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Part V

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40 CFR Parts 52 and 97
Revisions to Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 97

[EPA–HQ–OAR–2009–0491; FRL–9631–8]

RIN 2060–AR22

Revisions to Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing revisions to the Transport Rule that was published on August 8, 2011 (76 FR 48208). These revisions address discrepancies in unit-specific modeling assumptions that affect the proper calculation of Transport Rule state budgets and assurance levels in Florida, Louisiana, Michigan, Mississippi, Nebraska, New Jersey, New York, Texas, and Wisconsin, as well as new unit set-asides in Arkansas and Texas. EPA is also finalizing allowance allocation revisions to specific units covered by certain consent decrees that restrict the use of those allowances. The resulting budgets maintain substantial emission reductions from historic levels and are consistent with the final Transport Rule's methodology for defining significant contribution and interference with maintenance.[1]

EPA is also finalizing the proposal to amend the assurance penalty provisions of the rule to make them effective beginning January 1, 2014. EPA believes that deferring the effective date of the assurance provisions will provide additional program confidence and will not compromise the air quality goals of the program.

In addition, we are finalizing corrections of typographical errors in the rule.

DATES: This final rule is effective on April 23, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. OAR–EPA–HQ–OAR–2009–0491. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed on the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. This Docket Facility is open from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (929) 566–1742, fax (202) 566–1741.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this action, contact Gabrielle Stevens, U.S. Environmental Protection Agency, Clean Air Markets Division, MC 6204J, Ariel Rios Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, telephone (202) 343–9252, email at *stevens.gabrielle@epa.gov*. Electronic copies of this document can be accessed through the EPA Web site at: *http://epa.gov/crossstaterule*.

SUPPLEMENTARY INFORMATION:

I. Glossary of Terms and Abbreviations

The following are abbreviations of terms used in this final rule:

CFR Code of Federal Regulations
EGU Electric Generating Unit
FIP Federal Implementation Plan
FR **Federal Register**
EPA U.S. Environmental Protection Agency
ICR Information Collection Request
NAAQS National Ambient Air Quality Standards
NODA Notice of Data Availability
NO_X Nitrogen Oxides
SIP State Implementation Plan
OMB Office of Management and Budget
$PM_{2.5}$ Fine Particulate Matter, Less Than 2.5 Micrometers
PM Particulate Matter
RIA Regulatory Impact Analysis
SNPR Supplemental Notice of Proposed Rulemaking
SO_2 Sulfur Dioxide
TSD Technical Support Document

II. General Information

A. Does this action apply to me?

Regulated Entities. Entities regulated by this action primarily are fossil fuel-fired boilers, turbines, and combined cycle units that serve generators that produce electricity for sale or cogenerate electricity for sale and steam. Regulated categories and entities include:

Category	NAICS Code	Examples of potentially regulated industries
Industry	2211, 2212, 2213	Electric service providers.

This table is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities which EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in §§ 97.404, 97.504, and 97.604 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final rule will also be available on the World Wide Web. Following signature by the EPA Administrator, a copy of this action will be posted on the transport rule Web site *http://www.epa.gov/airtransport*.

C. How is this preamble organized?

[1] In this preamble, EPA uses the terms ''significant contribution'' and ''interference with maintenance'' to refer to the emissions that must be prohibited pursuant to Clean Air Act section 110(a)(2)(D)(i)(I) because they significantly contribute to nonattainment or interfere with maintenance of the NAAQS in another state.

III. Executive Summary

In a previous proposal published on October 14, 2011 (76 FR 63860), EPA identified potential errors in unit-specific modeling assumptions that affect the proper calculation of Transport Rule state budgets and assurance levels in Florida, Louisiana, Michigan, Mississippi, Nebraska, New Jersey, New York, Texas, and Wisconsin, as well as potential errors affecting the proper calculation of new unit set-asides in Arkansas and Texas. EPA is now taking final action to: (1) Revise Michigan's annual NO_X budget to account for an erroneously assumed selective catalytic reduction (SCR) emission control device at one unit; (2) revise Nebraska's annual NO_X budget to account for an erroneously assumed SCR emission control device at one unit; (3) revise the Texas SO_2 budget to account for erroneously assumed flue gas desulphurization (FGD, or scrubber) emission control devices at three units and revised assumptions regarding flue gas treatment in existing scrubbers at seven units; (4) revise the Arkansas ozone-season new unit set-aside to account for erroneously omitted projected emissions from one new unit; (5) revise the Texas new unit set-aside to account for erroneously omitted projected emissions for SO_2, ozone-season NO_X, and annual NO_X from one new unit; (6) revise New Jersey's ozone season NO_X, annual NO_X, and SO_2 budgets to account for erroneously assumed FGD and SCR emission control devices at one unit, and taking into account operational constraints likely to necessitate non-economic generation at six facilities; (7) revise Wisconsin's SO_2 and annual NO_X budgets to account for erroneously assumed FGD and SCR devices at two units; (8) revise New York's SO_2, annual NO_X, and ozone season NO_X budgets taking into account operational constraints likely to necessitate non-economic generation at ten units; (9) revise Louisiana's ozone season NO_X budget taking into account operational constraints likely to necessitate non-economic generation at twelve units; (10) revise Mississippi's ozone season NO_X budget taking into account operational constraints likely to necessitate non-economic generation at four units; (11) revise the Texas annual NO_X and ozone season NO_X budgets taking into account operational constraints likely to necessitate non-economic generation at seven units; and (12) revise Florida's ozone-season NO_X budget taking into account the immediate-term unavailability of a previously operating nuclear unit. See section IV.A of this preamble for a discussion of these revisions and any additional changes.

The proposed revisions to state budgets also entailed proposed revisions to the affected states' assurance levels, as the variability limit component of the assurance level for each state is calculated as a percentage of the applicable budget. Therefore, for each revision EPA is finalizing to a state budget, EPA is also finalizing corresponding revisions to the calculation of that state's variability limit and assurance level pertinent to that state budget. Assurance levels are only applicable to 2014 and beyond, given the 2014 effective date of the assurance provisions as described below and in section IV.C of this preamble.

The revised budgets maintain substantial emission reductions from historic levels and are consistent with the final Transport Rule's methodology for defining significant contribution and interference with maintenance.[2] No changes to that methodology were proposed, and EPA did not reopen the methodology established in the final Transport Rule for public comment. EPA also did not propose any change to the levels of stringency (i.e., cost per ton) selected in the final Transport Rule's determination of significant contribution and interference with maintenance and did not reopen that issue for public comment. For more information, see the ''Final Revisions Rule Significant Contribution Assessment Technical Support Document'' in the docket for this rulemaking.

In the proposed revisions rule, EPA solicited further information from the public that may support similar revisions to Transport Rule state budgets or new unit set-asides (76 FR 63868). EPA believed that the scope of such information supporting potential revisions was limited, considering that EPA had already conducted several notice-and-comment processes through initial proposal of the Transport Rule and multiple notices of data availability (NODAs) to prompt the public to provide the relevant input information that informs the calculation of the Transport Rule state budgets. By providing, in this rulemaking, an additional opportunity for comment on aspects of Transport Rule state budgets, EPA also addressed some of the issues and concerns raised in many of the petitions for administrative reconsideration of the final Transport Rule.

Based on relevant comments received that merited revisions, EPA is making additional revisions in a separate direct final rule with parallel proposal rulemaking.

EPA also proposed revisions to allowance allocations at certain units in six states that are affected by existing utility consent decrees. When establishing the state budgets under the final Transport Rule, EPA accounted for the emission reduction requirements of these consent decrees; therefore, the Transport Rule state budgets sustain the environmental protection secured by those existing utility consent decrees. However, when dividing those state budgets into individual unit-level allowance allocations, EPA included allowance allocations to certain units that exceed those units' allowable emissions under the terms of the applicable consent decree. Because EPA already secured the environmental improvements required by the consent decrees by incorporating their emission reductions into the Transport Rule state budgets, there is no environmental need to prevent the allowances from being used for compliance by sources subject to the Transport Rule, aside from those sources whose emissions are restricted by the terms of the consent decrees to which they are subject. Therefore, EPA proposed to revise Transport Rule unit-level allowance allocations to the specific units affected by these consent decrees to reflect their maximum allowable emissions, such that none of the allowances affected by the consent decrees are unnecessarily removed from

[2] Throughout this preamble, EPA refers to a state budget for 2012 and 2013 as a ''2012'' state budget and refers to a state budget for 2014 and thereafter as a ''2014'' state budget. Therefore, any revision of a 2012 state budget would apply to the state budget for 2012 and 2013, and any revision of a 2014 state budget would apply to the state budget for 2014 and thereafter.

use for compliance by other units. EPA proposed this revision to benefit program implementation. EPA is finalizing this revision as proposed, with small adjustments to reflect provisions under existing consent decrees that account for extraordinary events. See section IV.B of this preamble for further explanation of Transport Rule units also covered by existing utility consent decrees.

EPA is finalizing its proposal to revise the assurance penalty provisions of the Transport Rule to make them effective January 1, 2014. The revision of the effective date of the assurance provisions will promote the development of allowance market liquidity, thereby smoothing the transition from the Clean Air Interstate Rule (CAIR) programs, which were temporarily re-instated as of the Court's action on December 30, 2011 to stay the Transport Rule, at such time as the Court lifts the stay of the Transport Rule and provides clarity on implementation dates for the Transport Rule programs. See section IV.C of this preamble for a further discussion of the assurance provisions effective date.

EPA is also finalizing corrections to typographical errors in certain sections of rule text in parts 52 and 97 of the final Transport Rule. See section IV.D of this preamble for further explanation of these corrections.

On December 30, 2011, the Court of Appeals for the DC Circuit in *EME Homer City Generation, L.P.,* v. *Environmental Protection Agency,* No. 11–1302 (EME Homer City) issued an Order staying the final Transport Rule. While this action revises that rule, it is consistent with and is unaffected by the Court's Order staying the underlying final Transport Rule. Finalizing this action in and of itself does not impose any requirements on regulated units or states.

IV. Specific Revisions

A. Budget/New Unit Set-Aside Revisions and Recordation of Allowances

EPA is finalizing the following revisions:

(1) Increase Michigan's 2012 and 2014 annual NO_X budgets in accordance with a revision to the final Transport Rule analysis that erroneously assumed that an SCR exists at Monroe Unit 2.

EPA is finalizing revisions to Michigan's 2012 and 2014 annual NO_X budgets as proposed. This action revises the assumption of an SCR at Monroe Unit 2. This SCR is planned, but is not expected to be online in 2012 or 2014. Commenters did not identify any errors that would invalidate EPA's approach to making the proposed revisions addressing Monroe Unit 2. This results in a 5,228 ton increase in the state's annual NO_X budget. See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions.

