acid Rain Program or a Cross-State Air Pollution Rule (CSAPR) trading program. States, not EPA, will decide whether to revise the monitoring requirements in their SIPs as allowed under this amendment, and EPA lacks complete information on the remaining monitoring requirements that the sources would face if a state decides to make such revisions, leaving considerable uncertainty regarding the amount of monitoring cost reductions that may occur. However, using information from comments and assumptions concerning the sources' remaining monitoring requirements, EPA estimates annual monitoring cost reductions from this action in the range of $1.2 million to $3.3 million. Because this action is not expected to cause any change in emissions or air quality, the monitoring cost reductions will constitute net benefits from the action.

In addition, EPA is eliminating several obsolete provisions of the NO_X SIP Call regulations that no longer have any substantive effect on the regulatory requirements faced by states or sources and is making clarifying amendments—all of which EPA considers non-substantive—to the remaining regulations. The additional amendments also include updates to several cross-references in the CSAPR regulations that refer to an obsolete provision of the NO_X SIP Call regulations. The specific additional amendments discussed in the proposal are identified in section II.C. of this document, and the amendments are being finalized generally as proposed, with minor further revisions discussed in section IV of this document.

B. Potentially Affected Entities

This action does not apply directly to any emissions sources but instead amends existing regulatory requirements applicable to the SIPs of Alabama, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. If an affected jurisdiction chooses to revise its SIP in response to these amendments, sources in the jurisdiction could be indirectly affected if they are subject to emissions monitoring requirements for purposes of the NO_X SIP Call and are not independently subject to comparable requirements under another program such as the Acid Rain Program or a CSAPR trading program. Generally, the types of sources that could be indirectly affected are fossil fuel-fired boilers and stationary combustion turbines with heat input capacities over 250 million British thermal units per hour (mmBtu/hr) or serving electricity generators with capacities over 25 megawatts (MW). Sources meeting these criteria operate in a variety of industries, including but not limited to the following:

NAICS * code	Examples of industries with potentially affected sources
221112 ...	Fossil fuel-fired electric power generation.
3112	Grain and oilseed milling.
3221	Pulp, paper, and paperboard mills.
3241	Petroleum and coal products manufacturing.
3251	Basic chemical manufacturing.
3311	Iron and steel mills and ferroalloy manufacturing.
6113	Colleges, universities, and professional schools.

* North American Industry Classification System.

C. Statutory Authority

Statutory authority for this action is provided by Clean Air Act (CAA) sections 110 and 301, 42 U.S.C. 7410 and 7601, which also provided statutory authority for issuance of the existing NO_X SIP Call regulations that EPA is amending in this action.[3]

II. Summary of the Proposal

This section summarizes the proposal for this action. Section II.A. repeats some of the background information from the proposal. Section II.B. addresses the proposed amendment to the NO_X SIP Call's emissions monitoring requirements, reiterating the proposed rationale and summarizing the proposal's discussion of projected impacts. Sections II.C. and II.D. summarize the remaining proposed amendments and describe the public comment process.

A. Background

Under the CAA, EPA establishes and periodically revises national ambient air quality standards (NAAQS) for certain pollutants, including ground-level ozone, while states have primary responsibility for attaining the NAAQS through the adoption of emission control measures in their SIPs. Under CAA section 110(a)(2)(D)(i)(I), 42 U.S.C. 7410(a)(2)(D)(i)(I), often called the ''good neighbor'' provision, each state is

[1] Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_X SIP Call, Proposed Rule, 83 FR 48751 (Sept. 27, 2018).

[2] Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone (NO_X SIP Call), 63 FR 57356 (Oct. 27, 1998) (codified in relevant part at 40 CFR 51.121 and 51.122). Amendments to the NO_X SIP Call regulations made between issuance and implementation are described in the proposal for this action, 83 FR at 48755 & nn.11–15.

[3] *See, e.g.,* 63 FR at 57366, 57479.

required to include provisions in its SIP prohibiting emissions that ''will . . . contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any [NAAQS].'' In 1998, EPA issued the NO_X SIP Call (the Rule) identifying good neighbor obligations with respect to the 1979 1-hour ozone NAAQS and calling for SIP revisions to address those obligations.[4] The Rule's regulatory text was codified at 40 CFR 51.121, addressing the required SIP revisions, and 40 CFR 51.122, addressing states' periodic reporting requirements. As implemented, the Rule required 20 states and the District of Columbia [5] to revise their SIPs to reduce their sources' emissions of NO_X, an ozone precursor, during the May–September ''ozone season'' starting in 2004.

To implement the NO_X SIP Call's emissions reduction requirements, EPA promulgated a ''budget'' for the statewide seasonal NO_X emissions from each covered state. Each state's emissions budget was calculated as the state's projected 2007 pre-control or ''baseline'' emissions inventory minus the state's required emissions reduction. The Rule did not mandate that states follow any particular approach for achieving their required emissions reductions. Instead, states retained wide discretion regarding which sources in their states to control and what control measures to employ. Each state was simply required to demonstrate that whatever control measures it chose to include in its SIP revision would be sufficient to ensure that projected 2007 statewide seasonal NO_X emissions from its sources would not exceed its emissions budget.

Besides the general flexibility given to states regarding the choices of sources and control measures, the NO_X SIP Call included additional provisions designed to increase compliance flexibility. Most notably, the Rule allowed states to adopt interstate emission allowance trading programs as control measures to accomplish some or all of the required emissions reductions. EPA also provided a model rule for an EPA-administered interstate trading program—the NO_X Budget Trading Program (NBTP)—that would meet all the Rule's SIP approval criteria for a trading program for two types of sources: Fossil fuel-fired EGU boilers and combustion turbines serving electricity generators with capacity ratings greater than 25 MW (large EGUs), and fossil fuel-fired non-EGU boilers and combustion turbines with heat input ratings greater than 250 mmBtu/hr (large non-EGU boilers and turbines).

While generally oriented toward providing states and sources with compliance flexibility, the NO_X SIP Call also included two conditional provisions that would become mandatory SIP requirements for large EGUs and large non-EGU boilers and turbines if states chose to include any emission control measures for these types of sources in their SIP revisions. First, under § 51.121(f)(2), any control measures imposed on these types of sources would be required to include enforceable limits on the sources' seasonal NO_X mass emissions. These limits could take several forms, including either limits on individual sources or collective limits on the group of all such sources in a state. Second, under § 51.121(i)(4), these sources would be required to monitor and report their seasonal NO_X mass emissions according to the provisions of 40 CFR part 75.[6] One way a state could meet these two SIP requirements was to adopt the NBTP, because the NBTP included provisions addressing both requirements and was expressly designed as a potential control measure for these types of sources.

All the jurisdictions subject to the NO_X SIP Call as implemented ultimately chose to adopt the NBTP for large EGUs and large non-EGU boilers and turbines as part of their required SIP revisions. By adopting control measures applicable to large EGUs and large non-EGU boilers and turbines into their SIPs, all the affected jurisdictions triggered the obligations for their SIPs to include enforceable mass emissions limits and part 75 monitoring requirements for these types of sources. These requirements have remained in effect despite the discontinuation of the NBTP following the 2008 ozone season.[7]

The NBTP was implemented starting in 2003 for sources in several northeastern states and in 2004 for sources in most of the remaining NO_X SIP Call states. Missouri sources joined the NBTP in 2007, and EPA continued to administer the NBTP through the 2008 ozone season. Since the 2008 ozone season, EPA has replaced the NBTP with a series of three similar interstate emission allowance trading programs designed to address eastern states' good neighbor obligations with respect to ozone NAAQS more recent than the 1979 1-hour ozone NAAQS. The NBTP's three successor seasonal NO_X trading programs were established under the Clean Air Interstate Rule (CAIR),[8] which was remanded to EPA for replacement; [9] the original CSAPR,[10] which replaced CAIR; and most recently the CSAPR Update.[11] The seasonal NO_X trading programs established under CAIR and the original CSAPR were both designed to address the 1997 8-hour ozone NAAQS, while the trading program established under the CSAPR Update was designed to address the 2008 8-hour ozone NAAQS. The CAIR seasonal NO_X trading program operated from 2009 through 2014, the original CSAPR seasonal NO_X trading program started operating in 2015,[12] and the CSAPR Update trading program started operating in 2017.

For purposes of this action, the most important difference between the NBTP and its successor seasonal NO_X trading programs concerns the types of sources participating in the various programs. As discussed above, the NBTP was designed to cover both large EGUs and large non-EGU boilers and turbines. In contrast, by default the three successor trading programs have covered only units considered EGUs under those

[4] 63 FR 57356. As described in the proposal for this action, an amendment to the NO_X SIP Call made before the Rule's implementation indefinitely stayed the additional findings of good neighbor obligations with respect to the 1997 8-hour ozone NAAQS that were included in the Rule as issued. *See* 83 FR at 48755.

[5] The Rule as implemented applies to Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia; portions of Alabama, Michigan, and Missouri; and the District of Columbia. For simplicity, this document often refers to all the jurisdictions with obligations under the CAA and the NO_X SIP Call, including the District of Columbia, as ''states.''

[6] For brevity, this document generally refers to the monitoring, recordkeeping, and reporting requirements in 40 CFR part 75 as ''part 75 monitoring requirements.''

[7] Some states expanded NBTP applicability under their SIPs to include additional sources such as process heaters, cement kilns, and smaller EGUs. Unlike large EGUs and large non-EGU boilers and turbines, the additional sources are not subject to the NO_X SIP Call's ongoing obligation under § 51.121(i)(4) for SIPs to include part 75 monitoring requirements and therefore are not affected by the amendments being finalized in this action.

[8] 70 FR 25162 (May 12, 2005) (SIP requirements); 71 FR 25328 (Apr. 28, 2006) (parallel Federal implementation plan requirements).

[9] *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), *modified on rehearing,* 550 F.3d 1176 (D.C. Cir. 2008).

[10] 76 FR 48208 (Aug. 8, 2011); *see also* 76 FR 80760 (Dec. 27, 2011) (adding seasonal NO_X emissions reduction requirements for sources in five states), 79 FR 71663 (Dec. 3, 2014) (tolling implementation dates by three years).

[11] 81 FR 74504 (Oct. 26, 2016). Consolidated challenges to the CSAPR Update are pending in *Wisconsin* v. *EPA,* No. 16–1406 (D.C. Cir. argued Oct. 3, 2018).

[12] The original CSAPR seasonal NO_X trading program remains in effect for sources in Georgia but after 2016 has not applied to sources in any state subject to the NO_X SIP Call as implemented.

programs, which generally means all units that would be classified as NO_X SIP Call large EGUs as well as a small subset of the units that would be classified as NO_X SIP Call large non-EGU boilers and turbines.[13] Under the CAIR seasonal NO_X trading program, most NO_X SIP Call states exercised an option to expand program applicability to include all their NO_X SIP Call large non-EGU boilers and turbines, but the option was eliminated under the original CSAPR seasonal NO_X trading program and no state has exercised the restored option made available under the CSAPR Update trading program. Consequently, at present most NO_X SIP Call large non-EGU boilers and turbines do not participate in a successor trading program to the NBTP.

The second relevant difference between the NBTP and its successor trading programs concerns the various programs' geographic areas of coverage. At present, EGUs in fourteen NO_X SIP Call states participate in the CSAPR Update trading program.[14] EGUs in the remaining seven NO_X SIP Call jurisdictions do not currently participate in a successor trading program to the NBTP, although most such units are subject to other EPA programs with comparable part 75 monitoring requirements.[15]

In the CAIR rulemaking, EPA amended the NO_X SIP Call regulations both to provide that the NBTP would be discontinued upon implementation of the CAIR seasonal NO_X trading program and to require states to adopt replacement control measures into their SIPs to ensure continued achievement of the portions of their NO_X SIP Call emissions reduction requirements that had been met through the NBTP.[16] As noted above, notwithstanding the discontinuation of the NBTP, the NO_X SIP Call's requirements for enforceable mass emissions limits and part 75 monitoring have continued to apply to large EGUs and large non-EGU boilers and turbines in all affected states. Since the CAIR rulemaking, EPA has worked with NO_X SIP Call states individually to assist them in revising their SIPs to meet these ongoing NO_X SIP Call requirements, whether through use of the NBTP's successor trading programs (to the extent those options have been available) or through other replacement control measures.

Under CAA section 107(d)(3)(E), 42 U.S.C. 7407(d)(3)(E), redesignation of an area to attainment of a NAAQS requires a determination that the improvement in air quality is due to ''permanent and enforceable'' emissions reductions. At least 140 EPA final actions redesignating areas in 20 states to attainment with an ozone NAAQS or a fine particulate matter ($PM_{2.5}$) NAAQS—because NO_X is a precursor to $PM_{2.5}$ as well as ozone—have relied in part on the NO_X SIP Call's emissions reductions.[17] In this action, to avoid any possible argument that amendments to the NO_X SIP Call might result in a lessening of permanence and enforceability that could threaten continued reliance on the Rule's emissions reductions to support other actions, EPA is not substantively amending the Rule's key provisions supporting these attributes. These key provisions include the statewide emissions budgets and general enforceability and monitoring requirements as well as the requirements for enforceable limits on seasonal NO_X mass emissions from large EGUs and large non-EGU boilers and turbines.[18] As discussed in section II.B. of this document, EPA believes that under current circumstances, the amendment to allow states to establish alternate monitoring requirements for large EGUs and large non-EGU boilers and turbines does not undermine assurance that the Rule's required emissions reductions will continue to be achieved and therefore does not pose a risk to the permanence and enforceability of the emissions reductions.

B. Proposed Amendment to Emissions Monitoring Requirements

The only substantive amendment to the NO_X SIP Call regulations proposed for this action concerns emissions monitoring requirements. Under 40 CFR 51.121(i)(4) of the regulations as originally promulgated, where a state's SIP revision contains control measures for large EGUs or large non-EGU boilers and turbines, the SIP must also require part 75 monitoring for these types of sources. As discussed in section II.A. of this document, all NO_X SIP Call states triggered this requirement by including control measures in their SIPs for these types of sources, and the requirement has remained in effect despite the discontinuation of the NBTP after the 2008 ozone season. For this action, EPA proposed to amend the provision at § 51.121(i)(4) to make the inclusion of part 75 monitoring requirements for these sources in SIPs optional rather than mandatory for NO_X SIP Call purposes.[19] The SIPs would still need to include some form of emissions monitoring requirements for these types of sources, consistent with the Rule's general enforceability and monitoring requirements at § 51.121(f)(1) and (i)(1), respectively, but states would no longer be required to satisfy these general Rule requirements specifically through the adoption of part 75 monitoring requirements. EPA noted that finalization of this proposed amendment would not in itself eliminate part 75 monitoring requirements for any sources but would enable EPA to approve SIP submittals replacing these requirements for NO_X SIP Call purposes with other forms of monitoring requirements.

In the proposal, EPA discussed the following rationale for the proposed amendment to emissions monitoring requirements.[20] The condition that SIPs must include part 75 monitoring requirements was established based on

[13] For example, under the NO_X SIP Call as implemented, a unit qualifying as exempt from the Acid Rain Program under the provision for cogeneration units at 40 CFR 72.6(b)(4) would be classified as a non-EGU, but in some instances such a unit could be covered under the CAIR, original CSAPR, and CSAPR Update trading programs as an EGU.

[14] The CSAPR Update applies to EGUs in the NO_X SIP Call states of Alabama, Illinois, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia as well as eight additional states that are not subject to the NO_X SIP Call as implemented.

[15] EGUs in the NO_X SIP Call jurisdictions of Connecticut, Delaware, Massachusetts, North Carolina, Rhode Island, South Carolina, and the District of Columbia are not subject to the CSAPR Update. All NO_X SIP Call EGUs in North Carolina and South Carolina are required to monitor NO_X mass emissions according to part 75 under a CSAPR trading program for annual NO_X emissions, and most NO_X SIP Call EGUs in the remaining jurisdictions are required to monitor NO_X emission rate and heat input rate according to part 75 under the Acid Rain Program.

[16] 40 CFR 51.121(r); *see also* 40 CFR 51.123(bb) and 52.38(b)(10)(ii) (authorizing use of CAIR and CSAPR Update seasonal NO_X trading programs as NBTP replacement control measures for large non-EGU boilers and turbines).

[17] *See* Redesignation Actions Relying on NO_X SIP Call Emissions Reductions (August 2018), available in the docket for this action. EPA notes that reliance on the Rule's emissions reductions as permanent and enforceable for purposes of redesignation actions has been upheld by multiple courts of appeals. *Sierra Club* v. *EPA,* 774 F.3d 383, 397–99 (7th Cir. 2014); *Sierra Club* v. *EPA,* 793 F.3d 656, 665–68 (6th Cir. 2015).

[18] EPA notes that the implementation rules for both the 1997 ozone NAAQS and the 2008 ozone NAAQS have required that the NO_X SIP Call in general and states' emissions budgets in particular will continue to apply after revocation of the previous NAAQS and have also made clear that any modifications to control requirements approved into a SIP pursuant to the Rule are subject to anti-backsliding requirements under CAA section 110(l), 42 U.S.C. 7410(l). *See* 40 CFR 51.905(f), 51.1105(e).

[19] The amendment would apply only for NO_X SIP Call purposes and would not authorize states to create exceptions to any part 75 monitoring requirements that might apply to a source under a different legal authority.

[20] 83 FR at 48757–58.

determinations that, first, a requirement for mass emissions limits for large EGUs and large non-EGU boilers and turbines was feasible and provided the greatest assurance that the NO_X SIP Call's required emissions reductions would be achieved, and second, part 75 monitoring was a feasible and cost-effective way to ensure compliance with the mass emissions limits for these sources.[21] (Part 75 monitoring requirements were also established independently as an essential element of the now-discontinued NBTP, which like EPA's other emission allowance trading programs could function only with timely reporting of consistent, quality-assured mass emissions data by all participating units.) To ensure that the NO_X SIP Call's emissions reductions can continue to be relied on as permanent and enforceable for purposes of other actions, EPA did not propose to amend the Rule's existing requirements regarding enforceable mass emissions limits for these sources. However, EPA proposed the view that under current circumstances, allowing states to establish alternate monitoring requirements for large EGUs and large non-EGU boilers and turbines would not pose a risk to the permanence and enforceability of the Rule's emissions reductions.

The first relevant current circumstance EPA discussed was the substantial margins by which all NO_X SIP Call states are now complying with the portions of their statewide emissions budgets assigned to large EGUs and large non-EGU boilers and turbines. As shown in Table 1 of the proposal, which is reproduced without change as Table 1 of this document, in 2017, seasonal NO_X emissions from sources that would have been subject to the NBTP across the region covered by the NO_X SIP Call were approximately 200,000 tons, which is less than 40% of the sum of the relevant portions of the statewide final NO_X budgets. Table 1 also shows that no state's reported emissions exceeded 71% of the relevant portion of its budget.[22] As noted by EPA, these comparisons demonstrate that the Rule's required emissions reductions would continue to be achieved even with substantial increases in emissions from current levels. EPA also observed that the possibility of such large increases in emissions is remote because of requirements under other state and Federal environmental programs [23] and changes to the fleet of affected sources since 2008.[24]

TABLE 1—2017 EMISSIONS AND RELEVANT EMISSIONS BUDGET AMOUNTS BY STATE

State	NO_X emissions during the 2017 ozone season (tons) from:				Portion of statewide emissions budget assigned to NBTP sources (tons)
	NBTP sources also subject to part 75 under other programs	Other NBTP large EGUs and large non-EGU boilers and turbines	Other NBTP sources subject to part 75 under NSC SIPs	Total for all NBTP sources	
Alabama (part)	7,166	1,911	0	9,077	25,497
Connecticut	380	10	39	430	4,477
Delaware	324	511	0	835	5,227
District of Columbia	0	20	0	20	233
Illinois	13,038	1,493	0	14,531	35,557
Indiana	20,396	1,201	823	22,419	55,729
Kentucky	19,978	75	0	20,053	36,109
Maryland	2,422	516	0	2,939	15,466
Massachusetts	734	113	32	879	12,861
Michigan (part)	14,580	205	0	14,785	31,247
Missouri (part)	9,486	0	0	9,486	13,459
New Jersey	1,646	310	0	1,956	13,022
New York	4,062	941	611	5,614	41,385
North Carolina	16,352	1,689	0	18,041	34,703
Ohio	20,012	993	0	21,005	49,842
Pennsylvania	13,616	837	0	14,453	50,843
Rhode Island	193	0	0	193	936
South Carolina	5,030	1,043	0	6,074	19,678
Tennessee	7,785	2,350	0	10,135	31,480
Virginia	7,462	589	0	8,051	21,195
West Virginia	18,187	276	0	18,463	29,507
Total	182,849	15,084	1,505	199,438	528,453

Data sources: Emissions data are from EPA's Air Markets Program Database, *https://ampd.epa.gov/ampd*. In a few cases where 2017 data are not available, the most recent available data are used instead. Budget data are from The NO_X Budget Trading Program: 2008 Emission, Compliance, and Market Analyses (July 2009) at 14, available in the docket for this action.

The second relevant current circumstance EPA discussed was that even with the proposed amendment, part 75 monitoring requirements would remain in effect for most NO_X SIP Call large EGUs pursuant to other regulatory requirements, including the Acid Rain Program and the CSAPR trading programs, and these large EGUs are responsible for most of the collective emissions of NO_X SIP Call large EGUs and large non-EGU boilers and turbines.

[21] *See* 63 FR at 57451–52.

[22] Reported 2017 emissions from Missouri sources were just over 70% of the relevant portion of the state's budget.

[23] For example, for the 11 states covered in their entirety under both programs—Illinois, Indiana, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia—EGU emissions budgets under the current CSAPR Update seasonal NO_X trading program range from 17% to 66% of the portions of the respective states' NO_X SIP Call statewide budgets based on EGU emissions. *Compare* 40 CFR 97.810(a) (CSAPR Update budgets) *with* 65 FR 11222, 11225 (Mar. 2, 2000) (EGU-based portions of NO_X SIP Call statewide budgets).

[24] For example, sources responsible for over 40% of 2008 emissions reported under the NBTP have either ceased operation or switched from coal combustion to gas or oil combustion since 2008. *See* Post-2008 Changes to Units Reporting Under the NO_X Budget Trading Program (August 2018), available in the docket for this action.

Table 1 shows the portions of the reported seasonal NO_X emissions for each state reported by units that would continue to be subject to part 75 monitoring requirements even if the proposed amendments are finalized and all states choose to revise their SIPs.[25] As indicated in the table, the sources that would continue to report under part 75 account for over 90% of the overall emissions. If a state chooses to revise its SIP to no longer require part 75 monitoring for some sources, then under § 51.121(f)(1) and (i)(1)—which EPA did not propose to amend—the SIP would still have to include provisions requiring all large EGUs and large non-EGU boilers and turbines subject to control measures for purposes of the NO_X SIP Call to submit other forms of information on their seasonal NO_X emissions sufficient to ensure compliance with the control measures. EPA stated the belief that in the context of the substantial compliance margins discussed above, and given the continued availability of part 75 monitoring data from sources responsible for most of the relevant emissions, emissions data from the remaining sources submitted pursuant to other forms of monitoring requirements can provide sufficient assurance that the Rule's overall required emissions reductions will continue to be achieved.

In the proposal's discussion of projected impacts,[26] EPA stated the expectation that the proposed amendments, if finalized, would have no impact on emissions or air quality because no changes would be made to any of the NO_X SIP Call's existing regulatory requirements related to statewide emissions budgets or enforceable mass emissions limits for large EGUs and large non-EGU boilers and turbines.

With respect to cost impacts, EPA expressed the expectation that, if the proposed amendment to monitoring requirements is finalized, at least some states would revise their SIPs to establish alternate monitoring requirements and at least some sources would experience reductions in monitoring costs. EPA indicated that there were approximately 310 existing large EGUs and large non-EGU boilers and turbines in NO_X SIP Call states that could potentially be affected by the proposed amendment to monitoring requirements if all affected states were to revise their SIPs. The discussion also indicated how many of these units used each of the principal monitoring methodologies allowed under part 75 according to the monitoring plans submitted for the units. Specifically, EPA noted that approximately 90 units used monitoring methodologies involving continuous emissions monitoring systems (CEMS) to measure both stack gas flow rate and the concentrations of certain gases in the effluent gas stream, approximately 140 units used methodologies involving gas concentration CEMS but not stack gas flow rate CEMS, and approximately 80 units used non-CEMS methodologies. The proposal noted that it was not possible to predict the amount of the monitoring cost reductions that might eventually result from finalization of the proposed monitoring amendment because states, not EPA, would decide whether to revise the monitoring requirements in their SIPs and because EPA lacks information on the remaining monitoring requirements that sources would face. However, EPA qualitatively discussed how alternate monitoring requirements could result in reduced costs for units currently using the various part 75 monitoring methodologies. For example, some units that currently use part 75 monitoring methodologies involving the use of stack gas flow rate CEMS might be allowed to discontinue use of those CEMS, some units that currently use part 75 monitoring methodologies involving the use of gas concentration CEMS might be allowed to discontinue use of those CEMS, and some units continuing to use one or both types of CEMS might be allowed to perform less extensive data reporting or less comprehensive quality-assurance testing. EPA expressed the expectation that units currently using non-CEMS methodologies under part 75 would experience little or no reduction in monitoring costs as a result of the proposed monitoring amendment.

C. Other Proposed Amendments

In addition to the proposed amendment to the NO_X SIP Call's monitoring requirements discussed in section II.B. of this document, EPA proposed to make several further amendments to the Rule's regulatory text at 40 CFR 51.121 and 51.122 to remove obsolete provisions and clarify the remaining provisions. The proposed revisions also included updates to several cross-references in the CSAPR regulations at 40 CFR 52.38 that refer to an obsolete provision of the NO_X SIP Call regulations. Although EPA proposed to remove or modify numerous provisions of the NO_X SIP Call regulations,[27] the proposal explained that the additional amendments were not intended to substantively alter any currently effective regulatory requirements. Briefly, EPA proposed to:

- Rescind and remove the stayed and superseded findings of good neighbor obligations with respect to the 1997 8-hour ozone NAAQS at § 51.121(a)(2), remove § 51.121(q) staying the now-rescinded findings, and remove obsolete related language in § 51.121(c)(1) and (2);
- Clarify the expression of Phase I and existing final emissions reduction requirements by removing the table of required incremental Phase II emissions reduction amounts at § 51.121(e)(3), adding a column of Phase I budget amounts to the existing table of final budget amounts in § 51.121(e)(2)(i), revising the definitions of ''Phase I SIP submission'' and ''Phase II SIP submission'' at § 51.121(a)(3)(i) and (ii), and making related revisions at § 51.121(b)(1) introductory text and (b)(1)(i);
- Remove § 51.121(e)(4), which governs the former compliance supplement pool;
- Remove § 51.121(e)(5), which sets forth a one-time process for revising the emissions inventories and budgets published as part of the original Rule;
- Remove § 51.121(g)(2)(ii), which contains an obsolete table of baseline emissions inventory information originally intended to help states prepare their required SIP revisions;
- Remove § 51.121(p) and (b)(2), which authorize the use of the former NBTP and other potential interstate trading programs, respectively, as compliance options;
- Make clarifying revisions to § 51.121(r)(2), which sets forth the post-NBTP transition requirements;
- Remove § 51.121(d)(1), which contains obsolete deadlines for Phase I and Phase II SIP submissions, and § 51.121(d)(2), which contains obsolete or duplicative procedural provisions concerning the completeness and format of SIP submissions;
- Remove or update obsolete cross-references in the NO_X SIP Call regulations at §§ 51.121(b)(1)(i), (g)(2)(i) and (r)(1) and (2) and 51.122(c)(1)(ii) and in the CSAPR regulations at

[25] Although the Acid Rain Program does not require units to report NO_X mass emissions specifically, NO_X mass emissions can be calculated from other part 75 data that are required to be reported.

[26] 83 FR at 48761–62.

[27] A redline-strikeout document showing the text of 40 CFR 51.121 and 51.122 with the amendments adopted in this action, which include all the proposed amendments to the NO_X SIP Call regulations with the further revisions discussed in section IV of this document, is available in the docket for this action.

§ 52.38(b)(8)(ii), (b)(8)(iii)(A)(*2*), (b)(9)(ii), and (b)(9)(iii)(A)(*2*); and

• Make clarifying editorial revisions to § 51.121 heading, (b)(1)(ii), (e)(2)(ii)(B) and (E), (f)(2)(i)(B), (f)(2)(ii), (h), (i)(2),(3), and (5), (l)(1) and (2), (m), (n), and (o).

These proposed further amendments as well as EPA's supporting rationales are fully discussed in the proposal.[28] The discussions in the proposal are incorporated herein and are not summarized further in this document except as necessary to respond to comments in sections III.B. through III.D of this document.