EPA adjusted Michigan's 2012 and 2014 ozone-season NO_X budgets to reflect the corrections to the Monroe Unit 2 emissions when it included Michigan in the Transport Rule ozone-season NO_X program (76 FR 80760, December 27, 2011), as previously proposed (76 FR 40662, July 11, 2011).

(2) Increase Nebraska's 2012 and 2014 annual NO_X budgets in accordance with a revision to the final Transport Rule analysis that erroneously assumed that an SCR exists at Nebraska City Unit 1.

EPA is finalizing Nebraska's 2012 and 2014 annual NO_X budgets, as proposed, to correct an assumption that an SCR exists at Nebraska City Unit 1. There is no SCR that is present, planned, or under construction at the unit. Commenters did not identify any errors that would invalidate EPA's approach to addressing Nebraska City Unit 1. This adjustment results in an increase of 3,599 tons to the state's annual NO_X budget. See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions, as well as for the impacts this revision has on the state's assurance level, new unit set-aside, and Indian country new unit set-aside, and ''Final Revisions to Unit-Level Allocations under the FIPs'' in the docket to this rulemaking for a quantitative demonstration of the effect of this revision on unit-level allocations under the FIP.

(3) Increase the Texas 2012 and 2014 SO_2 budgets in accordance with a revision to the final Transport Rule analysis that erroneously assumed that scrubbers exist at W.A. Parish Unit 6, J.T. Deely Unit 1, and J.T. Deely Unit 2, and that assumed full flue gas treatment in existing scrubbers at Martin Lake, Monticello, Sandow, W.A. Parish, and Oklaunion facilities.

EPA is finalizing revisions to the modeling assumptions affecting the calculation of the Texas SO_2 budget, with an adjustment described below based on comments received. EPA is finalizing increases to the Texas SO_2 budget in accordance with a revision to the final Transport Rule analysis that erroneously assumed flue-gas desulfurization (FGD) technology is installed on J.T. Deely Units 1 and 2 and W.A. Parish Unit 6 by 2012. As explained in the proposal, these FGDs are no longer scheduled to be installed in 2012 (76 FR 63864). Commenters did not identify any errors that would invalidate EPA's approach to addressing J.T. Deely Units 1 and 2 or W.A. Parish Unit 6.

EPA is also finalizing an increase to the Texas SO_2 budget in accordance with revised assumptions regarding the SO_2 removal efficiency of existing scrubbers on units at the Martin Lake, Monticello, Sandow, W.A. Parish, and Oklaunion facilities. These facilities in Texas currently face immediate-term limitations regarding the amount of flue gas that can be treated in their existing FGDs. In the final Transport Rule analysis, EPA relied on the SO_2 removal efficiency that these facilities reported at their scrubbers to the Energy Information Administration (EIA). However, EPA has since determined that these particular facilities' reports only intended to address the removal efficiency for the portion of the flue gas treated in the scrubber. For this reason, that removal efficiency should not be applied to the total amount of sulfur combusted in the coal consumed (as some of the flue gas at these units must be vented without being treated in the scrubber as originally constructed). When the SO_2 removal rates are decreased to reflect the reported operational constraint of each affected scrubber's flue gas treatment, the projected emission level for Texas, after all significant contribution and interference with maintenance identified in the final Transport Rule is addressed, correspondingly rises.

In the proposed revisions rule, EPA quantified this revision using these scrubbers' SO_2 removal efficiencies as reported for 2008 on EIA form 923. Public comments on the rule pointed out that data reported by these units on EIA form 860 offered more technically detailed explanation of these scrubbers' SO_2 removal efficiencies. In addition, EPA based all of its assumptions of existing scrubber performance in the final Transport Rule analysis on values reported by sources on EIA form 860, as EPA believes this data captures scrubber performance capability as opposed to performance in any particular year, which can vary depending on the frequency that a facility chooses to operate its FGD.[3] EPA believes that basing the effective removal rate for these units on EIA 860 constitutes a more accurate and reliable data source for this rulemaking, and EPA is

[3] For example, the same facilities for which EPA proposed these revisions reported higher scrubber SO_2 removal efficiencies in 2009 on the EIA 923 form than they reported on the same form in 2008.

finalizing this revision using this data as the basis for the recalculated projected emissions at these units, which inform the state budget.

In accordance with the revised unit-level input assumptions regarding existing scrubbers and adjustments to the flue gas treatment calculations at the Texas units described above, EPA is increasing the state's 2012 and 2014 SO_2 budgets each by 50,517 tons.

See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions.

(4) Increase Arkansas' ozone-season NO_X new unit set-aside in accordance with revisions to the final Transport Rule's calculation of the new unit set-aside that erroneously omitted Plum Point Unit 1's projected emissions.

EPA is finalizing an increase of 3 percent to the portion of Arkansas' ozone-season budget dedicated to the new unit set-aside account. This change yields a total new unit set-aside of 5 percent as the portion of Arkansas' ozone-season budget dedicated to the new unit set-aside account (as opposed to the 2 percent previously established under the final Transport Rule). The revision is consistent with the new unit set-aside methodology described in the final rule. As explained in the proposal, the updated value simply reflects the revised classification of Plum Point Unit 1, which commenced commercial operation on or after January 1, 2010, as a new unit for purposes of unit-level allowance allocations under the final Transport Rule's unit-level allocation methodology (76 FR 48290). Commenters did not identify any errors that would invalidate EPA's approach to addressing Plum Point Unit 1. See the ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions.

These revisions to the Arkansas new unit set-aside result in changes to allowance allocations to existing units, but they do not change the state's overall budget. See ''Final Revisions Rule Unit-Level Allocations under the FIPs'' in the docket to this rulemaking.

(5) Increase Texas' ozone-season NO_X, annual NO_X, and SO_2 new unit set-asides in accordance with a revision to the final Transport Rule's calculations of the new unit set-asides that erroneously omitted Oak Grove Unit 2's projected emissions.

EPA is finalizing a revision to the calculation of the new unit set-asides for ozone-season NO_X, annual NO_X, and SO_2 in Texas to reflect the revised classification of one unit as a new unit for purposes of unit-level allowance allocation. As explained in the proposal, this unit, Oak Grove Unit 2, commenced commercial operation on or after January 1, 2010, and should be considered a new unit under the final Transport Rule's unit-level allocation methodology. Including this unit's projected emissions in the calculation yields revised new unit set-asides of 4 percent of the state's ozone-season NO_X budget, 4 percent of the state's annual NO_X budget, and 5 percent of the state's SO_2 budget. Commenters did not identify any errors that would invalidate EPA's approach to addressing Oak Grove Unit 2. See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions.

These revisions to the Texas new unit set-asides result in changes to allowance allocations to existing units, but they do not change the state's overall budget. See ''Final Revisions Rule Unit-Level Allocations under the FIPs'' in the docket to this rulemaking.

(6) Increase New Jersey's 2012 SO_2 budget and 2012 and 2014 ozone-season and annual NO_X budgets in accordance with revisions to the final Transport Rule analysis that erroneously assumed that an SCR and scrubber exist at BL England Unit 1 and to reflect operational constraints likely to necessitate non-economic dispatch at six other facilities.

EPA is finalizing New Jersey's ozone-season NO_X, annual NO_X, and SO_2 budgets to reflect revisions to assumed control technologies at BL England Unit 1 (2012 only) and operational constraints affecting units at six other facilities. Commenters did not identify any errors that would invalidate EPA's approach to making the proposed revisions addressing BL England Unit 1, which were described in the proposal (76 FR 63865). EPA is also finalizing revisions to New Jersey's state budgets based on information demonstrating that northern New Jersey is an out-of-merit-order dispatch area. Units at six New Jersey plants (Bergen, Edison, Essex, Kearny, Linden, and Sewaren Generating Stations) are frequently dispatched out of regional economic order as a result of short-run limitations on the ability to meet local electricity demand with generation from outside the area. EPA is making only a minor adjustment in the way these budget revisions are calculated based on public comments regarding the eligible sources of generation that would be offset by the assumption of increased generation at the identified units. Commenters argued that cogeneration units would be less likely than other generators to adjust their dispatch in order to maintain the system's equilibrium between electricity supply and demand, as operation of these units would remain supported by steam demand. EPA agrees with these commenters and has recalculated the associated budget revisions while excluding cogeneration units from the calculation.

EPA re-calculated projected emissions from BL England Unit 1 and the six plants with near-term out-of-merit-order generation to account for the input assumption changes finalized in this action. These calculations yield increases to the New Jersey 2012 state budgets for SO_2 of 2,096 tons, annual NO_X of 952 tons, and ozone-season NO_X of 746 tons; and 2014 state budget increases for annual NO_X of 679 tons, and ozone-season NO_X of 349 tons. See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions.

(7) Increase Wisconsin's 2014 SO_2 budget and 2012 and 2014 annual NO_X budget in accordance with a revision to the final Transport Rule analysis that erroneously assumed that an FGD exists at Weston Unit 3, wet FGDs (instead of dry FGDs) exist at Columbia Units 1 and 2, and a SCR exists at John P. Madgett Unit 1.

EPA is finalizing the proposed increase to Wisconsin's SO_2 budget. As explained in the proposal, EPA proposed to adjust Wisconsin's 2014 SO_2 budget to reflect Weston Unit 3's operation without an FGD in 2014; and dry scrubbers instead of wet scrubbers at Columbia Units 1 and 2. Commenters did not identify any errors that would invalidate EPA's approach to making the proposed revisions addressing Weston Unit 3 or Columbia Units 1 and 2. To account for these adjustments, EPA is increasing the Wisconsin SO_2 budget by a total of 7,757 tons in 2014.

EPA is also finalizing the proposed increase to Wisconsin's annual NO_X budgets in 2012 and 2014. As explained in the proposal to this action, there is no SCR expected to be online in 2012 or 2014 at John P. Madgett Unit 1. Commenters did not identify any errors that would invalidate EPA's approach to addressing John P. Madgett Unit 1. Therefore, EPA is increasing Wisconsin's annual NO_X budgets by 2,473 tons.

See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions, as well as for the impacts this

revision has on the state's assurance level, new unit set-aside, and Indian country new unit set-aside, and ''Final Revisions to Unit-Level Allocations under the FIPs'' in the docket to this rulemaking for a quantitative demonstration of the effect of this revision on unit-level allocations under the FIP.

EPA adjusted Wisconsin's 2012 and 2014 ozone-season NO_X budgets to reflect the corrections to the John P. Madgett emissions when it included Wisconsin in the Transport Rule ozone-season NO_X program (76 FR 80760, December 27, 2011), as previously proposed (76 FR 40662, July 11, 2011).