D. Public Comment Process

In the proposal, EPA requested comment on the proposed amendment to revise the provision at 40 CFR 51.121(i)(4) to allow states to establish monitoring requirements for large EGUs and large non-EGU boilers and turbines in their SIPs other than part 75 monitoring requirements. With respect to the remaining proposed amendments, EPA made clear that the amendments were not intended to substantively alter existing regulatory requirements and consequently requested comment solely on whether the provisions proposed for removal as obsolete in fact are obsolete and on whether the proposed clarifications in fact achieve clarification. EPA did not reopen for comment any provisions of the existing NO_X SIP Call regulations except the provisions that were proposed to be amended as discussed in the proposal [29] and did not reopen or request comment on amending any other existing regulations. The proposal also provided information on how to request a public hearing. No public hearing was held because none was requested, and the public comment period closed on October 29, 2018.

III. Response to Comments

Commenters on the proposal included states, source owners, industry associations, environmental organizations, and persons commenting as individuals. The comments are available in the docket for this action. In this section, EPA summarizes and responds to the comments regarding the proposed amendments, including requests for clarification. Sections III.A through III.D. address the proposed amendments to the NO_X SIP Call's provisions concerning emissions monitoring requirements, emissions reduction requirements, the baseline emissions inventory table, and post-NBTP transition requirements, respectively.

With respect to the proposed amendments not addressed in sections III.A. through III.D., EPA received no adverse comments or requests for clarification. One commenter stated no objection to or supported most of these amendments individually, and additional commenters expressed general support for all the amendments removing obsolete provisions or all the amendments clarifying the remaining regulations. EPA thanks the commenters for these comments, which are not discussed further in this document.

Some commenters also submitted comments on topics other than the NO_X SIP Call regulations. These comments are outside the scope of the proposal and are not discussed further in this document.

A. Emissions Monitoring Requirements

Comment: Most commenters supported the proposed amendment to the NO_X SIP Call's monitoring requirements. These commenters generally expressed the view that requirements to perform part 75 monitoring solely for purposes of the NO_X SIP Call are no longer necessary to ensure states' compliance with the Rule's emissions reduction requirements. Most of these commenters also generally indicated that allowing the use of alternate monitoring requirements would result in reduced monitoring costs for some sources.

Response: EPA agrees with these comments' support for the proposed amendment to the Rule's monitoring requirements.

Comment: Some commenters, while generally supporting the proposed monitoring amendment, stated that EPA should also make further amendments to the NO_X SIP Call's monitoring provisions to authorize particular forms of alternate monitoring requirements. Specifically, two commenters requested an amendment providing that, if a demonstration is made that emissions from a state's large non-EGU boilers and turbines ''will not exceed the [emissions] budget . . . established'' for such sources, then those sources would be allowed to determine reported NO_X emissions according to a methodology based on the use of emission factors—that is, factors approved as estimates of the quantity of NO_X emitted per unit of fuel combusted—and information on fuel consumption. Another commenter requested an amendment to authorize methodologies involving the use of gas concentration CEMS installed and operated in accordance with the provisions of 40 CFR part 60 in addition to the monitoring methodology preferred by the two previously mentioned commenters. Another commenter, without expressing a preference for a particular form of alternate monitoring requirements, recommended that EPA issue model rule language for alternate monitoring requirements that would be approvable in SIP revisions.

Most commenters supporting the proposed monitoring amendment did not request that EPA make further amendments to identify particular permissible alternate monitoring requirements or issue model rule language. One of these commenters specifically recommended that EPA defer to states' choices regarding alternate monitoring requirements to the maximum extent allowable.

Response: EPA disagrees with the comments seeking further amendments to identify specifically permissible alternate monitoring requirements or issue model rule language and agrees with the comments supporting the monitoring amendment as proposed without such further amendments. Upon finalization of the proposed amendment to the NO_X SIP Call regulations making the inclusion of part 75 monitoring requirements in SIPs optional rather than mandatory, states would have the flexibility to establish their own preferred forms of monitoring requirements for NO_X SIP Call purposes, subject to the existing general provisions at § 51.121(i) introductory text and (i)(1) concerning SIP monitoring requirements—provisions that EPA did not propose to amend. Under the general monitoring provisions, which closely parallel the longstanding provisions concerning SIP source surveillance requirements at 40 CFR 51.210 and 51.211, each SIP revision must provide for monitoring the status of compliance with any control measures adopted to achieve the NO_X SIP Call's emissions reduction requirements, and the monitoring must be sufficient to determine whether sources are in compliance with the control measures. Nothing in these

[28] 83 FR at 48758–61.

[29] Regulatory findings and requirements that EPA did not propose to substantively amend include (but are not limited to) the findings of good neighbor obligations with respect to the 1979 1-hour ozone NAAQS, the requirements for SIPs to contain control measures addressing these obligations, the final NO_X budgets, the requirement for enforceable limits on seasonal NO_X mass emissions for large EGUs and large non-EGU boilers and turbines where states have included control measures for these types of sources in their SIPs, the requirement for states to adopt replacement control measures into their SIPs to achieve the emissions reductions formerly projected to be achieved by the NBTP, and the general requirements for enforceability and for monitoring of the status of compliance with the control measures adopted.

general monitoring provisions precludes the commenters' preferred forms of monitoring requirements where such requirements are shown to be sufficient to meet these criteria. Thus, the further amendments suggested by the commenters are unnecessary, because where a state agrees that the commenters' preferred forms of monitoring requirements are appropriate, the state may obtain approval of those requirements simply by submitting a SIP revision that adopts those requirements and demonstrating that the revision satisfies the general monitoring provisions and does not conflict with any other applicable CAA requirement.[30] For the same reasons that EPA considers it reasonable under current circumstances to make part 75 monitoring optional rather than mandatory for NO_X SIP Call purposes (as discussed in section II.B. of this document), EPA also considers it reasonable to defer to states' choices regarding alternate monitoring requirements for NO_X SIP Call purposes to the extent consistent with the general monitoring provisions at § 51.121(i) introductory text and (i)(1).

In addition, EPA believes that inclusion of the suggested further amendments would not be particularly useful in providing certainty of the approvability of any specific state regulation implementing the commenters' preferred forms of monitoring requirements. Notwithstanding any endorsement of a particular overall monitoring approach that EPA might include in the regulations, given the need to satisfy the NO_X SIP Call's general monitoring provisions just discussed, EPA would still need to individually review the specific alternate monitoring requirements in each SIP revision to support a determination that the monitoring is sufficient to ensure compliance with the NO_X SIP Call's emissions reduction requirements. For example, EPA would need to consider whether each regulation contains adequate provisions to avoid gaps in required monitoring and whether a regulation following an emission factor approach employs emission factors that are designed to avoid any bias toward understatement of emissions. Approval of each SIP revision would also be subject to notice-and-comment procedures. While in theory EPA could provide greater certainty of the approvability of certain forms of alternate monitoring requirements by issuing model rule language, EPA believes issuance of such language in this instance is neither necessary nor consistent with EPA's general intent of deferring to states' preferences regarding alternate monitoring requirements for NO_X SIP Call purposes.

Comment: One commenter stated that amending the NO_X SIP Call regulations to allow sources that currently monitor using CEMS to switch to alternate monitoring methods would be inconsistent with CAA section 110(l), 42 U.S.C. 7410(l), known as the ''anti-backsliding'' provision, which prohibits EPA from approving any implementation plan revision that would interfere with any applicable requirement under the CAA. The commenter stated that effective and accurate emissions monitoring is needed to protect against backsliding and that allowing sources to use monitoring approaches less effective than CEMS monitoring would be inconsistent with section 110(l) because it would deprive communities and regulators of timely or reliable emissions information needed to identify possible violations of emissions standards and to facilitate enforcement actions.

Response: EPA disagrees with this comment. As a preliminary matter, EPA notes that CAA section 110(l) applies to EPA actions determining to approve implementation plan revisions, not other EPA actions that might affect the matters that are required to be addressed through such implementation plan revisions. Thus, this action to amend the NO_X SIP Call regulations is not subject to section 110(l). At the same time, no Agency-issued regulation can negate or otherwise modify the Congressionally-established prohibition in section 110(l) against approval of implementation plan revisions that would permit backsliding. For this reason, notwithstanding the content of any amendment to the NO_X SIP Call regulations finalized in this action, approval of any SIP submissions made in response to such an amendment will necessarily still be subject to anti-backsliding requirements under section 110(l).

Substantively, the proposed amendment to monitoring requirements is not inconsistent with the purpose of section 110(l) because there is no reason to expect that a SIP submission seeking only to revise monitoring requirements for NO_X SIP Call purposes would result in increased emissions or otherwise interfere with any other CAA requirement, in light of the criteria for approval of such a SIP submission. That is, the amendments proposed for this action make no changes to the NO_X SIP Call's existing regulatory requirements related to statewide emissions budgets or enforceable mass emissions limits for large EGUs and large non-EGU boilers and turbines. As discussed in response to a previous comment, under § 51.121(i) introductory text and (i)(1) any alternate monitoring requirements approved into a SIP for NO_X SIP Call purposes must be sufficient to determine whether the state's sources are in compliance with the control measures adopted to meet the Rule's emissions requirements. Given continued implementation of SIP requirements governing the unchanged amounts of allowable emissions, accompanied by replacement monitoring requirements sufficient to ensure compliance with the unchanged emissions requirements, a SIP revision adopted in response to the proposed amendments would not be expected to result in increases in emissions that could interfere with other statutory or regulatory requirements.

The commenter's suggestion that CEMS emissions data provided pursuant to NO_X SIP Call requirements is necessary to provide emissions information to identify violations of and enforce other emissions standards is outside the scope of the proposal. The NO_X SIP Call's monitoring requirements were promulgated to provide monitoring information sufficient to ensure compliance with the control measures adopted to achieve the Rule's emissions reduction requirements.[31] Monitoring requirements to ensure compliance with other emissions requirements are generally established as part of the regulations that establish each specific emissions requirement or through monitoring-focused regulations such as the source surveillance regulations at 40 CFR part 51, subpart K, or the compliance assurance monitoring regulations at 40 CFR part 64. Any concerns about the adequacy of the monitoring requirements established under other regulations would be properly raised as comments in the actions promulgating those regulations or as requests for new rulemaking, not as comments on this action addressing monitoring requirements under the NO_X SIP Call regulations. In the proposal for this action, EPA did not propose to alter any monitoring requirements under any

[30] EPA notes that for purposes of demonstrating that the replacement monitoring requirements would be sufficient to ensure compliance with the emissions requirements, a state generally would be able to cite the same types of data that EPA presented in the proposal to support the proposed amendment to the NO_X SIP Call's monitoring requirements.

[31] *See* 83 FR at 48757.

regulations other than the NO_X SIP Call regulations.

Comment: One commenter stated that amending the NO_X SIP Call regulations to allow sources that currently monitor using CEMS to switch to alternate monitoring methods would be inconsistent with CAA section 504(b), 42 U.S.C. 7661c(b), which authorizes EPA to prescribe monitoring requirements for the operating permits that certain sources are required to obtain pursuant to CAA title V. The commenter cited a portion of the provision stating that ''continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance'' and stated that because CEMS monitoring is the most reliable and timely monitoring method for determining compliance with NO_X emissions limits, it would be unreasonable and inconsistent with section 504(b) for EPA to allow sources which already have CEMS equipment installed to use less reliable and timely monitoring approaches.

Response: EPA disagrees with this comment. While CAA section 504(b) provides EPA with authority to prescribe monitoring requirements for title V operating permits, it does not require EPA to exercise that authority in any particular situation and hence does not impose any statutory requirement applicable to this action. Further, even accepting for purposes of argument the comment's premise that the conditions that would apply to an exercise of EPA's authority under section 504(b) should also apply to EPA's establishment of monitoring requirements for NO_X SIP Call purposes, the proposed monitoring amendment is neither unreasonable nor inconsistent with those conditions. As noted in the comment, section 504(b) explicitly provides that EPA need not exercise its authority under the section so as to require CEMS in circumstances where alternate monitoring methods sufficient to determine compliance are available. In the proposal, EPA presented recent emissions data and expressed the view that, given the current substantial margins by which the sets of large EGUs and large non-EGU boilers and turbines in all NO_X SIP Call states are complying with the relevant portions of the statewide emissions budgets as well as the fact that most of the relevant emissions will continue to be monitored according to part 75 under other programs, monitoring of the remaining emissions using non-part 75 approaches can now provide sufficient assurance that the Rule's required emissions reductions will continue to be achieved.[32] The commenter does not challenge EPA's assessment. EPA's rationale for proposing the amendment closely parallels and is fully consistent with the conditions set forth in section 504(b) for the possible establishment of monitoring requirements other than CEMS monitoring requirements.

Moreover, neither of the commenter's stated reasons for suggesting that it would be unreasonable or inconsistent with section 504(b) for EPA to allow the use of non-CEMS approaches is compelling. The first stated reason—that CEMS-based monitoring approaches would provide the *most* reliable and timely information for determining compliance with NO_X emission limits—is itself inconsistent with the statutory text which, as just discussed, explicitly indicates the potential acceptability of non-CEMS monitoring approaches that provide *sufficient* reliability and timeliness of information for determining compliance. The second stated reason—that the sources in question already have CEMS equipment installed—is incorrect for some of the sources potentially affected by the monitoring amendment and materially incomplete for all of them. The set of large EGUs and large non-EGU boilers and turbines subject to the NO_X SIP Call's ongoing requirements discussed in this document includes both existing and new units. Some new units that would need to install CEMS equipment if required to monitor under part 75 might not need to install some or all of that CEMS equipment if part 75 monitoring were not required for NO_X SIP Call purposes. Further, as discussed in the proposal, even for a source that already has CEMS equipment installed, the source's ongoing operating costs to monitor using the installed CEMS equipment could be higher than the source's ongoing operating costs if the source were to switch to a non-CEMS monitoring approach.[33] Besides the factor of whether non-CEMS monitoring approaches that provide sufficiently reliable and timely information for determining compliance are available, the text of section 504(b) does not specify or limit other factors that EPA may consider when applying its authority under the section. Thus, it is neither unreasonable nor inconsistent with section 504(b) for EPA to consider the likelihood that some sources would incur lower monitoring costs if allowed to use non-CEMS monitoring approaches for NO_X SIP Call purposes.

Comment: One commenter summarized several provisions of CAA section 110(a), 42 U.S.C. 7410(a), concluding with the interpretation that ''a bedrock requirement for any implementation plan is for emissions monitoring requisite to ensure attainment and maintenance of the NAAQS.'' The commenter further stated that the current network of ambient air quality monitors is ''not robust enough to adequately assess levels of [ozone and particulate matter] in ambient air'' and cited a study concerning satellite-based measurements of ambient air quality. The commenter concluded that ''[g]iven this level of under-assessment of pollution problems and dramatic[ ] undercounting of nonattainment issues,'' the proposed amendment to allow states to establish alternate emissions monitoring requirements ''is wholly inconsistent with the Clean Air Act's requirements.''