(8) Increase New York's 2012 and 2014 ozone-season NO_X, annual NO_X, and SO_2 budgets in accordance with a revision to the final Transport Rule analysis that did not reflect operational constraints likely to necessitate non-economic dispatch at four plants.

EPA is finalizing increases to the New York state ozone-season NO_X, annual NO_X, and SO_2 budgets in 2012 and 2014, to satisfy three specific immediate-term operational constraints documented by the New York Independent System Operator (NYISO). These three constraints are referred to here as the N–1–1 Contingency, the Minimum Oil Burn Rules, and out-of-merit-order dispatch conditions, which collectively affect the likely 2012 and 2014 operations of specific units in the New York City and Long Island areas. See the proposal to this rule for details (76 FR 63865, October 14, 2011). Commenters did not identify any errors that would invalidate EPA's approach to addressing the units identified by the proposal with near-term out-of-merit-order generation in New York State.

EPA re-calculated projected emissions from the units identified in the proposal at Arthur Kill Generating Station, Ravenswood, Astoria Generating Station, and Northport facilities with near-term out-of-merit-order generation to account for the input assumption changes finalized in this action. These calculations yield increases to the New York 2012 and 2014 state budgets for SO_2 of 3,527 tons, for annual NO_X of 3,485 tons, and for ozone-season NO_X of 1,911 tons. See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions, as well as for the impacts this revision has on the state's assurance level, new unit set-aside, and Indian country new unit set-aside, and ''Final Revisions to Unit-Level Allocations under the FIPs'' in the docket to this rulemaking for a quantitative demonstration of the effect of this revision on unit-level allocations under the FIP.

(9) Increase Louisiana's 2012 and 2014 ozone-season NO_X budgets in accordance with a revision to the final Transport Rule analysis to reflect operational constraints likely to necessitate non-economic dispatch at twelve units.

EPA is finalizing revisions to Louisiana's 2012 and 2014 state ozone season NO_X budgets based on assumptions regarding near-term non-economic dispatch of certain units. As explained in the proposed revisions rule, conditions in these out-of-merit-order dispatch areas are likely to necessitate what would otherwise be non-economic generation at five Louisiana plants (R.S. Nelson, Nine Mile Point, Michoud, Little Gypsy, and Waterford) in the immediate future, as explained in detail in the proposed revisions rule (76 FR 63866). EPA is making only a minor adjustment in the way these budget revisions are calculated based on public comments regarding the eligible sources of generation that would be offset by the assumption of increased generation at the identified units. Commenters argued that cogeneration units would be less likely than other generators to adjust their dispatch in order to maintain the system's equilibrium between electricity supply and demand, as operation of these units would remain supported by steam demand. EPA agrees with these commenters and has recalculated the associated budget revisions while excluding cogeneration units from the calculation.

EPA is increasing Louisiana's 2012 and 2014 state budgets for ozone-season NO_X by 4,594 tons. See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions.

(10) Increase Mississippi's 2012 and 2014 ozone-season NO_X budgets in accordance with a revision to the final Transport Rule analysis to reflect operational constraints likely to necessitate non-economic dispatch at certain units.

EPA is finalizing revisions to Mississippi's 2012 and 2014 state ozone season NO_X budget based on conditions in this out-of-merit-order dispatch area that are likely to necessitate what would otherwise be non-economic generation at three Mississippi plants (Rex Brown, Gerald Andrus, Baxter Wilson) in the immediate future, as explained in detail in the proposed revisions rule (76 FR 63866). EPA is making only a minor adjustment in the way these budget revisions are calculated in order to replace the proposal's use of an annual NO_X rate with a more appropriate ozone-season NO_X rate to calculate the revision to the state's ozone-season NO_X budgets.

EPA re-calculated the emissions from the three plants with non-economic generation to account for the input assumption changes. These calculations yield increases to Mississippi's 2012 and 2014 state budgets for ozone-season NO_X of 2,154 tons. See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions.

(11) Increase the Texas 2012 and 2014 annual and ozone-season NO_X budgets in accordance with a revision to the final Transport Rule analysis to reflect operational constraints likely to necessitate non-economic dispatch at two plants.

EPA is finalizing revisions to Texas's 2012 and 2014 state annual and ozone season NO_X budgets as proposed. EPA is adjusting Texas's emission budgets based on analysis projecting the minimum frequency units at two plants, Lewis Creek and Sabine, will have to run in the immediate-term for non-economic purposes, according to data provided by the utility operating those units. Commenters did not identify any errors that would invalidate EPA's approach to making the proposed revisions addressing the units identified by the proposal with near-term out-of-merit-order generation in Texas.

These revisions yield increases to Texas's 2012 and 2014 state budgets for annual NO_X of 1,375 tons and ozone-season NO_X of 1,375 tons. See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions.

(12) Increase Florida's 2012 ozone-season NO_X budget in accordance with a revision to the final Transport Rule analysis to reflect the immediate-term unavailability of Crystal River Unit 3, a nuclear unit.

EPA is finalizing the increase of 819 tons to Florida's 2012 ozone-season NO_X budget as proposed. As explained in the proposal, Crystal River Unit 3 is currently experiencing an extended outage that renders its nuclear generation unavailable in the immediate future (76 FR 63867). EPA received public comments requesting that this revision to Florida's ozone-season NO_X budget be extended into 2014 and beyond, on the basis that future generation from Crystal River Unit 3 is

uncertain. EPA does not believe this revision has merit on that timeframe.[4]

Commenters did not provide any evidence that Crystal River Unit 3 would fail to return to service upon the conclusion of the current extended outage, and the unit is in fact expected to return to service in 2014.[5] Furthermore, EPA notes that the potential outage of a nuclear unit in any given year is a scenario that the Transport Rule's assurance provisions were explicitly designed to accommodate. The final Transport Rule's methodology for calculating variability limits (the degree to which a state's emissions are permitted to exceed its budget in any given year under the program) is based on a decade-long observation of historic year-to-year variability in states' heat input at covered units, which would capture the impact of disruptions at other sources of generation (such as a nuclear outage) on emissions at covered units. As EPA explained in the final Transport Rule, a state budget represents remaining emissions at covered units in an average year after the elimination of significant contribution and interference with maintenance, whereas the variability limit accommodates year-to-year fluctuation of state-level emissions around that average outcome consistent with historically observed year-to-year variability in state-level heat input at covered units. EPA believes it is appropriate to quantify an ''average year'' of projected emissions in Florida for 2014 and beyond to include projected generation from Crystal River Unit 3, while allowing the variability limit to accommodate the potential that such generation may be temporarily unavailable in any given year in that timeframe. As such, EPA is not extending this revision to Florida's ozone-season NO_X budget for 2014 and beyond.

See ''Final Revisions Rule State Budgets and New Unit Set-Asides TSD'' in the docket for this rulemaking for a quantitative demonstration of these revisions.

[4] In 2002, during NRC-required inspections, plant workers discovered a football-sized cavity atop the reactor vessel head. The Nuclear Regulatory Commission (NRC) ordered the plant closed and it stayed closed for a total of two years while undergoing increased NRC scrutiny. It reopened in 2004. See *http://pbadupws.nrc.gov/docs/ML0925/ML092540084.pdf.*

[5] The plant operator has announced intentions to return the unit to service by 2014 (*https://www.progress-energy.com/company/media-room/news-archive/press-release.page?title=Progress+Energy+provides+update+on+Crystal+River+Nuclear+Plant+outage&pubdate=06-27-2011*).

B. Allowance Allocation Revisions to Units Covered by Existing Utility Consent Decrees

The state budgets in the August 8, 2011 final Transport Rule (76 FR 48290) accurately incorporated the emission reduction requirements of existing utility consent decrees. However, after the final rule was published, EPA determined that provisions under certain existing utility consent decrees could restrict the use of Transport Rule allowances allocated to units subject to those consent decrees, such that a certain portion of those allocated allowances could be rendered unavailable for compliance use by any source under the Transport Rule programs. EPA determined that the sum of the SO_2 and/or NO_X allowances allocated to the units at certain facilities (or to the units included in certain systems) affected by these consent decrees exceeded the facility-wide (or system-wide) annual tonnage limit (ATL) specified in the applicable consent decree. The consent decrees for these facilities and systems include provisions that either require that allowances in excess of those necessary for compliance with the consent decrees be surrendered or place restrictions on the trading of such allowances. Therefore, excess allowances at these facilities (or within these systems) cannot be used by any Transport Rule program source(s) for compliance purposes.

To address this issue, on October 14, 2011, EPA proposed to add a constraint on Transport Rule unit-level allowance allocations for the facilities and systems in question (76 FR 63860). This action finalizes the proposed constraint, which affects a total of 82 units in six states: Alabama, Indiana, Kansas, Kentucky, Ohio, and Tennessee. The constraint reduces the number of SO_2 and/or NO_X allowances allocated to each of the 82 affected units, in order to align the facility-wide and system-wide allowance totals with the ATLs specified in the consent decrees.

The unit-level allowance adjustments for each affected facility (or system) were made using the methodology described in the October 14, 2011 proposed rule. First, EPA calculated the ratio of the facility-wide (or system-wide) ATL to the total number of allowances allocated to the units at the facility (or in the system). Then, for each unit, an annual tonnage limit equivalent (''unit-level cap'') was determined by multiplying this ratio by the number of allowances originally allocated to the unit.

As previously noted, EPA took the requirements of existing utility consent decrees into account when the state budgets were established. Therefore, this final action, as it regards the consent decrees, does not alter the budget of any of the six affected states. Further, this action with respect to the consent decrees has no impact on the existing unit-level allocations in states where there are no units covered by consent decrees with ATLs. The excess allowances removed from the 82 affected units have been reallocated to other covered sources in each relevant state using the allowance allocation methodology described in the October 14, 2011 proposed rule.

EPA received several comments on the proposed constraint and the unit-level cap apportionment methodology. Some commenters supported the proposal. Other commenters expressed concern that EPA was inappropriately using its rulemaking authority to modify, undo, or compromise provisions in the negotiated consent decree agreements. The Agency does not agree that the allowance allocation revisions being finalized in this rule modify the terms of any consent decree. The unit-level allowance allocation caps applied in this rulemaking do not alter any obligation, timeline, or other requirement of the utility consent decrees. None of the restrictions in the utility consent decrees are premised on trading programs that employ any particular allocation methodology or distribution of unit-level allocations. Moreover, the utility consent decrees do not, and cannot, preclude any particular allocation methodology or distribution from being implemented in future trading programs. Finally, unit-level allowance allocations under existing trading programs, including the Transport Rule programs, do not establish unit-level emission constraints, because sources may obtain additional allowances from the marketplace to cover emissions that are above the unit-level allocations.