Response: EPA disagrees that the proposed amendment to the NO_X SIP Call regulations would be inconsistent with the statutory requirements under CAA section 110(a). The comment conflates the statutory provision authorizing EPA to prescribe emissions monitoring requirements for individual sources under CAA section 110(a)(2)(F) with the general requirement for ambient air quality monitoring under CAA section 110(a)(2)(B). Contrary to the commenter's interpretation of CAA section 110(a), the data used to determine whether air quality in a given area meets the ozone or $PM_{2.5}$ NAAQS are the data obtained through the ambient air quality monitoring network, not the data obtained through source emissions monitoring. Similarly, assessments of whether the emission control measures in effect are collectively sufficient to ensure attainment and maintenance of those NAAQS are made using monitored ambient air quality data or projected ambient air quality data (which necessarily reflect projected, not monitored, source emissions data). The amendments proposed for this action would not alter any regulatory requirements concerning ambient air quality monitoring, and comments on this topic are outside the scope of the proposal.

As discussed in response to a previous comment, the originally intended purpose served by the emissions monitoring requirements under the NO_X SIP Call was to ensure compliance with the control measures

[32] 83 FR at 48757–58.

[33] 83 FR at 48761. Several commenters also discussed the significance of the operating and maintenance costs that are incurred to comply with monitoring requirements. *See* comments of North Carolina, Alcoa, Citizens Energy, Council of Industrial Boiler Owners, and Virginia Manufacturers Association.

adopted to achieve the Rule's emissions reduction requirements, not to ensure attainment and maintenance of the NAAQS. Amendment of the NO_X SIP Call as proposed for this action would not alter the provisions at § 51.121(i) introductory text and (i)(1) that set forth the ongoing general requirement for SIPs to include emissions monitoring sufficient for this purpose. The amendment would simply expand the options available to states for addressing the ongoing general requirement by eliminating the additional specific requirement at § 51.121(i)(4) for part 75 monitoring by large EGUs and large non-EGU boilers and turbines. Like the NO_X SIP Call's initial monitoring requirements, the Rule's monitoring requirements as amended would be fully consistent with CAA section 110(a)(2)(F), which authorizes EPA to prescribe emissions monitoring and reporting SIP requirements that may include requirements for ''correlation of such [emissions] reports by the State agency with any emission limitations or standards'' established under the CAA.

Comment: One commenter discussed the data EPA presented in the proposal regarding recent emissions reported by the sources that would have been subject to the former NBTP. While not disputing EPA's assessment that the data show that the sources in all states subject to the NO_X SIP Call are currently complying with the assigned portions of their respective statewide budgets by substantial margins, the commenter asserted that EPA's reliance on the data to support the proposed amendment to the Rule's monitoring requirements is misguided. The commenter questioned the relevance of EPA's assessment that non-part 75 monitoring by the sources not subject to part 75 monitoring requirements under other programs could now provide assurance of continued compliance with the NO_X SIP Call's emissions reduction requirements, suggesting that EPA should instead consider emissions targets more stringent than the Rule's existing budgets.

With regard to EPA's assessment that the substantial majority of emissions from large EGUs and large non-EGU boilers and turbines would continue to be monitored according to part 75 under other programs, the commenter observed that in certain states, the emissions from the subset of large EGUs and large non-EGU boilers and turbines potentially affected by the proposed monitoring amendment can be significant relative to the emissions from the remaining large EGUs and large non-EGU boilers and turbines that must continue to monitor their emissions under part 75 for other programs. Based on this observation, the commenter concluded that, in these states, allowing the potentially affected sources to monitor using non-CEMS methodologies ''will notably degrade the overall NO_X emissions data'' from the sets of large EGUs and large non-EGU boilers and turbines in the states. The commenter also stated that the total amount of seasonal NO_X emissions from the potentially affected sources—approximately 15,000 tons in the 2017 ozone season—is ''not trivial,'' but is significant in an absolute sense regardless of its relation to the amount of emissions from the sources that would still be subject to part 75 monitoring requirements under other programs. Noting that annual emissions of 100 tons can trigger classification of certain types of new or modified sources as ''major sources'' under other CAA programs, the commenter suggested that allowing sources that collectively produce 15,000 tons of seasonal NO_X emissions to stop using CEMS is comparable to excusing as many as 360 major sources from requirements to use NO_X CEMS under other programs.

Response: EPA continues to believe that the emissions data presented in the proposal provide compelling support for the proposed amendment to the NO_X SIP Call's emissions monitoring requirements. EPA disagrees with the commenter's suggestion that in evaluating possible changes to monitoring requirements under the NO_X SIP Call, rather than assessing whether alternate forms of monitoring would be sufficient to ensure compliance with the Rule's existing emissions reduction requirements, EPA should instead consider whether the alternate monitoring requirements would be sufficient to ensure compliance with more stringent emissions targets. As discussed in response to a previous comment, the Rule's monitoring requirements were established to provide monitoring information sufficient to ensure compliance with the control measures adopted to achieve the Rule's required emissions reductions, and monitoring requirements to ensure compliance with other emissions requirements are established in other regulations. Comments concerning whether the Rule's existing emissions reductions requirements are sufficiently stringent are outside the scope of the proposal. EPA did not propose to substantively alter any regulatory requirements other than the NO_X SIP Call's monitoring requirements.

With regard to the commenter's observations concerning the relative magnitudes of the respective total amounts of emissions from sources potentially affected by the proposed monitoring amendment and other sources in certain states, EPA acknowledges that emissions from the potentially affected sources comprise larger shares of the total emissions from large EGUs and large non-EGU boilers and turbines in some states than others but disagrees with the suggestion that this fact should foreclose the possibility of allowing monitoring flexibility for NO_X SIP Call purposes. According to the recent emissions data presented in the proposal [34] and reproduced in Table 1 in section II.B. of this document, for six of the states identified in the comment—Alabama, Maryland, New Jersey, New York, South Carolina, and Tennessee—the total amount of emissions from the state's potentially affected sources was from 19% to 30% of the total amount of emissions from the state's remaining large EGUs and large non-EGU boilers and turbines, and for the last identified state—Delaware—the emissions from the state's potentially affected sources exceeded the emissions from the state's remaining large EGUs and large non-EGU boilers and turbines. However, even accepting the commenter's premise that allowing the potentially affected sources in these states to switch from CEMS methodologies to non-CEMS methodologies would reduce the accuracy of the total reported amounts of emissions from large EGUs and large non-EGU boilers and turbines, EPA believes that the compliance margins in these states are large enough that there would still be sufficient assurance that the NO_X SIP Call's emissions reduction requirements would continue to be achieved. In each of these states (as well as all the other states subject to the NO_X SIP Call), the emissions data in Table 1 indicate that, assuming no increase in the total emissions from the sources in the state that would continue to be subject to part 75 monitoring under other programs, the total emissions from the state's potentially affected sources could increase at least eightfold without causing the total emissions from the state's large EGUs and large non-EGU boilers and turbines to exceed the relevant portion of the statewide emissions budget.[35] Thus, again

[34] *See* 83 FR at 48758 (Table 1).

[35] The recent compliance margins for the individual NO_X SIP Call states indicated by the data in Table 1 range from 8.6 times to over 300 times the total reported emissions from the respective states' sets of potentially affected sources. For example, for Alabama, the data in Table 1 indicate a compliance margin of 16,420 tons (25,497 − 9,077 = 16,420), which is 8.6 times the reported emissions

Continued

assuming no increase in the total emissions from the sources in the state that would continue to be subject to part 75 monitoring under other programs, even if the total reported emissions data for the set of potentially affected sources in a state in some future ozone season were to understate the true emissions data because of less accurate measurements made using non-CEMS methodologies, in order for the total reported emissions data to incorrectly indicate compliance for the state when the true emissions data would indicate non-compliance, the cumulative measurement errors causing understatement of the true data—that is, the differences between the reported emissions data values and the true emissions data values for each source—would have to be several times larger than the reported data values.[36] The commenter does not suggest, and EPA does not believe, that the accuracy of non-CEMS monitoring approaches would be so poor as to allow such a scenario to occur. Moreover, if the commenter believes that the specific alternate monitoring approaches included in a particular state's SIP revision submitted for EPA's approval would provide insufficiently accurate data to ensure continued compliance with the control measures adopted in the state's SIP for NO_X SIP Call purposes, the notice-and-comment process for approval of the SIP revision would provide an opportunity for the commenter to raise that concern.

With regard to the commenter's observations concerning the significance of the total seasonal NO_X emissions from the potentially affected sources in an absolute sense, EPA agrees that a 15,000-ton quantity of seasonal NO_X emissions is ''not [a] trivial'' amount but disagrees with the suggestion that this fact should foreclose the possibility of allowing monitoring flexibility for NO_X SIP Call purposes. The proposed amendments would not alter any of the Rule's regulatory requirements concerning permissible amounts of emissions and would not eliminate the requirement for SIPs to provide for monitoring of the emissions from all large EGUs and large non-EGU boilers and turbines sufficient to ensure continued compliance with the Rule's emissions reduction requirements. Nor does EPA agree that allowing non-CEMS monitoring approaches to be used for purposes of demonstrating compliance with control measures adopted under the NO_X SIP Call is comparable to excusing major sources from requirements to monitor using CEMS for other purposes. The amendments proposed for this action are based on EPA's assessment, specific to this action, that under current circumstances monitoring information from some sources other than part 75 monitoring information can now provide sufficient assurance that the NO_X SIP Call's required emissions reductions will continue to be achieved. Where any source is required to monitor using CEMS for another purpose under regulations other than the NO_X SIP Call regulations, the amendments proposed for this action would not affect those requirements.

Comment: One commenter contended that allowing alternate monitoring requirements will lead to increased emissions. The commenter observed that EPA did not know which specific sources might ultimately be allowed to use alternate monitoring methods. According to the commenter, EPA had suggested in the proposal that the potential for increases in pollution resulting from alternate monitoring requirements is merely uncertain, because EPA would not itself relax the requirements but would leave that decision to the states, and the commenter stated it is arbitrary and capricious for EPA to rely on such a claim of uncertainty to avoid assessing the impacts of increased pollution. The commenter contended that EPA had suggested in the proposal that ''systemwide NO_X emissions are low enough that if there are increases in pollution attainment and maintenance [of the NAAQS] might not be threatened.'' The commenter also discussed ozone pollution and the harms it causes to human health and the environment, citing several EPA documents.

Response: EPA does not dispute the commenter's summary of the harms caused by ozone pollution or the correct observation that EPA does not know which specific sources might ultimately be allowed to use alternate monitoring methods (because states, not EPA, will decide whether to revise their SIPs). Otherwise, EPA disagrees with these comments. Relative to part 75 monitoring approaches, non-part 75 monitoring approaches may be expected to provide less detailed monitoring data and require less rigorous quality assurance, with a consequently greater possibility that the total NO_X emissions amount reported by a source for a given ozone season might understate or overstate the source's actual total emissions for that ozone season to some degree. However, there is no reason to expect any approved non-part 75 monitoring methodology either to be systematically biased toward understatement of emissions or to create any incentive leading to increased emissions. EPA was clear in the proposal that no changes to emissions or air quality are expected because no changes are being made to the NO_X SIP Call's emissions requirements.[37] The commenter effectively equates allowing alternate monitoring methods with relaxing emissions requirements, providing no rationale or evidence to support the contention that in the absence of any change in either emissions requirements or the general requirement to monitor emissions, possible changes in just the allowed methods for emissions monitoring under the NO_X SIP Call will lead to increased emissions. EPA continues to believe it is reasonable to assume that under current circumstances where sources are already complying with the NO_X SIP Call's emissions requirements by substantial margins, substitution of one monitoring method for another monitoring method, in the absence of any change in the Rule's emissions requirements, will not cause sources to change their behavior in a way that would affect emissions levels. Moreover, in the event that a particular state's SIP submission were to include a poorly designed alternate monitoring requirement that could lead to systematic understatement of emissions, the SIP approval process—including notice-and-comment procedures—would provide a further safeguard against the possibility of alternate monitoring requirements insufficient to ensure compliance with the Rule's emissions requirements. The commenter appears to incorrectly assume that the amendment in this action would by itself end all EPA oversight of monitoring requirements for NO_X SIP Call purposes and fails to acknowledge the additional safeguard afforded by the SIP approval process.

The commenter's claims regarding suggestions that EPA purportedly made about the supposed possibility of increased emissions misrepresent the proposal. Contrary to the comments, nowhere in the proposal did EPA indicate ''uncertainty'' as to whether the proposed amendments would lead to

from the state's potentially affected sources (16,420 ÷ 1,911 = 8.6).

[36] For illustrative purposes, this example assumes both that the collective emissions from potentially affected sources in a state would increase by the amount necessary to cause non-compliance for the state and that the alternate monitoring methodologies would fail to register the increase in emissions. EPA does not believe these assumptions have a reasonable basis and is using them only to respond to the commenter's concerns regarding accuracy.

[37] 83 FR at 48761.

increased pollution. Rather, as just discussed, EPA explicitly stated that the proposed amendments are expected to have no impact on emissions or air quality. The fact that states, rather than EPA, will decide whether to revise their SIPs to establish alternate monitoring requirements was cited in the proposal as a basis for uncertainty with regard to the potential amount of reductions in monitoring costs, not as a basis for uncertainty with regard to supposed potential increases in emissions.[38] Likewise, nowhere in the proposal did EPA make any suggestion regarding the relationship of supposed potential increases in emissions to the likelihood of attainment or maintenance of any NAAQS. Rather, as an illustration of the magnitude of states' recent margins of compliance with the NO_X SIP Call's emissions reduction requirements, EPA stated only that such compliance would continue to be achieved even if emissions were to increase substantially from current levels, and then proceeded to explain why such increases in emissions in fact are unlikely to occur.[39]

Comment: One commenter suggested that the proposal did not address relevant differences among the states and source types that could be affected by the proposed monitoring amendment. The commenter stated that the proposal failed to identify which sources affected under the NO_X SIP Call do not participate in any CSAPR trading program. Noting that several NO_X SIP Call states are outside the region covered by the various CSAPR trading programs, the commenter asserted that EPA had failed to explain ''why sources in some areas should be allowed to monitor less and pollute more,'' and that ''EPA is thus effectively proposing to end continuous NO_X monitoring for an entire geographic area without discussing the ensuing implications.'' Noting that the NO_X SIP Call applies to both EGUs and non-EGUs while the CSAPR trading programs generally apply only to EGUs, the commenter further asserted that EPA did not ''coherently address the distinction between the *types* of sources'' (emphasis in original) covered by the NO_X SIP Call and the CSAPR trading programs. Repeating the contention that allowing alternate monitoring methods will lead to increased emissions, the commenter suggested that EPA should have evaluated the impacts on regional ozone transport problems of allowing alternate monitoring methods for some states and source types but not others.