Several commenters asked EPA to either clarify the specific consent decrees or exempt Transport Rule allowances from those restrictions and requirements. However, legal interpretations of utility consent decree provisions are outside the scope of this rulemaking. Moreover, it would be inappropriate for EPA to attempt to alter the terms of the consent decrees to exempt the Transport Rule allowances from the trading restrictions and allowance surrender provisions via a rulemaking.

Tennessee Valley Authority (TVA) commented that the TVA consent

decree includes a higher SO_2 ATL in the event that a nuclear electric generating unit is shut down for more than 120 days during calendar years 2012, 2013, or 2014. Because EPA and TVA are unable to predict whether such an event will occur, EPA is adopting, for purposes of allowance allocations in this rulemaking, the higher ATL for the TVA system which is based on the occurrence of a nuclear unit shut down. This change only affects TVA unit-level allocations in the year 2013. EPA reviewed the other existing utility consent decrees and did not find similar provisions in those decrees that require such an adjustment.

In the proposed revisions rule, EPA adjusted unit-level allocations to units affected by the TVA consent decree in years for which the final Transport Rule's allowance allocations to those units collectively exceeded that consent decree's ATL that is effective in that year. For the affected TVA units, the final Transport Rule's allowance allocations exceeded the consent decree ATL in 2013, 2018, and thereafter. TVA submitted comments arguing that the effective ATL under that consent decree is subject to change based on the potential retirement of affected units, which would also reduce aggregate unit-level allowance allocations to TVA under the Transport Rule. TVA's comments noted that the future balance of these two factors, which change over time, is uncertain.

EPA recognizes that the relationship between unit-level allowance allocations under the FIPs and the applicable ATL becomes relatively less certain when considered over longer time horizons. In order to reduce the potential impact utility consent decree ATLs may have on the availability of Transport Rule allowances for compliance, EPA must account for the variability in utility consent decree ATLs in future years. Where information was available, EPA included generating unit retirements in its analysis of utility consent decree ATLs (see ''Assessment of Impact of Consent Decree Annual Tonnage Limits on Transport Rule Allocations'' in the Docket (EPA–HQ–OAR–2009–0491) for the proposed revisions (76 FR 63860)). However, EPA agrees that the uncertainty becomes more pronounced in more distant years. Therefore, in this rulemaking EPA is not quantifying any additional adjustments to unit-level caps attributable to consent decree ATLs that become effective after 2017. In 2018 and thereafter, EPA will continue to apply the ATLs effective in 2017 for the purpose of unit-level allocations. EPA notes that this timeline will provide states with ample opportunity, if they wish, to submit SIPs and establish alternate allocation methodologies where updated information on consent decree requirements may affect Transport Rule allowance use.

C. Assurance Penalty Provisions

EPA is finalizing its proposal to make the assurance provisions effective starting in 2014. EPA maintains that, for 2012–2013, the Transport Rule (as revised by this final rule) ensures the elimination of each state's significant contribution to nonattainment and interference with maintenance.[6] The only commenters that opposed this proposed approach were North Carolina and Maryland. EPA is adopting the proposed approach—and rejecting North Carolina's and Maryland's comments in opposition—for the following reasons.

EPA's decision in this final revised rule to delay the effectiveness of the assurance provisions is based on new information, i.e., information that recently became available on states' total EGU emissions in the last four quarters (one in 2010 and three in 2011) and concerns raised recently by commenters about the immediate-term viability of Transport Rule allowance markets during the transition from CAIR. The most current available emissions data—i.e., total emissions for the last quarter of 2010 and the first three quarters of 2011—for EGUs in the states subject to the Transport Rule trading programs show that, in the vast majority of states, EGUs are already emitting at an annual level below the level of the applicable 2012 state assurance level. Specifically, in 16 out of the 23 states subject to the Transport Rule SO_2 program, 19 out of the 23 states subject to the Transport Rule NO_X annual program, and 22 out of the 25 states subject to the Transport Rule NO_X ozone season program, EGU emissions for the state for the last 12 months total less than the state assurance level (state budget plus variability limit), the level that reflects elimination of significant contribution and interference with maintenance.[7] Moreover, in the remaining states, emission controls that EPA's projections demonstrate will bring annual emissions down to the level of the applicable state assurance level are in the process of being installed and will be in operation in 2012 and 2013.

In addition, EGU owners and operators will know in 2012 and 2013 that the assurance provisions will be taking effect in 2014 when many state budgets under the Transport Rule trading programs will be reduced. Owners and operators will therefore need to implement compliance strategies to meet both the requirement to hold allowances covering emissions and to avoid assurance provision penalties in the context of, in many cases, reduced state budgets. Consequently, EGU emissions are likely to decline even further during 2012–2013 as owners and operators make immediate investments in further emission reductions to prepare for 2014 and beyond. As one commenter observed, ''Moreover, the desire of electric generating units (EGUs) to avoid the increased penalties once they are implemented in 2014 should encourage compliance with the Transport Rule even prior to assurance penalties being imposed. It is likely not in a polluter's interest to fail to implement emission reduction measures now, as it would be forced to decrease emissions with potentially unfeasible rapidity once the assurance penalty provisions are enacted, or else face extra exorbitant penalties'' (Docket ID EPA–HQ–OAR–2009–0491–4775).

EPA also conducted additional modeling of projected EGU emissions in 2012 and 2013 under the Transport Rule without applying the assurance provisions to those years.[8] This modeling shows that the Transport Rule trading programs will still result in emission reductions that cause total emissions in *each state* to be below the level of the applicable state assurance level, even when sources are not subject to the assurance provisions in those years. These very short-term projections are based on inputs that reflect validated, currently installed emission controls resulting in a higher degree of certainty than longer-term emission projections. In particular, the locations are known of existing EGUs with existing emission controls or with ongoing emission control retrofits to be

[6] As discussed in the Transport Rule, with respect to the 1997 ozone NAAQS, for certain states EPA quantified the ozone-season NO_X emission reductions that are necessary but may not be sufficient to eliminate all significant contribution and interference with maintenance (76 FR 48210). For such states EPA maintains that, for 2012–2013, the Transport Rule (as revised by this final rule) ensures the elimination of the quantified prohibited emissions.

[7] *http://camddataandmaps.epa.gov/gdm/index.cfm?fuseaction=iss.isshome.*

[8] IPM uses model run years to represent the full planning horizon. Mapping each year in the planning horizon into a representative model run year enables IPM to perform multiple year analyses while keeping the model size manageable. In this case, results for 2012 also apply to 2013. Modeling results are available in the docket for this rulemaking, in IPM output files named after this modeling scenario entitled ''Final Transport Rule with 2014 Assurance.''

completed by 2012, and of new EGUs (with emission controls) to be completed by 2012, and the emission reduction capabilities of all these controls also are known.

Based on the current level of EGU emissions and EPA's short-term modeling results, EPA maintains that EGU emissions in 2012 and 2013 in each of the states subject to the Transport Rule—without the assurance provisions being applicable in those years—have virtually no chance of exceeding the applicable state assurance level. Consequently, imposition of the assurance provisions during 2012–2013 is unnecessary and could actually be detrimental to smooth program implementation, as explained below.

EPA believes that a limited postponement of the effectiveness of the assurance provisions is justified in order to achieve a seamless transition from the existing CAIR programs to the new Transport Rule programs. Under both CAIR and the Transport Rule, individual units have the flexibility to supplement their own emission reduction efforts with acquisitions from the market of any additional allowances needed to cover emissions under the applicable programs. Active, transparent markets providing broad access to CAIR NO_X annual, CAIR NO_X ozone season, and Acid Rain SO_2 allowances have been in existence for many years. Sources covered by CAIR have relied on the availability of these robust markets when developing compliance plans. The Transport Rule (TR) creates new TR SO_2 Group 1, TR SO_2 Group 2, TR NO_X annual, and TR NO_X ozone season allowances. Markets for these allowances have started up and were developing before the Court issued a stay of the rule on December 30, 2011.

Some EGU owners and operators, states, and other organizations have expressed concern about the future availability of Transport Rule allowances in the market. For example, EPA received the following comment and several others like it: ''The [Group] strongly supports EPA's proposal to delay implementation of the assurance penalty provisions until January 1, 2014. The Group has significant concerns regarding the viability of the allowance markets anticipated by CSAPR. Delay of the assurance penalty provisions may increase the likelihood that allowance markets will develop in the first CSAPR compliance period. Accordingly, the Group urges EPA to finalize its proposed amendments to the assurance penalty provisions * * * Delaying implementation of the assurance penalty provisions until 2014 would reduce the risks associated with entering the market and encourage sources to engage in allowance trading'' (Docket ID EPA–HQ–OAR–2009–0491–4821).[9] Indeed, such concerns are to be expected as new markets start up and develop, with the result that prices tend to spike during market start-up and eventually settle to anticipated levels. After a period of time, the market matures and increasing numbers of participants gain experience with, and confidence in, the market.

Not only do the allowance markets under the Transport Rule involve the purchase and sale of new types of allowances for use in new trading programs, but also only the Transport Rule trading programs include assurance provisions, which were not included in any previous allowance trading programs. Many of the comments EPA received indicated that the introduction of this new and unfamiliar element in the Transport Rule trading programs has heightened concerns about the ability of owners and operators to use the new allowance markets to comply with the requirement to hold allowances covering emissions. Early trading activity is important for demonstrating market liquidity and assisting in price discovery to facilitate compliance planning by owners and operators of covered sources. If, out of immediate-term unfamiliarity with how the assurance provisions would be applied, owners and operators were to limit their own early trading activity, the assurance provisions would have negative impacts not only on those owners and operators, but also on all participants in the Transport Rule trading programs.

EPA is delaying the effective date of the assurance provisions until 2014 in order to neutralize a key uncertainty facing successful and potentially rapid program implementation following the current stay, such that sources can rely on immediate activation of a Transport Rule allowance market that offers the cost-effective emission reduction flexibilities on which the rule relies to eliminate significant contribution and interference with maintenance.

In summary, EPA concludes that, not only are the assurance provisions not necessary in 2012–2013 to ensure elimination of significant contribution and interference with maintenance, but also that the imposition of the assurance provisions in 2012–2013 would risk inhibiting the development and availability of the allowance market and thus raise the costs of compliance with Transport Rule emission reduction requirements. Delaying imposition of the assurance provisions until 2014 will ease the transition for covered sources from compliance with CAIR requirements to compliance with Transport Rule requirements by addressing concerns about the readiness of new Transport Rule allowance markets, facilitating progress of these markets, and instilling confidence that owners and operators can comply through a variety of cost-effective strategies that are not limited by initial Transport Rule unit-level allowance allocations. EPA maintains that this will result, in the aggregate in each state, in cost-effective emission reductions and total state emissions that are consistent with EPA's quantification of each state's obligation to eliminate significant contribution and interference with maintenance in downwind areas.