Response: EPA disagrees with these comments. Contrary to the commenter's suggestion, the proposal explicitly discussed differences among NO_X SIP Call states concerning whether each state's EGUs are covered by a CSAPR trading program, noting that EGUs in Connecticut, Delaware, Massachusetts, Rhode Island, and the District of Columbia do not participate in any CSAPR trading programs.[40] Likewise, the commenter's assertion that the proposed monitoring amendment would ''end continuous NO_X monitoring for an entire geographic region'' is directly contradicted by information in the proposal: First, by the explanation that most of the EGUs in the five non-CSAPR states will remain subject to part 75 monitoring requirements under the Acid Rain Program;[41] second, by the explanation that most of the emissions from the set of large EGUs and large non-EGU boilers and turbines affected under the NO_X SIP Call come from large EGUs that would continue to monitor their emissions according to part 75 under either the Acid Rain Program or a CSAPR trading program;[42] and third, by the data showing quantitatively that out of the total set of sources subject to the NO_X SIP Call in the five non-CSAPR states, the subset of sources that would continue to be subject to part 75 monitoring requirements under other programs has produced most of the recent emissions.[43]

Contrary to the commenter's assertion that the proposal failed to address the distinction between EGUs and non-EGUs, the proposal explicitly discussed the fact that unlike most EGUs, most non-EGUs affected under the NO_X SIP Call do not participate in a CSAPR trading program or face part 75 monitoring requirements under other programs.[44] The proposal also explicitly noted that although some of the sources potentially affected by the proposed monitoring amendment are large EGUs not subject to the Acid Rain Program or a CSAPR trading program, most of the potentially affected sources are large non-EGU boilers and turbines.[45] The proposal presented recent state-specific emissions data broken out according to whether the emissions came from sources that would continue to be subject to part 75 requirements under other programs or instead came from sources potentially affected by the proposed amendment.[46] The proposal did not further break out the total recent emissions from potentially affected sources into the respective portions from EGUs and non-EGUs because EPA did not see any relevance in whether the NO_X emissions that might be monitored for NO_X SIP Call purposes using methods other than part 75 come from EGUs or from non-EGUs. The commenter has not suggested any reasons why further subcategorization of the emissions information provided in the proposal might be relevant to an evaluation of the proposed monitoring amendment. Nevertheless, to address the comment, EPA notes that large non-EGU boilers and turbines were collectively responsible for 14,860 tons of the total 15,084 tons of seasonal NO_X emissions shown in Table 1 for all units potentially affected by the proposed monitoring amendment, or 98.5% of the total, while large EGUs not required to monitor according to part 75 under the Acid Rain Program or a CSAPR trading program were collectively responsible for 224 tons, or 1.5% of the total.[47]

The comments suggesting that EPA should have evaluated the impacts on regional ozone transport problems of allowing alternate monitoring methods for some states and source types but not others reflect the commenter's unsupported assumption that allowing alternate monitoring methods is equivalent to relaxing emissions requirements. EPA has already rebutted the commenter's assumption in response to a previous comment. Because there is no reason to expect any increase in emissions from the proposed monitoring amendment, there is no reason to evaluate any impacts on regional ozone transport problems of any supposed potential increase in emissions.

Comment: One commenter stated that EPA has not ''identif[ied] any *need* to weaken emission monitoring requirements'' (emphasis in original), has not identified specific complaints

[38] 83 FR at 48761.

[39] 83 FR at 48757 & nn.38–39.

[40] 83 FR at 48756 & nn.26–27. EPA notes that there are currently no large EGUs in the District of Columbia.

[41] 83 FR at 48756 & n.27.

[42] 83 FR at 48758 & n.40.

[43] *See* 83 FR at 48758 (Table 1) (also reproduced as Table 1 in section II.B. of this document). The sum of the emissions shown in Table 1 for the sources that would continue to be subject to part 75 monitoring in the five non-CSAPR states is 1,631 tons. The sum of the emissions shown for the sources potentially affected by the proposed amendment in these states is 654 tons.

[44] 83 FR at 48751–52, 48755–56 & n.23.

[45] 83 FR at 48752.

[46] 83 FR at 48758 (Table 1).

[47] The potentially affected large EGUs are combustion turbines located in non-CSAPR states that serve generators larger than 25 MW and are exempt from the Acid Rain Program because they commenced commercial operation before November 15, 1990, and meet the definition of a ''simple combustion turbine'' in 40 CFR 72.2. There are currently 31 such units, all located in Connecticut, Delaware, or Massachusetts. The individual units are identified in the spreadsheet referenced in note 54 *infra,* available in the docket for this action.

from sources regarding the costs of operating monitoring equipment that has already been installed, and has not sufficiently discussed possible monitoring methodologies or compared their costs. The commenter also stated that allowing alternate monitoring requirements would unfairly advantage new sources over existing sources because the new sources, unlike existing sources, would be allowed ''to both use cheaper, less effective monitoring systems and to get away with emitting more NO_X'' than existing sources.

Response: EPA disagrees with these comments. In the proposal, EPA discussed the opportunity to reduce monitoring costs under the NO_X SIP Call for some sources while continuing to ensure compliance with the Rule's emissions reduction requirements.[48] By definition, a regulatory initiative that reduces overall costs while holding overall benefits constant produces positive net benefits. The commenter has not offered any legal basis or policy rationale supporting the notion that EPA should decline to pursue a regulatory initiative intended to produce positive net benefits simply because the net benefits happen to take the form of a reduction in sources' monitoring costs.

The commenter's suggestion that EPA has presented insufficient evidence to support the existence of monitoring cost reduction opportunities is belied by the information in the proposal, which described the various monitoring methodologies available under part 75 and qualitatively discussed the cost reductions that could be available if the sources using each of those methodologies were to switch to alternate monitoring methodologies.[49] Moreover, all of the comments received on the proposal from source owners and industry associations, as well as most of the comments received from states, agreed that the proposed amendment would make monitoring cost reductions possible for sources in states that choose to revise their SIPs.[50] The commenter asserted that sources had no reason to complain of monitoring costs because they had already installed the necessary CEMS equipment, but as EPA explained in response to a previous comment, this assessment is incorrect as to new sources, because new sources would not yet have installed the CEMS equipment, and materially incomplete as to all sources, because CEMS-related costs include not only equipment installation costs but also ongoing operating costs. EPA sees no reason why, in the absence of any contrary information, more evidence is needed to demonstrate the existence of opportunities for monitoring cost reductions than was already presented in the proposal, as further supported by comments.

With respect to quantification of the potential reductions in monitoring costs, EPA explained in the proposal that because states, not EPA, would decide whether to revise the monitoring requirements in their SIPs and because EPA lacked complete information on the remaining monitoring requirements that the sources would face, it was not possible to predict the amount of monitoring cost reductions that could occur following finalization of the proposed monitoring amendment.[51] EPA still lacks information on the remaining monitoring requirements that sources will face but received comments indicating some likelihood that at least six states would revise their SIPs following finalization of the proposed monitoring amendment. The states' comments make it possible to estimate a potential range of monitoring cost reductions that could occur if these states were to adopt some of the changes in monitoring requirements that EPA considers most likely. EPA's estimates are provided in section V of this document.

Finally, the commenter's suggestion that the proposed monitoring amendment would unfairly advantage new sources over existing sources lacks any support. The NO_X SIP Call's current requirements for part 75 monitoring apply to both existing and new sources, and upon finalization of the proposed monitoring amendment, states' flexibility to establish alternate monitoring requirements will likewise apply to both existing and new sources. Commenters have not suggested any reason to believe that states will choose to exercise this new flexibility in a manner that discriminates among their existing and new sources in terms of the prospective monitoring requirements established in their SIPs, and if the commenter is suggesting that EPA should require new sources to incur certain capital expenditures in the future simply because existing sources incurred those same capital expenditures in the past, EPA disagrees. Further, the commenter's assertion that the monitoring amendment will allow new sources to ''get away with emitting more NO_X'' again rests on the commenter's unsupported assumption that allowing alternate monitoring methods is equivalent to relaxing emissions requirements. EPA has already rebutted the commenter's assumption in response to a previous comment. EPA also reiterates that the proposed monitoring amendment would not change any other emissions or monitoring requirements applicable to either existing or new sources under regulations other than the NO_X SIP Call, including requirements that may be more stringent for new sources than existing sources.

Comment: One commenter discussed the superiority of CEMS methodologies compared to non-CEMS monitoring methodologies in terms of the timeliness and reliability or accuracy of the emissions data collected, particularly with respect to NO_X emissions, and cited various EPA documents in support. The commenter stated that EPA ''should be enhancing the use of CEMS in emissions measurements'' instead of allowing monitoring flexibility. In particular, the commenter stated that the continued use of CEMS is necessary to ensure compliance with the Chesapeake Bay Total Maximum Daily Load (TMDL) for nitrogen established under the Clean Water Act. In support of this comment, the commenter summarized the role of atmospheric deposition as a contributor of nitrogen to Chesapeake Bay, citing studies by EPA and others. The commenter also noted that the plan for achieving the TMDL includes commitments from EPA to reduce atmospheric deposition through implementation of rules addressing CAA requirements, including the NO_X SIP Call, and stated that EPA must maintain or strengthen air regulations in order to meet its commitments. The commenter stated that without accurate monitoring, states and EPA ''will not know whether the reductions necessary to attain the Bay TMDL goals by 2025 are actually being met.''

Response: EPA agrees that CEMS methodologies are often the preferred monitoring approaches for ensuring compliance with particular emissions requirements but disagrees that the acknowledged superiority of CEMS methodologies for some purposes should foreclose the possibility of allowing monitoring flexibility for NO_X SIP Call purposes where other monitoring methods would be sufficient to ensure continued achievement of the Rule's emissions reduction requirements. Likewise, EPA does not dispute the commenter's summary regarding the Chesapeake Bay TMDL

[48] 83 FR at 48761–62.

[49] 83 FR at 48761 & nn.53–54.

[50] *See* comments from Indiana, Michigan, North Carolina, Ohio, South Carolina, Alcoa, Citizens Energy, Council of Industrial Boiler Owners, Illinois Environmental Regulatory Group, Ohio Manufacturers Association, Virginia Manufacturers Association, and West Virginia Manufacturers Association, available in the docket for this action.

[51] 83 FR at 48761.

and EPA's reliance on the NO_X SIP Call's emissions reductions to reduce atmospheric deposition contributing nitrogen to the Bay but disagrees that those facts suggest that compliance with the Rule's emissions reduction requirements must be determined using any particular monitoring approach. As discussed in response to a previous comment, the NO_X SIP Call's existing monitoring requirements were established to provide monitoring information sufficient to ensure compliance with the control measures adopted to achieve the Rule's required emissions reductions, and monitoring requirements to ensure compliance with other emissions requirements are established in other regulations. Comments concerning whether the NO_X SIP Call's existing emissions reductions requirements are sufficiently stringent to address other environmental objectives, including achievement of the Chesapeake Bay TMDL, are outside the scope of the proposal. EPA did not propose to substantively alter any regulatory requirements other than the NO_X SIP Call's monitoring requirements.

Comment: One commenter supported a narrower amendment to the NO_X SIP Call's monitoring requirements than EPA proposed. Specifically, the commenter supported an amendment that would allow states to eliminate the requirements for reporting emissions data to EPA under part 75 but would not allow the use of substantively different monitoring methodologies for collecting emissions data. The commenter objected to allowing sources that currently monitor emissions using CEMS to use other monitoring methodologies because, unlike CEMS methodologies, non-CEMS methodologies do not allow for accurate and timely determinations of compliance with or violations of short-term emission limits. The commenter also expressed the expectation that if the proposed amendment to emissions monitoring requirements is finalized, some states would be required to revise their SIPs to establish less stringent monitoring requirements because of provisions in state law barring the states from imposing requirements on sources that exceed minimum Federal requirements.

Response: The comment expressing concern that non-CEMS methodologies are less useful than CEMS methodologies for determining compliance with emissions requirements other than the NO_X SIP Call's emissions requirements is outside the scope of the proposal. As discussed in response to a previous comment, the NO_X SIP Call's existing monitoring requirements were established to provide monitoring information sufficient to ensure compliance with the control measures adopted to achieve the Rule's required emissions reductions, and monitoring requirements to ensure compliance with other emissions requirements are established in other regulations. The NO_X SIP Call does not require states to impose short-term emissions limits on their sources, and EPA did not propose to substantively alter any regulatory requirements other than the NO_X SIP Call's monitoring requirements.

The comment suggesting that some NO_X SIP Call states would be required under state law to revise their SIPs if the proposed monitoring amendment is finalized has no bearing on this action. EPA's proper focus in this action is whether the proposed amendment to allow alternate monitoring requirements in SIPs is appropriate under the CAA. Questions of whether and how state law provisions might affect the decisions of individual states to adopt alternate monitoring requirements allowed under the amendment are outside EPA's purview.

Comment: One commenter stated that allowing sources that currently monitor emissions for NO_X SIP Call purposes with CEMS methodologies to instead monitor their emissions with non-CEMS methodologies would result in a loss of data resolution that would make it more difficult to understand the impacts of the sources' emissions on air quality in other states. The commenter stated that, with less detailed emissions data, it would be more difficult for states to work together to develop regionally consistent approaches for addressing good neighbor obligations with respect to the 2015 ozone NAAQS. The commenter also requested that EPA identify the specific units whose monitoring requirements could potentially be altered by states if the proposed monitoring amendment is finalized, as well as the locations of the units.

Response: EPA disagrees that allowing the use of alternate monitoring requirements for NO_X SIP Call purposes would materially impact the ability of states to work together to address their good neighbor obligations with respect to the 2015 ozone NAAQS in a regionally consistent manner. As discussed in section II.B. of this document, if the proposed amendment is finalized, over 90% of the emissions from the set of NO_X SIP Call large EGUs and large non-EGU boilers and turbines would still be monitored according to part 75 under other regulations if the relative proportions shown for 2017 in Table 1 continue into the future. In addition, the potentially affected sources in states that choose to revise their SIPs would still need to provide emissions monitoring information for each ozone season sufficient for the state to demonstrate compliance with the Rule's emissions reduction requirements. The commenter has not explained the purpose for which the enhanced data resolution provided by part 75 monitoring is desired. In any event, EPA notes that projected hourly emissions data for use in air quality modeling could be prepared based on the intra-year time patterns in the extensive historical emissions data reported by the sources for periods while the sources have been subject to part 75, because those data would remain available even if hourly emissions data are no longer reported in the future for some of these sources. As indicated in Table 1, the total amount of recent seasonal NO_X emissions from the units that could potentially switch from part 75 monitoring approaches to non-part 75 monitoring approaches was approximately 15,000 tons during the 5-month ozone season, which by extrapolation suggests possible annual emissions of roughly 36,000 tons. By comparison, the most recent National Emissions Inventory (for 2014) indicates that for the set of NO_X SIP Call states, the total amount of annual NO_X emissions from all types of stationary sources—that is, not just the large EGUs and large non-EGU boilers and turbines currently subject to part 75 monitoring requirements under the NO_X SIP Call—was over 2,000,000 tons, and the total amount of annual NO_X emissions from all stationary and mobile sources was over 5,000,000 tons.[52] Thus, the NO_X SIP Call units potentially affected by the proposed amendment appear to be responsible for roughly 2% of the total stationary source emissions and less than 1% of the total stationary and mobile source emissions from NO_X SIP Call states. Given the small percentages of the relevant overall emissions inventory represented by the large non-

[52] *See* state_tier1_caps.xlsx, available at *https://www.epa.gov/air-emissions-inventories/air-pollutant-emissions-trends-data* (follow the link for State Average Annual Emissions Trend) and in the docket for this action. The total amount of stationary and mobile source emissions can be obtained from the spreadsheet by filtering column B to exclude all states except the 21 NO_X SIP Call jurisdictions, filtering column D to exclude ''prescribed fires'' and ''wildfires,'' filtering column E to exclude all pollutants except NO_X, and then summing the 2014 emissions inventory amounts in column Y for all remaining line items shown. The total amount of stationary source emissions can be obtained in the same way after further filtering column D to exclude ''highway vehicles'' and ''off-highway.''

EGU boilers and turbines potentially affected by the monitoring amendment proposed for this action, EPA expects that air quality modeling results and analyses of interstate ozone transport would not be materially affected by differences in the intra-year patterns of the projected hourly emissions data for these sources.

With respect to the commenter's request for the identities and locations of units potentially affected by the proposed monitoring amendment—in other words, large non-EGU boilers and turbines as well as large EGUs that are subject to the NO_X SIP Call but not the Acid Rain Program or a CSAPR trading program—EPA notes that the requested information is already publicly available in the database of reported part 75 emissions data accessible through the Agency's website.[53] The database identifies each individual unit that has reported according to part 75 and provides the unit's state, county, latitude, and longitude. The database also indicates the regulatory programs for which the data have been reported, using the code ''SIPNO_X'' to indicate where a unit has reported seasonal NO_X mass emissions data for purposes of the NO_X SIP Call but not for purposes of the seasonal NO_X trading programs established under CAIR, the original CSAPR, and the CSAPR Update. For the convenience of the commenter and others who might be similarly interested, EPA has extracted this information from the database into a spreadsheet which has been added to the docket for this action.[54]

B. Emissions Reduction Requirements

Comment: One commenter stated it had no objection to the proposed revisions to the provisions expressing the NO_X SIP Call's emissions reduction requirements to the extent that the revisions do not substantively adjust the states' budgets.

Response: EPA thanks the commenter for this comment.

Comment: One commenter agreed with EPA's objective of clarifying and simplifying the provisions describing the NO_X SIP Call's emissions reduction requirements but offered suggestions for doing so in ways that differed in some respects from the proposed amendments. First, the commenter suggested replacing the terms ''budget'' and ''NO_X budget'' with a single term such as ''NO_X ozone season budget'' both for consistency and to clarify that the budgets apply to seasonal rather than annual emissions. The commenter also suggested that EPA specify that the final budgets apply starting in 2007 and define the term ''ozone season'' in the regulations. Finally, the commenter suggested that all references to the Phase I budgets could be removed from the regulations because these budgets no longer have any substantive effect.

Response: EPA agrees with most of the commenter's suggestions. In particular, EPA agrees that the regulations would be clarified by consistently using the term ''NO_X ozone season budget'' throughout § 202F;51.121, specifying that the final budgets apply starting in 2007, and documenting the definition used for the term ''ozone season.'' Extending the commenter's suggestions, EPA believes the regulations would be further clarified by indicating that other emissions amounts described in the regulations are also ozone season emissions and documenting the definition used for the term ''nitrogen oxides'' or ''NO_X.'' The specific changes from proposal that are being adopted in response to the commenter's suggestion are described in section IV of this document.

Although EPA agrees with the commenter's observation that the Phase I budgets no longer have any substantive regulatory effect, EPA disagrees with the suggestion to remove all references to these budgets from the regulations. All but one of the states subject to the NO_X SIP Call as implemented was required to adopt a SIP revision designed to comply with a Phase I budget, and some of the control measures adopted in those SIP revisions (such as measures to reduce emissions from cement kilns or stationary internal combustion engines) continue to be implemented as approved SIP provisions. While these control measures now address requirements to comply with the final budgets rather than the Phase I budgets, EPA considers it reasonable to retain the Phase I budgets in the regulations (and to specify their years of applicability) to document and facilitate understanding of both the state regulatory actions that originally adopted the measures and the EPA actions that approved the measures into the SIPs.

C. Baseline Emissions Inventory Table

Comment: One commenter objected to the proposed removal of the baseline emissions inventory table in § 51.121(g)(2)(ii), requesting that the table be retained (with any necessary updates) for use in implementing the provisions at § 51.121(f)(2) that require enforceable limits on seasonal NO_X mass emissions from large EGUs and large non-EGU boilers and turbines. The text of § 51.121(f)(2)(ii), which EPA has not proposed to substantively amend, contains the phrase ''the total NO_X emissions projected for such sources by the State pursuant to paragraph (g) of this section.'' The commenter interprets this phrase as referring to amounts of emissions that the commenter believes either are or should be shown in the baseline emissions inventory table in § 51.121(g)(2)(ii).

Response: EPA disagrees with this comment, which appears to arise from a misinterpretation of the reference to ''paragraph (g)'' in § 51.121(f)(2)(ii). The various subparagraphs of § 51.121(g) describe or implicate two different types of projected 2007 emissions amounts. The first type is the baseline *pre-control emissions amounts projected by EPA* to represent emissions absent the reductions required by the NO_X SIP Call. The second type is the *post-control emissions amounts projected by states* to represent emissions following implementation of the control measures adopted in their SIPs. The table in § 51.121(g)(2)(ii) that EPA proposed to delete was intended to contain [55] the first type of emissions amount—specifically, the pre-control emissions amounts projected by EPA for all sources [56] in all sectors. In contrast, the phrase ''the total NO_X emissions projected for such sources [57] by the State pursuant to paragraph (g) of this section'' in § 51.121(f)(2)(ii) refers to the second type of emissions amount—specifically, the post-control emissions amounts projected by states for their

[53] *See https://ampd.epa.gov/ampd.*

[54] *See* Existing Units Potentially Affected by the NO_X SIP Call Monitoring Amendment (December 2018), available in the docket for this action. EPA acknowledges that the database does not differentiate between two sets of units for which the SIPNO_X code is used: (1) Large EGUs and large non-EGU boilers and turbines that are described in § 51.121(i)(4) and are potentially affected by the amendments in this action, and (2) other units that are not described in § 51.121(i)(4) and therefore are not affected by the amendments in this action, but that nevertheless monitor according to part 75 for NO_X SIP Call purposes pursuant to requirements in their states' SIPs. The spreadsheet in the docket includes only units in the first set.

[55] As noted in the proposal, because of an error setting out the regulatory text for certain NO_X SIP Call amendments finalized in 2000, the current table incorrectly shows the potential *post-control* emissions amounts that EPA projected for use in setting the states' amended statewide emissions budgets rather than the amended *pre-control* emissions amounts as intended. *See* 83 FR at 48760 & n.48.

[56] The ''EGU'' and ''non-EGU'' columns of the table in § 51.121(g)(2)(ii)—both the original version showing EPA's projections of pre-control emissions and the incorrectly amended version showing EPA's projections of post-control emissions—include emissions amounts for *all* EGU and non-EGU point sources, not just large EGUs and large non-EGU boilers and turbines.

[57] The term ''such sources'' in § 51.121(f)(2)(ii) refers to the large EGUs and large non-EGU boilers and turbines identified in § 51.121(f)(2).

large EGUs and large non-EGU boilers and turbines pursuant to § 51.121(g)(2)(iii) and used in the demonstrations required under § 51.121(g)(1). The fact that the phrase in § 51.121(f)(2)(ii) refers to the second type of emissions amount is evident for two reasons: first, the relevant amounts are projected ''by the State'' and not by EPA, and second, the purpose of § 51.121(f)(2)(ii) is to require enforceable mechanisms to ensure achievement of post-control emissions levels rather than pre-control emissions levels. Thus, the commenter's objection to the removal of the baseline emissions inventory table in § 51.121(g)(2)(ii) is misplaced.

D. Post-NBTP Transition Requirements

Comment: Without expressing any objection to the proposed clarifying amendments to the post-NBTP transition provision at § 51.121(r)(2), one commenter requested confirmation that EPA does not intend the requirements of the provision as revised to apply with regard to EGUs that participate in the CSAPR Update trading program under the regulations set forth at 40 CFR part 97, subpart EEEEE,[58] pursuant to an approved SIP revision.

Response: The proposed clarifying revisions to the NO_X SIP Call post-NBTP transition provision at § 51.121(r)(2) add a cross-reference to 40 CFR 52.38(b)(10)(ii), which is an existing provision of the CSAPR regulations governing SIP approvals. Under this provision of the CSAPR regulations, where a state has an approved full CSAPR SIP revision requiring certain units in the state to participate in a state seasonal NO_X trading program integrated with the Federal CSAPR Update seasonal NO_X trading program established under 40 CFR part 97, subpart EEEEE, the NO_X SIP Call's post-NBTP transition requirements under § 51.121(r)(2) are satisfied with regard to any of the state's large EGUs or large non-EGU boilers and turbines participating in that state trading program. As explained in the proposal,[59] the addition of the cross reference in § 51.121(r)(2) is not a substantive change because the approval of a full CSAPR SIP would produce this result even without a cross-reference, but the cross-reference clarifies the NO_X SIP Call regulations.

Comment: Without expressing any objection to the proposed clarifying amendments to the post-NBTP transition provision at § 51.121(r)(2), one commenter requested that EPA further clarify the Rule's post-NBTP transition requirements by adding a new regulatory provision indicating that where a state does not require its large non-EGU boilers and turbines to participate in the CSAPR Update trading program, the state must impose a cap on these units' collective seasonal NO_X mass emissions equivalent to the portion of the statewide emissions budget assigned to the units under the NBTP. The commenter requested that EPA add the new provision to § 51.121(f)(2), the provision establishing the requirement for enforceable limits on seasonal NO_X mass emissions from large EGUs and large non-EGU boilers and turbines.

Response: This comment is outside the scope of the proposal. A requirement for a cap on the collective NO_X mass emissions of each state's large non-EGU boilers and turbines does not appear in the existing regulatory text at § 51.121 because, as discussed in the proposal and summarized in section II.A. of this document, the NO_X SIP Call did not require states to control any specific types of sources or to adopt any specific types of control measures. Even where states chose to adopt control measures for large EGUs and large non-EGU boilers and turbines, thereby triggering requirements for enforceable limits on seasonal NO_X mass emissions from those sources, the regulations provided several permissible alternative forms for such limits.[60] Similarly, the post-NBTP provision at § 51.121(r)(2) does not prescribe what types of sources states must control to satisfy the post-NBTP transition requirements or what types of control measures states must employ, but simply requires each state with units affected under the NO_X SIP Call that do not participate in a successor trading program to the NBTP to ''revise the SIP to adopt control measures that satisfy the same portion of the State's emission reduction requirements under [§ 51.121] as the State projected [the NBTP] would satisfy.'' The commenter's requested amendment would codify as a Federal requirement what may be the simplest way to satisfy the Rule's post-NBTP transition requirements, but it would also reduce states' flexibility by eliminating options to satisfy the post-NBTP transition requirements in other ways, and the reduction in flexibility would represent a substantive change to the existing regulations. EPA did not propose substantive changes to the post-NBTP transition provision and made clear that the only provision of the NO_X SIP Call regulations being reopened for substantive comment was the provision concerning part 75 monitoring requirements for large EGUs and large non-EGU boilers and turbines.

Comment: Without expressing any objection to the proposed clarifying amendments to the post-NBTP transition provision at § 51.121(r)(2), two commenters requested that EPA identify in the regulations the portion of each state's statewide emissions budget assigned to the state's large non-EGU boilers and turbines by adding this information either as a new table or as an additional column in the table of statewide budgets in § 51.121(e)(2)(i). The commenters suggested that inclusion of these amounts in the regulations could help states address their post-NBTP transition requirements. One of the commenters accompanied this comment with a request that EPA confirm ''it is the EPA's intent that all required SIP elements for the NO_X SIP Call are contained under § 51.121.''

Response: These comments are outside the scope of the proposal. The portions of the statewide emissions budgets assigned to various categories of sources do not appear in the existing regulatory text at § 51.121 because, as discussed in the proposal and summarized in section II.A. of this document, the NO_X SIP Call did not establish required post-control emissions amounts for any specific categories of sources. Instead, each state determined what portions of its post-control statewide emissions budget to assign to the specific categories of sources in the state, and the assignments were approved in separate SIP approval actions for each state.[61] Adopting the state-determined, sector-specific assignments as Federal requirements at this time would be a substantive change to the existing regulations because it would reduce states' flexibility to revise their previous choices and select other ways of addressing their post-NBTP transition requirements. EPA did not propose substantive changes to the post-NBTP transition provision and made clear that the only provision of the NO_X SIP Call regulations being reopened for

[58] The commenter similarly requests confirmation with regard to EGUs that participate in the original CSAPR seasonal NO_X trading program under the regulations set forth at 40 CFR part 97, subpart BBBBB, but this request is moot because there are no states subject to the NO_X SIP Call with EGUs that continue to participate in the original CSAPR seasonal NO_X trading program.

[59] 83 FR at 48760–61.

[60] *See* 40 CFR 51.121(f)(2)(i)(A)–(C).

[61] *See, e.g.,* 67 FR 68542 (Nov. 12, 2002) (proposing to approve Virginia SIP provisions assigning portions of the statewide emissions budget to large EGUs and large non-EGU boilers and turbines); *see also* 68 FR 40520 (July 8, 2003) (finalizing approval).

substantive comment was the provision concerning part 75 monitoring requirements for large EGUs and large non-EGU boilers and turbines.