EPA's adoption, in the final revision rule, of a brief delay until 2014 in the imposition of the assurance provisions constitutes a change in the Agency's approach from the approach adopted in the final Transport Rule. In the final Transport Rule, EPA decided to make the assurance provisions effective starting in 2012 ''because this approach provides even further assurance, consistent with *North Carolina,* that each state's prohibited emissions will be eliminated from the start of the Transport Rule trading programs'' (76 FR at 48296). Although EPA took the conservative approach of providing more assurance by adopting 2012 as the start of the assurance provisions, EPA did not conclude, in the final Transport Rule, that starting the assurance provisions in 2014 would be inconsistent with *North Carolina* or would result in states not eliminating their significant contribution or interference with maintenance.

The trading programs created by the final Transport Rule, as modified by the final revision rule, are distinguishable from the CAIR trading programs that the Court reversed in *North Carolina* and meet the requirements set forth in the Court's decision. In the Transport Rule, EPA established state-specific budgets and state-specific variability limits, and, if each state's total EGU emissions for a control period do not exceed the applicable state budget plus variability, then that state's significant contribution and interference with maintenance are eliminated for that control period. In contrast with the Transport Rule, in CAIR, EPA determined at a regional level the amount of required emission reductions. *See North Carolina,* 531 F.3d at 907. Thus, the requirement—which was not met by CAIR—to determine the amount of each state's

[9] The Cross-State Air Pollution Rule (CSAPR) is another name for the Transport Rule.

significant contribution and interference with maintenance is met by the Transport Rule.

Moreover, unlike the circumstances in CAIR, EPA determined in this rulemaking that information on the current level of EGU emissions and ongoing emission control installations, supported by the results of EPA's short-term modeling, demonstrates that without the assurance provisions being applicable in 2012–2013, EGU emissions in 2012 and 2013 in each state will not exceed the applicable state assurance level. For 2014 and thereafter when controls and emissions are likely to be different from current controls and emissions and modeling projections are correspondingly less certain, the Transport Rule imposes assurance provision requirements that penalize sources whose emissions result in the state having total EGU emissions in excess of the state assurance level, and thereby ensures that sources operate in a manner that results in the elimination of each state's significant contribution and interference with maintenance.

In contrast with the Transport Rule, state-level EGU emissions were not, when CAIR was issued, already at (or well on the way to meeting) the required reduction levels. EPA did not impose penalties on sources whose emissions resulted in a state's failing to eliminate its significant contribution and interference with maintenance, and EPA relied entirely on its modeling, as opposed to data demonstrating states' emission reductions occurring in the period immediately prior to the relevant compliance years, to show that significant contribution and interference with maintenance would be eliminated. *See North Carolina,* 531 F.3d at 907 (stating that ''CAIR only assures that the entire region's significant contribution will be eliminated. It is possible that CAIR would achieve [CAA] section 110(a)(2)(D)(i)(I)'s goals. EPA's modeling shows that sources contributing to North Carolina's nonattainment areas will at least reduce their emissions even after opting into CAIR's trading programs * * * But EPA is not exercising its section 110(a)(2)(D)(i)(I) duty unless it is promulgating a rule that achieves something measurable toward the goal of prohibiting sources 'within the State' from contributing to nonattainment or interfering with maintenance 'in any other State.' '')

In addition, in CAIR, the EPA modeling was for the intermediate term (i.e., projected in 2005 emissions for 2009 and 2010), not for the short term when critical elements (such as the locations of existing EGUs with existing emission controls or with control retrofits to be completed by 2012 and of soon-to-be-completed, new EGUs with controls and the reduction capabilities of all these controls) are known. Thus, the Transport Rule accomplishes on a state-by-state basis what CAIR accomplished on a regional basis, i.e., assurance that significant contribution and interference with maintenance will be eliminated, and the requirement—which was not met by CAIR—that EPA provide such assurance is met by the Transport Rule.

North Carolina's argument that EPA is somehow barred from delaying the effectiveness of the assurance provisions in the Transport Rule FIPs because this delay ''will, at least in some locations, lead to'' increased emissions in some nonattainment or maintenance areas is inconsistent with the facts regarding emission controls installed on EGUs over the near term. As discussed above, without the assurance provisions in 2012–2013, total EGU emissions in each state will still be below the state assurance level and therefore each state will meet the requirements of CAA section 110(a)(2)(D)(i)(I) by eliminating the significant contribution and interference with maintenance identified in the final Transport Rule. North Carolina failed to show otherwise.

On the contrary, North Carolina asserted that, during 2012–2013, the lack of assurance provisions will result in more emissions in ''some locations'' than if the assurance provisions were in effect and that these emissions will increase ambient pollutant levels in areas with nonattainment or maintenance problems. However, North Carolina failed to identify any such ''locations'' and any such nonattainment/maintenance problem areas, or to provide any modeling or other evidence showing that these emission increases and ambient effects would occur.

For the reasons explained above, EPA is revising the Transport Rule such that its assurance provisions are effective beginning in 2014.

D. Correct Typographical Errors

EPA is finalizing as proposed to correct typographical errors in certain sections of rule text in parts 52 and 97 in the final Transport Rule. EPA received no comments on correcting typographical errors.

V. Statutory and Executive Order Reviews

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action makes relatively minor revisions to the emission budgets and allowance allocations or allowance allocations only in certain states in the final Transport Rule and corrects minor technical errors which are ministerial. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the final Transport Rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0667. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this action on small entities,

I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by this action are electric power generators whose ultimate parent entity has a total electric output of 4 million megawatt-hours (MWh) or less in the previous fiscal year. We have determined that the changes considered in this proposed rulemaking pose no additional burden for small entities. The proposed revision to the new unit set-asides in Arkansas and Texas would yield an extremely small change in unit-level allowance allocations to existing units, including small entities, such that it would not affect the analysis conducted on small entity impacts under the finalized Transport Rule. In all other states, the revisions proposed in this rulemaking would yield additional allowance allocations to all units, including small entities, without increasing program stringency, such that it is not possible for the impact to small entities to be any larger than that already considered and reviewed in the finalized Transport Rule.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. This action is increasing the budgets and increasing the total number of allowances or maintaining the same budget but revising unit-level allocations in several other states in the Transport Rule. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

In developing the final Transport Rule, EPA consulted with small governments pursuant to a plan established under section 203 of UMRA to address impacts of regulatory requirements in the rule that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action makes relatively minor revisions to the emissions budgets and allowance allocations or allowance allocations only in certain states in the final Transport Rule. Thus, Executive Order 13132 does not apply to this rule. EPA did provide information to state and local officials during development of both the proposed and final Transport Rule.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action makes relatively minor revisions to the emissions budgets and allowance allocations in several states in the final Transport Rule and helps ease the transition from CAIR. Indian country new unit set-asides will increase slightly or remain unchanged in the states affected by this action. Thus, Executive Order 13175 does not apply to this action. EPA consulted with tribal officials during the process of promulgating the final Transport Rule to permit them to have meaningful and timely input into its development.

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

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. Analyses by EPA that show how the emission reductions from the strategies in the final Transport Rule will further improve air quality and children's health can be found in the final Transport Rule RIA.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. EPA believes that there is no meaningful impact to the energy supply beyond that which is reported for the Transport Rule program in the final Transport Rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

As described in section XII.I of the preamble to the final Transport Rule, the Transport Rule program requires all sources to meet the applicable monitoring requirements of 40 CFR part 75. Part 75 already incorporates a number of voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

In the Final Revisions Rule Significant Contribution Assessment Technical Support Document in the docket to this rulemaking, EPA assessed impacts of the emission changes in this rule on air quality throughout the Transport Rule region. For SO_2, the estimated air quality impacts were minimal and no additional nonattainment or maintenance areas were identified. EPA also assessed the relationship between the NO_X emission inventories in each affected state and the finalized revisions to annual and ozone-season NO_X budgets and found the revisions represent small percentages of each state's total emissions in 2014. As a result, EPA does not believe these technical revisions would affect any of the conclusions supported by the air quality and environmental justice analyses conducted for the final Transport Rule.

Based on the significant contribution assessment in the technical support document for this action, EPA has determined that this action will not have disproportionately high and

adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. EPA believes that the vast majority of communities and individuals in areas covered by the Transport Rule program inclusive of this action, including numerous low-income, minority, and tribal individuals and communities in both rural areas and inner cities in the eastern and central U.S., will see significant improvements in air quality and resulting improvements in health. EPA's assessment of the effects of the final Transport Rule program on these communities is available in section XII.J of the preamble to the final Transport Rule.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the Federal Register. This action is a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective April 23, 2012.

L. Judicial Review

Petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by April 23, 2012. Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal 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 Court of Appeals for the District of Columbia Circuit if (i) the agency action consists of ''nationally applicable regulations promulgated, or final action taken, by the Administrator,'' or (ii) such action is locally or regionally applicable, if ''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.''

In the final Transport Rule, EPA determined that ''[a]ny final action related to the Transport Rule is 'nationally applicable' within the meaning of section 307(b)(1).'' 76 FR 48,352. Through this rule, EPA is revising specific aspects of the final Transport Rule. This rule therefore is a final action related to the Transport Rule and as such is covered by the determination of national applicability made in the final Transport Rule. Thus, pursuant to section 307(b) any petitions for review of this action must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**. Filing a petition for reconsideration of this action does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. In addition, pursuant to CAA section 307(b)(2) this action may not be challenged later in proceedings to enforce its requirements.

List of Subjects

40 CFR Part 52

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

40 CFR Part 97

Administrative practice and procedure, Air pollution control, Electric utilities, Nitrogen oxides, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: February 7, 2012.

Lisa P. Jackson,

Administrator.

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

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

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

Subpart A—General Provisions

§ 52.39 [Amended]

■ 2. Section 52.39, paragraph (i)(1)(ii),is amended by removing the phrase ''Group 1'' and adding, in its place, the phrase ''Group 2''.

Subpart O—Illinois

■ 3. Section 52.745 is redesignated as § 52.731.

■ 4. Section 52.746 is redesignated as § 52.732.

Subpart VV—Virginia

■ 5. Section 52.2241, added at 76 FR 48376, August 8, 2011, is redesignated as § 52.2441.

PART 97—[AMENDED]

■ 6. The authority citation for Part 97 continues to read as follows:

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

■ 7. Section 97.406 is amended by:

■ a. Designating the first sentence in paragraph (c)(3) as paragraph (c)(3)(i); and by removing the phrase ''paragraphs (c)(1) and (c)(2)'', adding in its place the phrase ''paragraph (c)(1)'';

■ b. Adding a new paragraph (c)(3)(ii); and

■ c. Removing the words ''or or'' and adding, in its place, the word ''or'' in paragraph (e)(2) to read as follows:

§ 97.406 Standard requirements.

* * * * *

(c) * * *

(3) * * *

(ii) A TR NO_X Annual unit shall be subject to the requirements under paragraph (c)(2) of this section for the control period starting on the later of January 1, 2014 or the deadline for meeting the unit's monitor certification requirements under § 97.430(b) and for each control period thereafter.

* * * * *

■ 8. Section 97.410 is revised to read as follows:

§ 97.410 State NO_X Annual trading budgets, new unit set-asides, Indian country new unit set-aside, and variability limits.

(a) The State NO_X Annual trading budgets, new unit set-asides, and Indian country new unit-set asides for allocations of TR NO_X Annual allowances for the control periods in 2012 and thereafter are as follows:

(1) *Alabama.* (i) The NO_X annual trading budget for 2012 and 2013 is 72,691 tons.

(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 1,454 tons.

(iii) [Reserved]

(iv) The NO_X annual trading budget for 2014 and thereafter is 71,962 tons.

(v) The NO_X annual new unit set-aside for 2014 and thereafter is 1,439 tons.

(vi) [Reserved]

(2) *Georgia.* (i) The NO_X annual trading budget for 2012 and 2013 is 62,010 tons.

(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 1,240 tons.

(iii) [Reserved]
(iv) The NO_X annual trading budget for 2014 and thereafter is 40,540 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 811 tons.
(vi) [Reserved]
(3) *Illinois.* (i) The NO_X annual trading budget for 2012 and 2013 is 47,872 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 3,830 tons.
(iii) [Reserved]
(iv) The NO_X annual trading budget for 2014 and thereafter is 47,872 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 3,830 tons.
(vi) [Reserved]
(4) *Indiana.* (i) The NO_X annual trading budget for 2012 and 2013 is 109,726 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 3,292 tons.
(iii) [Reserved]
(iv) The NO_X annual trading budget for 2014 and thereafter is 108,424 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 3,253 tons.
(vi) [Reserved]
(5) *Iowa.* (i) The NO_X annual trading budget for 2012 and 2013 is 38,335 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 729 tons.
(iii) The NO_X annual Indian country new unit set-aside for 2012 and 2013 is 38 tons.
(iv) The NO_X annual trading budget for 2014 and thereafter is 37,498 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 712 tons.
(vi) The NO_X annual Indian country new unit set-aside for 2014 and thereafter is 38 tons.
(6) *Kansas.* (i) The NO_X annual trading budget for 2012 and 2013 is 30,714 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 583 tons.
(iii) The NO_X annual Indian country new unit set-aside for 2012 and 2013 is 31 tons.
(iv) The NO_X annual trading budget for 2014 and thereafter is 25,560 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 485 tons.
(vi) The NO_X annual Indian country new unit set-aside for 2014 and thereafter is 26 tons.
(7) *Kentucky.* (i) The NO_X annual trading budget for 2012 and 2013 is 85,086 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 3,403 tons.
(iii) [Reserved]
(iv) The NO_X annual trading budget for 2014 and thereafter is 77,238 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 3,090 tons.
(vi) [Reserved]
(8) *Maryland.* (i) The NO_X annual trading budget for 2012 and 2013 is 16,633 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 333 tons.
(iii) [Reserved]
(iv) The NO_X annual trading budget for 2014 and thereafter is 16,574 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 331 tons.
(vi) [Reserved]
(9) *Michigan.* (i) The NO_X annual trading budget for 2012 and 2013 is 65,421 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 1,243 tons.
(iii) The NO_X annual Indian country new unit set-aside for 2012 and 2013 is 65 tons.
(iv) The NO_X annual trading budget for 2014 and thereafter is 63,040 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 1,198 tons.
(vi) The NO_X annual Indian country new unit set-aside for 2014 and thereafter is 63 tons.
(10) *Minnesota.* (i) The NO_X annual trading budget for 2012 and 2013 is 29,572 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 561 tons.
(iii) The NO_X annual Indian country new unit set-aside for 2012 and 2013 is 30 tons.
(iv) The NO_X annual trading budget for 2014 and thereafter is 29,572 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 561 tons.
(vi) The NO_X annual Indian country new unit set-aside for 2014 and thereafter is 30 tons.
(11) *Missouri.* (i) The NO_X annual trading budget for 2012 and 2013 is 52,374 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 1,571 tons.
(iii) [Reserved]
(iv) The NO_X annual trading budget for 2014 and thereafter is 48,717 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 1,462 tons.
(vi) [Reserved]
(12) *Nebraska.* (i) The NO_X annual trading budget for 2012 and 2013 is 30,039 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 1,772 tons.
(iii) The NO_X annual Indian country new unit set-aside for 2012 and 2013 is 30 tons.
(iv) The NO_X annual trading budget for 2014 and thereafter is 30,039 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 1,772 tons.
(vi) The NO_X annual Indian country new unit set-aside for 2014 and thereafter is 30 tons.
(13) *New Jersey.* (i) The NO_X annual trading budget for 2012 and 2013 is 8,218 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 164 tons.
(iii) [Reserved]
(iv) The NO_X annual trading budget for 2014 and thereafter is 7,945 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 159 tons.
(vi) [Reserved]
(14) *New York.* (i) The NO_X annual trading budget for 2012 and 2013 is 21,028 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 400 tons.
(iii) The NO_X annual Indian country new unit set-aside for 2012 and 2013 is 21 tons.
(iv) The NO_X annual trading budget for 2014 and thereafter is 21,028 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 400 tons.
(vi) The NO_X annual Indian country new unit set-aside for 2014 and thereafter is 21 tons.
(15) *North Carolina.* (i) The NO_X annual trading budget for 2012 and 2013 is 50,587 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 2,984 tons.
(iii) The NO_X annual Indian country new unit set-aside for 2012 and 2013 is 51 tons.
(iv) The NO_X annual trading budget for 2014 and thereafter is 41,553 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 2,451 tons.
(vi) The NO_X annual Indian country new unit set-aside for 2014 and thereafter is 42 tons.
(16) *Ohio.* (i) The NO_X annual trading budget for 2012 and 2013 is 92,703 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 1,854 tons.
(iii) [Reserved]
(iv) The NO_X annual trading budget for 2014 and thereafter is 87,493 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 1,750 tons.
(vi) [Reserved]
(17) *Pennsylvania.* (i) The NO_X annual trading budget for 2012 and 2013 is 119,986 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 2,400 tons.
(iii) [Reserved]
(iv) The NO_X annual trading budget for 2014 and thereafter is 119,194 tons.
(v) The NO_X annual new unit set-aside for 2014 and thereafter is 2,384 tons.
(vi) [Reserved]
(18) *South Carolina.* (i) The NO_X annual trading budget for 2012 and 2013 is 32,498 tons.
(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 617 tons.

(iii) The NO_X annual Indian country new unit set-aside for 2012 and 2013 is 33 tons.

(iv) The NO_X annual trading budget for 2014 and thereafter is 32,498 tons.

(v) The NO_X annual new unit set-aside for 2014 and thereafter is 617 tons.

(vi) The NO_X annual Indian country new unit set-aside for 2014 and thereafter is 33 tons.

(19) *Tennessee.* (i) The NO_X annual trading budget for 2012 and 2013 is 35,703 tons.

(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 714 tons.

(iii) [Reserved]

(iv) The NO_X annual trading budget for 2014 and thereafter is 19,337 tons.

(v) The NO_X annual new unit set-aside for 2014 and thereafter is 387 tons.

(vi) [Reserved]

(20) *Texas.* (i) The NO_X annual trading budget for 2012 and 2013 is 134,970 tons.

(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 5,264 tons.

(iii) The NO_X annual Indian country new unit set-aside for 2012 and 2013 is 135 tons.

(iv) The NO_X annual trading budget for 2014 and thereafter is 134,970 tons.

(v) The NO_X annual new unit set-aside for 2014 and thereafter is 5,264 tons.

(vi) The NO_X annual Indian country new unit set-aside for 2014 and thereafter is 135 tons.

(21) *Virginia.* (i) The NO_X annual trading budget for 2012 and 2013 is 33,242 tons.

(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 1,662 tons.

(iii) [Reserved]

(iv) The NO_X annual trading budget for 2014 and thereafter is 33,242 tons.

(v) The NO_X annual new unit set-aside for 2014 and thereafter is 1,662 tons.

(vi) [Reserved]

(22) *West Virginia.* (i) The NO_X annual trading budget for 2012 and 2013 is 59,472 tons.

(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 2,974 tons.

(iii) [Reserved]

(iv) The NO_X annual trading budget for 2014 and thereafter is 54,582 tons.

(v) The NO_X annual new unit set-aside for 2014 and thereafter is 2,729 tons.

(vi) [Reserved]

(23) *Wisconsin.* (i) The NO_X annual trading budget for 2012 and 2013 is 34,101 tons.

(ii) The NO_X annual new unit set-aside for 2012 and 2013 is 2,012 tons.

(iii) The NO_X annual Indian country new unit set-aside for 2012 and 2013 is 34 tons.

(iv) The NO_X annual trading budget for 2014 and thereafter is 32,871 tons.

(v) The NO_X annual new unit set-aside for 2014 and thereafter is 1,939 tons.

(vi) The NO_X annual Indian country new unit set-aside for 2014 and thereafter is 33 tons.

(b) The States' variability limits for the State NO_X Annual trading budgets for the control periods in 2014 and thereafter are as follows:

(1) The NO_X annual variability limit for Alabama is 12,953 tons.

(2) The NO_X annual variability limit for Georgia is 7,297 tons.

(3) The NO_X annual variability limit for Illinois is 8,617 tons.

(4) The NO_X annual variability limit for Indiana is 19,516 tons.

(5) The NO_X annual variability limit for Iowa is 6,750 tons.

(6) The NO_X annual variability limit for Kansas is 4,601 tons.

(7) The NO_X annual variability limit for Kentucky is 13,903 tons.

(8) The NO_X annual variability limit for Maryland is 2,983 tons.

(9) The NO_X annual variability limit for Michigan is 11,347 tons.

(10) The NO_X annual variability limit for Minnesota is 5,323 tons.