Comment: Without expressing any objection to the proposed clarifying revisions to the post-NBTP transition provision at § 51.121(r)(2), one commenter noted the proposed insertion of the words ''or included'' into the phrase ''a State whose SIP . . . includes *or included* an emission trading program approved under [§ 51.121]'' and indicated that the commenter's interpretation of the revised language is that ''no action is necessary to affirm [the commenter's] obligation to maintain NO_X SIP Call emissions control.'' The commenter requested that EPA clarify in this final action if the state's interpretation is not correct.

Response: EPA considers this comment to be outside the scope of the proposal. As discussed in the proposal, the reason for inserting the words ''or included'' in § 51.121(r)(2) was to eliminate any possible mistaken inference that a state's obligation to maintain NO_X SIP Call emission controls might be contingent on whether its SIP currently includes trading program provisions and to reinforce that the Rule's emissions reductions are permanent and enforceable.[62] EPA does not consider this to be a substantive change to the regulations.[63] While the commenter contends that its request for clarification about the need for any further action regarding its SIP arises from the proposed insertion, the commenter has not explained how, if at all, its interpretation of the post-NBTP transition requirements might have been influenced by the proposed insertion, and there is no indication that the commenter's interpretation has changed from its interpretation before issuance of the proposal.[64] Given the lack of any apparent connection between the proposed revision and the commenter's request for clarification, EPA interprets the comment as a request for a determination concerning the commenter's SIP that is outside the scope of the proposal. For this action, EPA did not propose to make any determinations regarding whether any further action is or is not necessary to address any specific state's post-NBTP transition requirements. Accordingly, EPA is not making any such state-specific determinations in this final action, either through express statements or otherwise.

IV. Final Action

For the reasons discussed in the proposal, as supplemented by the discussion in this document, EPA is finalizing amendments to the NO_X SIP Call regulations at 40 CFR 51.121 and 51.122 and amendments to associated cross-references in the CSAPR regulations at 40 CFR 52.38. In place of the current requirement for states to include provisions in their SIPs under which certain emissions sources must monitor their seasonal NO_X mass emissions according to 40 CFR part 75, the amended regulations will allow states to include alternate forms of monitoring requirements in their SIPs for NO_X SIP Call purposes. Other amendments remove obsolete provisions and clarify the remaining regulations but do not substantively alter any current regulatory requirements.

Descriptions of the individual proposed amendments are provided in sections II.B. and II.C. of this document and further discussion is provided in the proposal. EPA is finalizing the amendments generally as proposed with the following further revisions, all of which EPA considers to be non-substantive changes from the proposal:

- To improve clarity, the final regulatory text of § 51.121(i)(4) is being revised from the proposed amended text in two ways. First, the final revisions indicate that where a state chooses to require part 75 monitoring for some or all large EGUs and large non-EGU boilers and turbines for NO_X SIP Call purposes, the ''full set of'' monitoring, recordkeeping, and reporting provisions in subpart H of part 75 must be required. The added words clarify that the amendments do not authorize states to create partial versions of the part 75 regulations that EPA would then have to administer on a state-specific basis. Second, the final revisions remove a phrase indicating that the amended text does not create any exception to any part 75 requirements that may apply to a source under another legal authority. The removed phrase is unnecessary because, on its face, the amended text merely gives states an option to require part 75 monitoring for NO_X SIP Call purposes and does not create or authorize any exceptions to any requirements that may apply to any source under any legal authority. EPA believes the text of the final amendment is clearer and does not differ substantively from the text of the amendment as proposed.

- As discussed in EPA's response to comments in section III.B. of this document, the regulatory text expressing the NO_X SIP Call's emissions reduction requirements is being further clarified by using more precise terminology and documenting the definitions that already apply for two important terms. The final revisions (1) use the standard term ''NO_X ozone season budget'' consistently, (2) specify emissions ''during the ozone season'' where appropriate, (3) indicate the respective years of applicability for the Phase I and final emissions budgets, and (4) add definitions of the terms ''nitrogen oxides or NO_X'' and ''ozone season'' to § 51.121. The term ''nitrogen oxides or NO_X'' is defined as ''all oxides of nitrogen except nitrous oxide (N_2O), reported on an equivalent molecular weight basis as nitrogen dioxide (NO_2).'' The term ''ozone season'' is defined as ''the period from May 1 through September 30 of a year.'' The added definitions do not alter any regulatory requirements because they are substantively identical to the definitions that already explicitly apply for purposes of § 51.122 and that have historically been used in practice for purposes of § 51.121 as well.[65] The additional revisions affect the regulatory text at § 51.121(a)(3), (b)(1)(i) and (iii), (e)(1), (e)(2)(i) and (ii), (f) introductory

[62] 83 FR at 48760–61.

[63] EPA notes that the continued applicability of the post-NBTP transition requirements following the replacement of the CAIR seasonal NO_X trading program by the original CSAPR seasonal NO_X trading program was discussed in the preamble for the CSAPR final rule. 76 FR at 48325.

[64] Like several other states, when the NBTP was discontinued, the commenter elected to include its large non-EGU boilers and turbines in the replacement seasonal NO_X trading program established under CAIR, and EPA subsequently approved the removal of the NBTP from its SIP. The commenter is thus a state whose SIP ''included'' a trading program approved under § 51.121. The commenter clearly is not contending that, prior to this action, it believed the requirement to adopt control measures replacing the NBTP no longer applied to it because its SIP no longer ''includes'' the NBTP and that, now, the insertion of the words ''or included'' would cause it to understand the requirement once again applies, although such a contention would have internal logic and would be consistent with the purpose of the proposed clarification. The comment does not set forth the commenter's interpretation of § 51.121(r)(2) prior to this action, but if the commenter is contending that, prior to this action, it understood the requirement to adopt replacement control measures applied to it and that, now, the insertion of the words ''or included'' would cause it to believe the requirement no longer applies, that contention would be illogical. If the commenter is contending that the insertion of the words ''or included'' would alter its interpretation concerning the nature of the replacement control measures that can satisfy the post-NBTP transition requirements, that contention would also be illogical because with or without the added words, the post-NBTP transition provision does not address the nature of replacement control measures that states may or must adopt.

[65] *See* 40 CFR 51.122(a); *see also id.* § 51.50 (definition of ''nitrogen oxides'').

text, (f)(2) introductory text, (f)(2)(i)(C), (g)(1), (g)(2)(i) and (iii), (i), and (j)(1).

• Instead of being removed as proposed, the provision at § 51.121(d)(2) concerning procedural requirements for SIP submissions is being revised to incorporate the updated procedural requirements for SIP submissions at 40 CFR 51.103. In the proposal,[66] EPA stated the intent for the completeness and format requirements in § 51.103 to apply to any future SIP submissions under § 51.121. The final revision makes such applicability explicit and is consistent with several other provisions of § 51.121 that similarly incorporate requirements set forth in other sections of 40 CFR part 51.

• An additional editorial revision is being made to the text of § 51.121(k)(2). The revision clarifies the regulations by standardizing citation formats.

A redline-strikeout document showing the text of 40 CFR 51.121 and 51.122 with the amendments adopted in this action, including all the proposed amendments to the NO_X SIP Call regulations with the further revisions just described, is available in the docket for this action.

The amendments finalized in this action are effective immediately upon publication of the action in the **Federal Register**. This final action is not subject to requirements specifying a minimum period between publication and effectiveness under either Congressional Review Act (CRA) section 801(a)(3), 5 U.S.C. 801(a)(3), or Administrative Procedure Act (APA) section 553(d), 5 U.S.C. 553(d).

CRA section 801(a)(3) generally prohibits a ''major rule'' from taking effect earlier than 60 days after the rule is published in the **Federal Register**. Generally, under CRA section 804(2), 5 U.S.C. 804(2), a major rule is a rule that the Office of Management and Budget (OMB) finds has resulted in or is likely to result in (1) an annual effect on the economy of $100 million or more, (2) major cost or price increases, or (3) other significant adverse economic effects. This action is not a major rule for CRA purposes.

As discussed in section VI.M. of this document, EPA is issuing the amendments under CAA section 307(d). This provision does not include requirements governing the effective date of a rule promulgated under it and, accordingly, EPA has discretion in establishing the effective date. While APA section 553(d) generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**, CAA section 307(d)(1) clarifies that ''[t]he provisions of [APA] section 553 . . . shall not, except as expressly provided in this section, apply to actions to which this subsection applies.'' Thus, APA section 553(d) does not apply to the amendments. Nevertheless, in making this final action effective immediately upon publication, EPA has considered the purposes underlying APA section 553(d). The primary purpose of the prescribed 30-day waiting period is to give affected parties a reasonable time to adjust their behavior and prepare before a final rule takes effect. The amendments made in this action do not impose any new regulatory requirements and therefore do not necessitate time for affected sources to adjust their behavior or otherwise prepare for implementation. Further, APA section 553(d) expressly allows an effective date earlier than 30 days after publication for a rule that ''grants or recognizes an exemption or relieves a restriction.'' This action relieves an existing restriction and allows EPA to approve SIPs with more flexible monitoring requirements, which in turn could lead to reduced monitoring costs for certain sources. Consequently, making the amendments effective immediately upon publication of the action is consistent with the purposes of APA section 553(d).

V. Impacts of the Amendments

The only amendment being finalized in this action that substantively alters existing regulatory requirements is the amendment allowing states to revise their SIPs, for NO_X SIP Call purposes only, to establish monitoring requirements other than part 75 monitoring requirements. The amendments do not change any of the Rule's existing regulatory requirements related to statewide emissions budgets or enforceable mass emissions limits for large EGUs and large non-EGU boilers and turbines. Accordingly, EPA expects that the amendments will have no impact on emissions or air quality. However, EPA does expect that the amendment to the Rule's monitoring requirements will ultimately allow some sources to reduce their monitoring costs because of alternate monitoring requirements established in SIP revisions submitted and approved for their states. Because states, not EPA, will decide whether to revise the monitoring requirements in their SIPs and because EPA lacks complete information on the remaining monitoring requirements that the sources would face, there is considerable uncertainty concerning the amount of monitoring cost reductions that may be facilitated by this action, and EPA did not present a quantitative estimate of potential monitoring cost reductions in the proposal. For purposes of the final action, based in part on improved information obtained through comments, EPA has estimated a range of potential annual monitoring cost reductions from $1.2 million to $3.3 million, with a midpoint estimate of $2.25 million, as further discussed below. Given the absence of any change in emissions or air quality, there would be no change in the public health and environmental benefits attributable to the NO_X SIP Call's emissions reduction requirements, and the likely reductions in monitoring costs therefore are expected to constitute positive net benefits from this action.

As of December 2018, EPA's records indicate that there are approximately 315 existing large EGUs and large non-EGU boilers and turbines in the NO_X SIP Call region that could potentially be affected by the monitoring amendment if all states were to revise their SIPs.[67] To estimate how many of these potentially affected existing units may ultimately face alternate monitoring requirements made possible by the monitoring amendment in this action, EPA is relying on information obtained from states' comments. Six states submitted comments expressing support for the proposed monitoring amendment.[68] While these comments do not in any way obligate the states to submit SIP revisions with alternate monitoring requirements, and additional states that did not submit comments could also choose to submit SIP revisions, EPA believes that the comments provide a reasonable basis for assuming, solely for purposes of developing an estimate of this action's impacts, that the 102 existing units in these six states will ultimately face alternate monitoring requirements of some kind.[69] According to the monitoring plans for these units, 34 units use both gas concentration CEMS

[66] 83 FR at 48761.

[67] The spreadsheet referenced in note 54 *supra* identifies 317 potentially affected existing units. As noted in section II.B. of this document, in the proposal for this action EPA indicated that there were approximately 310 potentially affected existing units. Several additional units started reporting emissions for NO_X SIP Call purposes in 2018.

[68] The six states are Indiana, Michigan, North Carolina, Ohio, South Carolina, and West Virginia.

[69] The 102 units are the existing units identified in the spreadsheet referenced in note 54 *supra* for these six states. While any new units in these states that otherwise would have been required to use CEMS methodologies for NO_X SIP Call purposes could also experience monitoring cost reductions, EPA believes it is reasonable to ignore possible new units in preparing this estimate due to the larger numbers of existing units.

and stack gas flow rate CEMS, 35 units use gas concentration CEMS but not stack gas flow rate CEMS, and 33 units use non-CEMS methodologies. For purposes of estimating potential monitoring cost reductions, EPA has focused on the units currently using CEMS because, as noted in the proposal and in section II.B. of this document, EPA expects that units already using non-CEMS methodologies under part 75 would experience little or no reduction in monitoring costs from alternate monitoring requirements.

To represent the alternate monitoring requirements that the units currently using CEMS could face in a manner that reflects the substantial uncertainty on this issue, EPA has used a range of assumptions. Specifically, to estimate the low end of the range, EPA has assumed that the only change from current requirements is that the 34 units currently using both gas concentration CEMS and stack gas flow rate CEMS will discontinue the use of stack gas flow rate CEMS. EPA considers this assumption to be reasonable for purposes of estimating potential monitoring cost reductions because requirements to use stack gas flow rate CEMS are relatively uncommon in non-part 75 monitoring regulations. EPA also believes the units currently using stack gas flow rate CEMS are more likely than other potentially affected units to continue to be subject to requirements to use gas concentration CEMS because many of these units combust solid fuel and consequently may have triggered emission control requirements and associated emissions monitoring requirements under other regulations. To estimate the high end of the range, EPA has assumed that in addition to the change just described, the 35 units currently using only gas concentration CEMS will switch to a non-CEMS methodology. While it is possible that some of these units may also face continued requirements to use gas concentration CEMS under other regulations, EPA believes the likelihood that these units, none of which combust solid fuel, would be eligible to use non-CEMS methodologies is greater than for the units that currently use both gas concentration CEMS and stack gas flow rate CEMS.