(11) The NO_X annual variability limit for Missouri is 8,769 tons.

(12) The NO_X annual variability limit for Nebraska is 5,407 tons.

(13) The NO_X annual variability limit for New Jersey is 1,430 tons.

(14) The NO_X annual variability limit for New York is 3,785 tons.

(15) The NO_X annual variability limit for North Carolina is 7,480 tons.

(16) The NO_X annual variability limit for Ohio is 15,749 tons.

(17) The NO_X annual variability limit for Pennsylvania is 21,455 tons.

(18) The NO_X annual variability limit for South Carolina is 5,850 tons.

(19) The NO_X annual variability limit for Tennessee is 3,481 tons.

(20) The NO_X annual variability limit for Texas is 24,295 tons.

(21) The NO_X annual variability limit for Virginia is 5,984 tons.

(22) The NO_X annual variability limit for West Virginia is 9,825 tons.

(23) The NO_X annual variability limit for Wisconsin is 5,917 tons.

(c) Each NO_X annual trading budget identified in this section includes any tons in a new unit set aside or Indian country new unit set aside, but does not include any tons in a variability limit.

§ 97.425 [Amended]

■ 9. Section 97.425, paragraph (b)(1) introductory text, is amended by removing ''2013'' and adding, in its place, ''2015''.

■ 10. Section 97.506 is amended by:

■ a. Designating the first sentence in paragraph (c)(3) as paragraph (c)(3)(i); and by removing the phrase ''paragraphs (c)(1) and (c)(2)'', adding in its place the phrase ''paragraph (c)(1)'';and

■ b. Adding a new paragraph (c)(3)(ii) to read as follows:

§ 97.506 Standard requirements.

* * * * *

(c) * * *

(3) * * *

(ii) A TR NO_X Ozone Season unit shall be subject to the requirements under paragraph (c)(2) of this section for the control period starting on the later of May 1, 2014 or the deadline for meeting the unit's monitor certification requirements under § 97.530(b) and for each control period thereafter.

* * * * *

■ 11. Section 97.510 is revised to read as follows:

§ 97.510 State NO_X Ozone Season trading budgets, new unit set-asides, Indian country new unit set-aside, and variability limits.

(a) The State NO_X ozone season trading budgets, new unit set-asides, and Indian country new unit-set asides for allocations of TR NO_X Ozone Season allowances for the control periods in 2012 and thereafter are as follows:

(1) *Alabama.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 31,746 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 635 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 31,499 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 630 tons.

(vi) [Reserved]

(2) *Arkansas.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 15,037 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 752 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 15,037 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 752 tons.

(vi) [Reserved]

(3) *Florida.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 28,644 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 544 tons.

(iii) The NO_X ozone season Indian country new unit set-aside for 2012 and 2013 is 29 tons.

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 27,825 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 529 tons.

(vi) The NO_X ozone season Indian country new unit set-aside for 2014 and thereafter is 28 tons.

(4) *Georgia.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 27,944 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 559 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 18,279 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 366 tons.

(vi) [Reserved]

(5) *Illinois.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 21,208 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 1,697 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 21,208 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 1,697 tons.

(vi) [Reserved]

(6) *Indiana.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 46,876 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 1,406 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 46,175 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 1,385 tons.

(vi) [Reserved]

(7) *Iowa.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 16,532 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 314 tons.

(iii) The NO_X ozone season Indian country new unit set-aside for 2012 and 2013 is 17 tons.

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 16,207 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 308 tons.

(vi) The NO_X ozone season Indian country new unit set-aside for 2014 and thereafter is 16 tons.

(8) *Kentucky.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 36,167 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 1,447 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 32,674 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 1,307 tons.

(vi) [Reserved]

(9) *Louisiana.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 18,026 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 523 tons.

(iii) The NO_X ozone season Indian country new unit set-aside for 2012 and 2013 is 18 tons.

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 18,026 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 523 tons.

(vi) The NO_X ozone season Indian country new unit set-aside for 2014 and thereafter is 18 tons.

(10) *Maryland.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 7,179 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 144 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 7,179 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 144 tons.

(vi) [Reserved]

(11) *Michigan.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 28,041 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 533 tons.

(iii) The NO_X ozone season Indian country new unit set-aside for 2012 and 2013 is 28 tons.

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 27,016 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 513 tons.

(vi) The NO_X ozone season Indian country new unit set-aside for 2014 and thereafter is 27 tons.

(12) *Mississippi.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 12,314 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 234 tons.

(iii) The NO_X ozone season Indian country new unit set-aside for 2012 and 2013 is 12 tons.

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 12,314 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 234 tons.

(vi) The NO_X ozone season Indian country new unit set-aside for 2014 and thereafter is 12 tons.

(13) *Missouri.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 22,762 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 683 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 21,073 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 632 tons.

(vi) [Reserved]

(14) *New Jersey.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 4,128 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 83 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 3,731 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 75 tons.

(vi) [Reserved]

(15) *New York.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 10,242 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 195 tons.

(iii) The NO_X ozone season Indian country new unit set-aside for 2012 and 2013 is 10 tons.

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 10,242 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 195 tons.

(vi) The NO_X ozone season Indian country new unit set-aside for 2014 and thereafter is 10 tons.

(16) *North Carolina.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 22,168 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 1,308 tons.

(iii) The NO_X ozone season Indian country new unit set-aside for 2012 and 2013 is 22 tons.

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 18,455 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 1,089 tons.

(vi) The NO_X ozone season Indian country new unit set-aside for 2014 and thereafter is 18 tons.

(17) *Ohio.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 40,063 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 801 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 37,792 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 756 tons.

(vi) [Reserved]

(18) *Oklahoma.* (i) The NO_X ozone season trading budget for 2012 is 36,567 and for 2013 is 21,835 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 is 731 and for 2013 is 437 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 21,835 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 437 tons.

(vi) [Reserved]

(19) *Pennsylvania.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 52,201 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 1,044 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 51,912 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 1,038 tons.

(vi) [Reserved]

(20) *South Carolina.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 13,909 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 264 tons.

(iii) The NO_X ozone season Indian country new unit set-aside for 2012 and 2013 is 14 tons.

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 13,909 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 264 tons.

(vi) The NO_X ozone season Indian country new unit set-aside for 2014 and thereafter is 14 tons.

(21) *Tennessee.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 14,908 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 298 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 8,016 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 160 tons.

(vi) [Reserved]

(22) *Texas.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 64,418 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 2,513 tons.

(iii) The NO_X ozone season Indian country new unit set-aside for 2012 and 2013 is 64 tons.

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 64,418 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 2,513 tons.

(vi) The NO_X ozone season Indian country new unit set-aside for 2014 and thereafter is 64 tons.

(23) *Virginia.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 14,452 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 723 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 14,452 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 723 tons.

(vi) [Reserved]

(24) *West Virginia.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 25,283 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 1,264 tons.

(iii) [Reserved]

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 23,291 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 1,165 tons.

(vi) [Reserved]

(25) *Wisconsin.* (i) The NO_X ozone season trading budget for 2012 and 2013 is 14,784 tons.

(ii) The NO_X ozone season new unit set-aside for 2012 and 2013 is 872 tons.

(iii) The NO_X ozone season Indian country new unit set-aside for 2012 and 2013 is 15 tons.

(iv) The NO_X ozone season trading budget for 2014 and thereafter is 14,296 tons.

(v) The NO_X ozone season new unit set-aside for 2014 and thereafter is 844 tons.

(vi) The NO_X ozone season Indian country new unit set-aside for 2014 and thereafter is 14 tons.

(b) The States' variability limits for the State NO_X ozone season trading budgets for the control periods in 2014 and thereafter are as follows:

(1) The NO_X ozone season variability limit for Alabama is 6,615 tons.

(2) The NO_X ozone season variability limit for Arkansas is 3,158 tons.

(3) The NO_X ozone season variability limit for Florida is 5,843 tons.

(4) The NO_X ozone season variability limit for Georgia is 3,839 tons.

(5) The NO_X ozone season variability limit for Illinois is 4,454 tons.

(6) The NO_X ozone season variability limit for Indiana is 9,697 tons.

(7) The NO_X ozone season variability limit for Iowa is 3,403 tons.

(8) The NO_X ozone season variability limit for Kentucky is 6,862 tons.

(9) The NO_X ozone season variability limit for Louisiana is 3,785 tons.

(10) The NO_X ozone season variability limit for Maryland is 1,508 tons.

(11) The NO_X ozone season variability limit for Michigan is 5,673 tons.

(12) The NO_X ozone season variability limit for Mississippi is 2,586 tons.

(13) The NO_X ozone season variability limit for Missouri is 4,425 tons.

(14) The NO_X ozone season variability limit for New Jersey is 784 tons.

(15) The NO_X ozone season variability limit for New York is 2,151 tons.

(16) The NO_X ozone season variability limit for North Carolina is 3,876 tons.

(17) The NO_X ozone season variability limit for Ohio is 7,936 tons.

(18) The NO_X ozone season variability limit for Oklahoma is 4,585 tons.

(19) The NO_X ozone season variability limit for Pennsylvania is 10,902 tons.

(20) The NO_X ozone season variability limit for South Carolina is 2,921 tons.

(21) The NO_X ozone season variability limit for Tennessee is 1,683 tons.

(22) The NO_X ozone season variability limit for Texas is 13,528 tons.

(23) The NO_X ozone season variability limit for Virginia is 3,035 tons.

(24) The NO_X ozone season variability limit for West Virginia is 4,891 tons.

(25) The NO_X ozone season variability limit for Wisconsin is 3,002 tons.

(c) Each NO_X ozone season trading budget in this section includes any tons in a new unit set aside or Indian country new unit set aside, but does not include any tons in a variability limit.

§ 97.525 [Amended]

■ 12. Section 97.525, paragraph (b)(1) introductory text, is amended by removing ''2013'' and adding, in its place, ''2015.''

■ 13. Section 97.606 is amended by:

■ a. Designating the first sentence in paragraph (c)(3) as paragraph (c)(3)(i); and by removing the phrase ''paragraphs (c)(1) and (c)(2)'', adding in its place the phrase ''paragraph (c)(1);''

■ b. Adding a new paragraph (c)(3)(ii); and

■ c. Amending paragraph (e)(2) by removing the words ''or or'' and adding, in their place, the word ''or'' to read as follows:

§ 97.606 Standard requirements.

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(ii) A TR SO_2 Group 1 unit shall be subject to the requirements under paragraph (c)(2) of this section for the control period starting on the later of January 1, 2014 or the deadline for meeting the unit's monitor certification requirements under § 97.630(b) and for each control period thereafter.

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■ 14. Section 97.610 is revised to read as follows:

§ 97.610 State SO_2 Group 1 trading budgets, new unit set-asides, Indian country new unit set-aside, and variability limits.

(a) The State SO_2 trading budgets, new unit set-asides, and Indian country new unit-set asides for allocations of TR SO_2 Group 1 allowances for the control periods in 2012 and thereafter are as follows:

(1) *Illinois.* (i) The SO_2 trading budget for 2012 and 2013 is 234,889 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 11,744 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 124,123 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 6,206 tons.

(vi) [Reserved]

(2) *Indiana.* (i) The SO_2 trading budget for 2012 and 2013 is 285,424 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 8,563 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 161,111 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 4,833 tons.

(vi) [Reserved]

(3) *Iowa.* (i) The SO_2 trading budget for 2012 and 2013 is 107,085 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 2,035 tons.

(iii) The SO_2 Indian country new unit set-aside for 2012 and 2013 is 107 tons.

(iv) The SO_2 trading budget for 2014 and thereafter is 75,184 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 1,429 tons.

(vi) The SO_2 Indian country new unit set-aside for 2014 and thereafter is 75 tons.

(4) *Kentucky.* (i) The SO_2 trading budget for 2012 and 2013 is 232,662 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 13,960 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 106,284 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 6,377 tons.

(vi) [Reserved]

(5) *Maryland.* (i) The SO_2 trading budget for 2012 and 2013 is 30,120 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 602 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 28,203 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 564 tons.

(vi) [Reserved]

(6) *Michigan.* (i) The SO_2 trading budget for 2012 and 2013 is 229,303 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 4,357 tons.

(iii) The SO_2 Indian country new unit set-aside for 2012 and 2013 is 229 tons.

(iv) The SO_2 trading budget for 2014 and thereafter is 143,995 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 2,736 tons.

(vi) The SO_2 Indian country new unit set-aside for 2014 and thereafter is 144 tons.

(7) *Missouri.* (i) The SO_2 trading budget for 2012 and 2013 is 207,466 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 4,149 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 165,941 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 3,319 tons.

(vi) [Reserved]

(8) *New Jersey.* (i) The SO_2 trading budget for 2012 and 2013 is 7,670 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 153 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 5,574 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 111 tons.

(vi) [Reserved]

(9) *New York.* (i) The SO_2 trading budget for 2012 and 2013 is 30,852 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 586 tons.

(iii) The SO_2 Indian country new unit set-aside for 2012 and 2013 is 31 tons.

(iv) The SO_2 trading budget for 2014 and thereafter is 22,112 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 420 tons.

(vi) The SO_2 Indian country new unit set-aside for 2014 and thereafter is 22 tons.

(10) *North Carolina.* (i) The SO_2 trading budget for 2012 and 2013 is 136,881 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 10,813 tons.

(iii) The SO_2 Indian country new unit set-aside for 2012 and 2013 is 137 tons.

(iv) The SO_2 trading budget for 2014 and thereafter is 57,620 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 4,552 tons.

(vi) The SO_2 Indian country new unit set-aside for 2014 and thereafter is 58 tons.

(11) *Ohio.* (i) The SO_2 trading budget for 2012 and 2013 is 310,230 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 6,205 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 137,077 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 2,742 tons.

(vi) [Reserved]

(12) *Pennsylvania.* (i) The SO_2 trading budget for 2012 and 2013 is 278,651 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 5,573 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 112,021 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 2,240 tons.

(vi) [Reserved]

(13) *Tennessee.* (i) The SO_2 trading budget for 2012 and 2013 is 148,150 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 2,963 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 58,833 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 1,177 tons.

(vi) [Reserved]

(14) *Virginia.* (i) The SO_2 trading budget for 2012 and 2013 is 70,820 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 2,833 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 35,057 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 1,402 tons.

(vi) [Reserved]

(15) *West Virginia.* (i) The SO_2 trading budget for 2012 and 2013 is 146,174 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 10,232 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 75,668 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 5,297 tons.

(vi) [Reserved]

(16) *Wisconsin.* (i) The SO_2 trading budget for 2012 and 2013 is 79,480 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 3,099 tons.

(iii) The SO_2 Indian country new unit set-aside for 2012 and 2013 is 80 tons.

(iv) The SO_2 trading budget for 2014 and thereafter is 47,883 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 1,867 tons.

(vi) The SO_2 Indian country new unit set-aside for 2014 and thereafter is 48 tons.

(b) The States' variability limits for the State SO_2 Group 1 trading budgets for the control periods in 2014 and thereafter are as follows:

(1) The SO_2 variability limit for Illinois is 22,342 tons.

(2) The SO_2 variability limit for Indiana is 29,000 tons.

(3) The SO_2 variability limit for Iowa is 13,533 tons.

(4) The SO_2 variability limit for Kentucky is 19,131 tons.

(5) The SO_2 variability limit for Maryland is 5,077 tons.

(6) The SO_2 variability limit for Michigan is 25,919 tons.

(7) The SO_2 variability limit for Missouri is 29,869 tons.

(8) The SO_2 variability limit for New Jersey is 1,003 tons.

(9) The SO_2 variability limit for New York is 3,980 tons.

(10) The SO_2 variability limit for North Carolina is 10,372 tons.

(11) The SO_2 variability limit for Ohio is 24,674 tons.

(12) The SO_2 variability limit for Pennsylvania is 20,164 tons.

(13) The SO_2 variability limit for Tennessee is 10,590 tons.

(14) The SO_2 variability limit for Virginia is 6,310 tons.

(15) The SO_2 variability limit for West Virginia is 13,620 tons.

(16) The SO_2 variability limit for Wisconsin is 8,619 tons.

(c) Each SO_2 trading budget in this section includes any tons in a new unit set aside or Indian country new unit set aside, but does not include any tons in a variability limit.

§ 97.625 [Amended]

■ 15. Section 97.625, paragraph (b)(1) introductory text, is amended by removing ''2013'' and adding, in its place, ''2015''.

■ 16. Section 97.706 is amended by:

■ a. Designating the first sentence in paragraph (c)(3) as paragraph (c)(3)(i); and by removing the phrase ''paragraphs (c)(1) and (c)(2)'', adding in its place the phrase ''paragraph (c)(1)'';

■ b. Adding a new paragraph (c)(3)(ii); and

■ c. Amending paragraph (e)(2) by removing the words ''or or'' and adding, in their place, the word ''or'' to read as follows:

§ 97.706 Standard requirements.

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(ii) A TR SO_2 Group 2 unit shall be subject to the requirements under paragraph (c)(2) of this section for the control period starting on the later of January 1, 2014 or the deadline for meeting the unit's monitor certification requirements under § 97.730(b) and for each control period thereafter.

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■ 17. Section 97.710 is revised to read as follows:

§ 97.710 State SO_2 Group 2 trading budgets, new unit set-asides, Indian country new unit set-aside, and variability limits.

(a) The State SO_2 trading budgets, new unit set-asides, and Indian country new unit-set asides for allocations of TR SO_2 Group 2 allowances for the control periods in 2012 and thereafter are as follows:

(1) *Alabama.* (i) The SO_2 trading budget for 2012 and 2013 is 216,033 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 4,321 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 213,258 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 4,265 tons.

(vi) [Reserved]

(2) *Georgia.* (i) The SO_2 trading budget for 2012 and 2013 is 158,527 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 3,171 tons.

(iii) [Reserved]

(iv) The SO_2 trading budget for 2014 and thereafter is 95,231 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 1,905 tons.

(vi) [Reserved]

(3) *Kansas.* (i) The SO_2 trading budget for 2012 and 2013 is 41,528 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 789 tons.

(iii) The SO_2 Indian country new unit set-aside for 2012 and 2013 is 42 tons.

(iv) The SO_2 trading budget for 2014 and thereafter is 41,528 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 789 tons.

(vi) The SO_2 Indian country new unit set-aside for 2014 and thereafter is 42 tons.

(4) *Minnesota.* (i) The SO_2 trading budget for 2012 and 2013 is 41,981 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 798 tons.

(iii) The SO_2 Indian country new unit set-aside for 2012 and 2013 is 42 tons.

(iv) The SO_2 trading budget for 2014 and thereafter is 41,981 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 798 tons.

(vi) The SO_2 Indian country new unit set-aside for 2014 and thereafter is 42 tons.

(5) *Nebraska.* (i) The SO_2 trading budget for 2012 and 2013 is 65,052 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 2,537 tons.

(iii) The SO_2 Indian country new unit set-aside for 2012 and 2013 is 65 tons.

(iv) The SO_2 trading budget for 2014 and thereafter is 65,052 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 2,537 tons.

(vi) The SO_2 Indian country new unit set-aside for 2014 and thereafter is 65 tons.

(6) *South Carolina.* (i) The SO_2 trading budget for 2012 and 2013 is 88,620 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 1,683 tons.

(iii) The SO_2 Indian country new unit set-aside for 2012 and 2013 is 89 tons.

(iv) The SO_2 trading budget for 2014 and thereafter is 88,620 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 1,683 tons.

(vi) The SO_2 Indian country new unit set-aside for 2014 and thereafter is 89 tons.

(7) *Texas.* (i) The SO_2 trading budget for 2012 and 2013 is 294,471 tons.

(ii) The SO_2 new unit set-aside for 2012 and 2013 is 14,430 tons.

(iii) The SO_2 Indian country new unit set-aside for 2012 and 2013 is 294 tons.

(iv) The SO_2 trading budget for 2014 and thereafter is 294,471 tons.

(v) The SO_2 new unit set-aside for 2014 and thereafter is 14,430 tons.

(vi) The SO_2 Indian country new unit set-aside for 2014 and thereafter is 294 tons.

(b) The States' variability limits for the State SO_2 Group 2 trading budgets for the control periods in 2014 and thereafter are as follows:

(1) The SO_2 variability limit for Alabama is 38,386 tons.

(2) The SO_2 variability limit for Georgia is 17,142 tons.

(3) The SO_2 variability limit for Kansas is 7,475 tons.

(4) The SO_2 variability limit for Minnesota is 7,557 tons.

(5) The SO_2 variability limit for Nebraska is 11,709 tons.

(6) The SO_2 variability limit for South Carolina is 15,952 tons.

(7) The SO_2 variability limit for Texas is 53,005 tons.

(c) Each SO_2 Group 2 trading budget in this section includes any tons identified under a new unit set aside or Indian country new unit set aside, but excludes any tons in a variability limit.

§ 97.725 [Amended]

■ 18. Section 97.725, paragraph (b)(1) introductory text, is amended by removing ''2013'' and adding, in its place, ''2015''.

[FR Doc. 2012–3706 Filed 2–17–12; 8:45 am]

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