To estimate the monitoring cost reductions associated with the assumed range of changes in monitoring requirements, EPA has used the cost estimates for the various part 75 monitoring methodologies contained in the information collection request (ICR) renewal prepared in conjunction with this action for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*[70] Based on the cost estimates in the ICR renewal, EPA has estimated that the potential annual cost reduction from discontinuing the use of stack gas flow rate CEMS—including reductions in labor costs, non-labor operating and maintenance costs (including contractor costs), and annualized capital costs—is approximately $35,000 per unit, while the analogous potential annual cost reduction from discontinuing the use of gas concentration CEMS is approximately $60,000 per unit.[71] Multiplying these per-unit amounts by the respective numbers of units yields an estimated range of potential annual monitoring cost reductions from $1.2 million to $3.3 million.[72] The midpoint of this range is a potential reduction in annual monitoring costs of $2.25 million.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and executive orders can be found at *https://www.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 OMB for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is considered an Executive Order 13771 deregulatory action. This final rule provides meaningful burden reduction by allowing states to establish lower-cost monitoring requirements in their SIPs for some sources as alternatives to part 75 monitoring requirements. Because states, not EPA, will decide whether to revise the monitoring requirements in their SIPs and because EPA lacks complete information on the remaining monitoring requirements that the sources would face, there is considerable uncertainty regarding the amount of monitoring cost reductions that may occur, but EPA has quantified an estimated range in section V of this document. In addition, the proposal's qualitative discussion of the potential monitoring cost reductions[73] is summarized in section II.B. of this document.

C. 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 2060–0445. However, to reflect the amendment allowing states to establish potentially lower-cost monitoring requirements for some sources as alternatives to the current part 75 monitoring requirements, EPA submitted an information collection request (ICR) renewal to OMB in conjunction with the proposal for this action. The ICR document prepared by EPA, which has been assigned EPA ICR number 1857.08, can be found in the docket for this action. None of the comments that EPA received during the public comment period for the proposal addressed the ICR renewal.

Like the current ICR, the ICR renewal reflects the information collection burden and costs associated with part 75 monitoring requirements for sources that are subject to part 75 monitoring requirements under the SIP revisions addressing states' NO_X SIP Call obligations and that are not subject to part 75 monitoring requirements under the Acid Rain Program or a CSAPR trading program. The ICR renewal is generally unchanged from the current ICR except that the renewal reflects projected decreases in the numbers of sources that would perform part 75 monitoring for NO_X SIP Call purposes based on an assumption (made only for purposes of estimating information collection burden and costs for the ICR renewal) that, over the course of the 3-year renewal period, some states will revise their SIPs to replace part 75 monitoring requirements for some sources with lower-cost monitoring requirements. As under the current ICR, all information collected from sources under the ICR renewal will be treated as public information.

Respondents/affected entities: Fossil fuel-fired boilers and stationary combustion turbines that have heat input capacities greater than 250 mmBtu/hr or serve electricity generators

[70] *See* section VI.C. *infra.*

[71] *See* Information Collection Request Renewal for the NO_X SIP Call: Supporting Statement (September 2018) at 12 (Table 6–2), available in the docket for this action. The $35,000 estimate is the rounded difference between the sum of the amounts in the labor, O&M, and annualized capital cost columns on line 6(a) and the sum of the amounts in the same columns on line 6(b). The $60,000 estimate is the rounded difference from the same calculation performed using the amounts on lines 6(b) and 6(c) instead.

[72] Calculation of low end of range: 34 units × $35,000 per unit = $1.2 million.

Calculation of high end of range: 35 units × $60,000 per unit + $1.2 million = $3.3 million.

[73] 83 FR at 48761–62.

with nameplate capacities greater than 25 MW and that are not subject to part 75 monitoring requirements under another program.

Respondents' obligation to respond: Mandatory if elected by the state (40 CFR 51.121(i)(4) as amended).

Estimated number of respondents: 340 (average over 2019–2021 renewal period).

Frequency of response: Quarterly, occasionally.

Total estimated burden: 131,945 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $19,143,004 (per year), includes $8,256,087 annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR renewal, the Agency will announce that approval in the **Federal Register**.

D. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601–612. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This action does not directly regulate any entity, but simply allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations. EPA has therefore concluded that this action will either relieve or have no net regulatory burden for all affected small entities.

E. 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 allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations.

F. 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 allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This action simply allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that 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 does not concern an environmental health risk or safety risk. This action simply allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations.

I. 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.

J. National Technology Transfer Advancement Act

This rulemaking does not involve technical standards.

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

EPA believes that this action is not subject to Executive Order 12898 because it does not establish an environmental health or safety standard. This action simply allows states to establish potentially lower-cost monitoring requirements for some sources and generally streamlines existing regulations. Consistent with Executive Order 12898 and EPA's environmental justice policies, EPA considered effects on low-income populations, minority populations, and indigenous peoples while developing the original NO_X SIP Call. The process and results of that consideration are described in the Regulatory Impact Analysis for the NO_X SIP Call.

L. Congressional Review Act

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

M. Determinations Under CAA Section 307(b) and (d)

CAA section 307(b)(1), 42 U.S.C. 7607(b)(1), indicates which United States Courts of Appeals have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) if (i) the Agency action consists of ''nationally applicable regulations promulgated, or final action taken, by the Administrator,'' or (ii) the action is locally or regionally applicable, but ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.'' This action amends existing regulations that apply to 20 states and the District of Columbia, and thus the action applies to the same 21 jurisdictions. The existing regulations were promulgated to address interstate transport of air pollution across the eastern half of the nation and the resulting emissions reductions have been relied on as a basis for actions redesignating areas in at least 20 states to attainment with one or more NAAQS.

The states affected under the regulations and relying on the resulting emissions reductions are located in multiple EPA Regions and Federal judicial circuits. Previous final actions promulgating and amending the existing regulations were nationally applicable and reviewed in the D.C. Circuit. For these reasons, the Administrator determines that this final action is nationally applicable or, in the alternative, is based on a determination of nationwide scope and effect for purposes of section 307(b)(1). Thus, pursuant to section 307(b), any petitions for review of this final action must be filed in the D.C. Circuit within 60 days from the date this final action is published in the **Federal Register**.

CAA section 307(d), 42 U.S.C. 7607(d), contains rulemaking and judicial review provisions that apply to certain EPA actions under the CAA including, under section 307(d)(1)(V), ''such other actions as the Administrator may determine.'' In accordance with section 307(d)(1)(V), the Administrator determines that the provisions of section 307(d) apply to this final action. EPA has complied with the procedural requirements of section 307(d) during the course of this rulemaking.

List of Subjects

40 CFR Part 51

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

40 CFR Part 52

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

Dated: February 26, 2019.

Andrew R. Wheeler,

Acting Administrator.

For the reasons stated in the preamble, parts 51 and 52 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.

Subpart G—Control Strategy

§ 51.121 [Amended]

■ 2. Section 51.121 is amended by:
■ a. Revising the section heading;
■ b. Removing and reserving paragraph (a)(2);
■ c. Revising paragraph (a)(3);
■ d. In paragraph (b)(1) introductory text, removing the text ''section, the'' and adding in its place the text ''section, each'';
■ e. In paragraph (b)(1)(i), adding the words ''during the ozone season'' after the words ''NO_X emissions'', adding the words ''applicable NO_X ozone season'' before the word ''budget'', and removing the text ''(except as provided in paragraph (b)(2) of this section),'' and adding in its place a semicolon;
■ f. In paragraph (b)(1)(ii), removing the period and adding in its place ''; and'';
■ g. In paragraph (b)(1)(iii), adding the words ''NO_X ozone season'' before the word ''budget'';
■ h. Removing and reserving paragraph (b)(2);
■ i. In paragraph (c)(1), removing the text ''With respect to the 1-hour ozone NAAQS:'';
■ j. In paragraph (c)(2), removing the text ''With respect to the 1-hour ozone NAAQS, the portions of Missouri, Michigan, and Alabama'' and adding in its place the text ''The portions of Alabama, Michigan, and Missouri'';
■ k. Removing and reserving paragraph (d)(1);
■ l. Revising paragraph (d)(2);
■ m. In paragraph (e)(1), adding the words ''ozone season'' before the word ''budget'';
■ n. Revising paragraph (e)(2)(i);
■ o. In paragraph (e)(2)(ii)(A), adding the words ''ozone season'' before the word ''budget'';
■ p. In paragraph (e)(2)(ii)(B), removing the text ''De Kalb'' and adding in its place the text ''DeKalb'';
■ q. In paragraph (e)(2)(ii)(E), removing the text ''St. Genevieve,'' and after the text ''St. Louis City,'' adding the text ''Ste. Genevieve,'';
■ r. Removing paragraphs (e)(3), (4), and (5);
■ s. In paragraphs (f) introductory text and (f)(2) introductory text, adding the words ''ozone season'' before the word ''budget'';
■ t. In paragraph (f)(2)(i)(B), removing the words ''mass NO_X'' and adding in their place the words ''NO_X mass'';
■ u. In paragraph (f)(2)(i)(C), removing ''paragraphs (f)(2)(i)(A) or (f)(2)(i)(B)'' and adding in its place ''paragraph (f)(2)(i)(A) or (B)'' and adding the words ''ozone season'' before the word ''budget'';
■ v. In paragraph (f)(2)(ii), removing the text ''(b)(1) (i)'' and adding in its place the text ''(b)(1)(i)'';
■ w. In paragraph (g)(1), adding the words ''ozone season'' before the word ''budget'';
■ x. In paragraph (g)(2)(i), adding the words ''during the ozone season'' after the words ''mass emissions'', adding the words ''ozone season'' before the word ''budget'', and removing the text ''as set forth for the State in paragraph (g)(2)(ii) of this section,'';
■ y. Removing and reserving paragraph (g)(2)(ii);
■ z. In paragraph (g)(2)(iii), adding the words ''during the ozone season'' after the words ''mass emissions'';
■ aa. In paragraph (h), removing the words ''of this part'';
■ bb. In paragraph (i) introductory text, adding the words ''ozone season'' before the word ''budget'';
■ cc. In paragraphs (i)(2) and (3), removing the words ''of this part'';
■ dd. Revising paragraphs (i)(4) and (5);
■ ee. In paragraph (j)(1), adding the words ''ozone season'' before the word ''budget'';
■ ff. In paragraph (k)(2), removing the text ''CAA'' and adding in its place the text ''CAA, 42 U.S.C. 7414'';
■ gg. In paragraphs (l) and (m), removing the phrase ''of this part'' everywhere it appears;
■ hh. In paragraph (n), removing the text ''§ 52.31(c) of this part'' and adding in its place the text ''40 CFR 52.31(c)'' and removing the text ''§ 52.31 of this part'' and adding in its place the text ''40 CFR 52.31'';
■ ii. In paragraph (o), removing the words ''of this part'';
■ jj. Removing and reserving paragraphs (p) and (q); and
■ kk. Revising paragraph (r).

The revisions read as follows:

§ 51.121 Findings and requirements for submission of State implementation plan revisions relating to emissions of nitrogen oxides.

(a) * * *

(3) As used in this section, these terms shall have the following meanings:

Nitrogen oxides or *NO_X* means all oxides of nitrogen except nitrous oxide (N_2O), reported on an equivalent molecular weight basis as nitrogen dioxide (NO_2).

Ozone season means the period from May 1 to September 30 of a year.

Phase I SIP submission means a SIP revision submitted by a State on or before October 30, 2000 in compliance with paragraph (b)(1)(ii) of this section to limit projected NO_X emissions during the ozone season from sources in the

relevant portion or all of the State, as applicable, to no more than the State's Phase I NO_X ozone season budget under paragraph (e) of this section.

Phase II SIP submission means a SIP revision submitted by a State in compliance with paragraph (b)(1)(ii) of this section to limit projected NO_X emissions during the ozone season from sources in the relevant portion or all of the State, as applicable, to no more than the State's final NO_X ozone season budget under paragraph (e) of this section.

* * * * *

(d) * * *

(2) Each SIP submission under this section must comply with § 51.103 (regarding submission of plans).

(e) * * *

(2)(i) The State-by-State amounts of the Phase I and final NO_X ozone season budgets, expressed in tons, are listed in Table 1 to this paragraph (e)(2)(i):

TABLE 1 TO PARAGRAPH (e)(2)(i)—STATE NO_X OZONE SEASON BUDGETS

State	Phase I NO_X ozone season budget (2004–2006)	Final NO_X ozone season budget (2007 and thereafter)
Alabama	124,795	119,827
Connecticut	42,891	42,850
Delaware	23,522	22,862
District of Columbia	6,658	6,657
Illinois	278,146	271,091
Indiana	234,625	230,381
Kentucky	165,075	162,519
Maryland	82,727	81,947
Massachusetts	85,871	84,848
Michigan	191,941	190,908
Missouri	.....	61,406
New Jersey	95,882	96,876
New York	241,981	240,322
North Carolina	171,332	165,306
Ohio	252,282	249,541
Pennsylvania	268,158	257,928
Rhode Island	9,570	9,378
South Carolina	127,756	123,496
Tennessee	201,163	198,286
Virginia	186,689	180,521
West Virginia	85,045	83,921

* * * * *

(i) * * *

(4) If the revision contains measures to control fossil fuel-fired NO_X sources serving electric generators with a nameplate capacity greater than 25 MWe or boilers, combustion turbines or combined cycle units with a maximum design heat input greater than 250 mmBtu/hr, then the revision may require some or all such sources to comply with the full set of monitoring, recordkeeping, and reporting provisions of 40 CFR part 75, subpart H. A State requiring such compliance authorizes the Administrator to assist the State in implementing the revision by carrying out the functions of the Administrator under such part.

(5) For purposes of paragraph (i)(4) of this section, the term ''fossil fuel-fired'' has the meaning set forth in paragraph (f)(3) of this section.

* * * * *

(r)(1) Notwithstanding any provisions of subparts A through I of 40 CFR part 96 and any State's SIP to the contrary, with regard to any ozone season that occurs after September 30, 2008, the Administrator will not carry out any of the functions set forth for the Administrator in subparts A through I of 40 CFR part 96 or in any emissions trading program provisions in a State's SIP approved under this section.

(2) Except as provided in 40 CFR 52.38(b)(10)(ii), a State whose SIP is approved as meeting the requirements of this section and that includes or included an emissions trading program approved under this section must revise the SIP to adopt control measures that satisfy the same portion of the State's NO_X emissions reduction requirements under this section as the State projected such emissions trading program would satisfy.

§ 51.122 [Amended]

■ 3. Section 51.122 is amended by:

■ a. In paragraph (c)(1)(ii), removing the text ''pursuant to a trading program approved under § 51.121(p) or'';

■ b. In paragraph (e), removing the first sentence;

■ c. In paragraph (f), removing the paragraph heading; and

■ d. Removing the second paragraph (g).

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart A—General Provisions

§ 52.38 [Amended]

■ 5. In § 52.38, paragraphs (b)(8)(ii), (b)(8)(iii)(A)(*2*), (b)(9)(ii), and (b)(9)(iii)(A)(*2*) are amended by removing the text ''§ 51.121(p)'' and adding in its place the text ''§ 51.121''.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[WT Docket No. 06–150; DA 19–77]

Service Rules for the 698–746, 747–762, and 777–792 Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) describes the process for relicensing 700 MHz spectrum that is returned to the Commission's inventory