

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

ACTION

EPA is finalizing technical adjustments to the final Cross-State Air Pollution Rule (CSAPR). The revisions reflect new information with technical merit that was brought to the EPA by stakeholders from a small number of units after the final CSAPR was published. These revisions provide important technical adjustments that will enhance compliance flexibility and smooth the transition from the Clean Air Interstate Rule (CAIR) programs to the CSAPR programs. No changes were made to the core elements of the program through this action.

CSAPR is a sound, achievable, market-based program that will deliver strong public health protections. The final revisions will not affect the major air quality improvements slated to occur under CSAPR. While individual state adjustments vary, overall, the total budget increase from both rules remain small—around two percent—when compared to the millions of tons of pollution reductions secured by CSAPR. CSAPR will significantly reduce the interstate transport of pollution and help downwind states in their efforts to attain and maintain the National Ambient Air Quality Standards (NAAQS).

Although the U.S. District Court of Appeals stayed the CSAPR pending judicial review, the Agency believes that it is prudent to move forward with finalizing these corrections so EPA can be prepared to implement the CSAPR if the stay is lifted. While this action revises the CSAPR, it is consistent with, and is unaffected by, the Court's Order staying the underlying final CSAPR. Finalizing this action in and of itself does not impose any requirements on regulated units or states.

The final rule revises state budgets for Florida, Louisiana, Michigan, Mississippi, Nebraska, New Jersey, New York, Texas, and Wisconsin and new unit set-asides for Arkansas and Texas. This action revises unit-level allocations for Alabama, Indiana, Kansas, Kentucky, Ohio and Tennessee to better account for utility consent decrees. This final rule also amends the assurance penalty provisions for all states within the programs so they start in 2014 instead of 2012, helping to increase the opportunity for market-based compliance options in the early years of the program. Finally, the final rule revises typographical errors in the final CSAPR.

STATE BUDGETS AND NEW UNIT SET-ASIDES

The adjustments finalized in this revisions rule reflect updated information on pollution controls and operational requirements at specific units subject to the CSAPR.

The final revisions cover changes in the following areas:

- **Increases in state budgets:** Florida, Louisiana, Michigan, Mississippi, Nebraska, New Jersey, New York, Texas, and Wisconsin

- **Changes to new unit set-asides:** Arkansas and Texas

ASSURANCE PENALTY PROVISIONS

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

This final rule amends the assurance penalty provisions for all states within the programs so they start in 2014 instead of 2012. This will enhance compliance flexibility as these revisions are finalized, thereby smoothing the transition from CAIR programs to the CSAPR programs.

CONSENT DECREES

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

SEPARATE DIRECT FINAL RULE

Based on comments that EPA received during the public comment process for the revisions rule, the Agency is taking action to finalize additional revisions to a small number of state budgets and new unit set-asides in a separate direct final rulemaking.

BACKGROUND

EPA issued CAIR on May 12, 2005 and the CAIR federal implementation plans (FIPs) on April 26, 2006. In 2008, the U.S. Court of Appeals for the D.C. Circuit remanded CAIR to the Agency, leaving existing CAIR programs in place while directing EPA to replace them as rapidly as possible with a new rule consistent with the Clean Air Act.

The CSAPR was proposed July 6, 2010. EPA held three public hearings on the proposed rule during the 60-day comment period. EPA also issued three notices of data availability (NODAs) to provide additional opportunities for public comment on data, modeling, and other key aspects of the rule. The Agency received hundreds of detailed comments from states, environmental and public health groups, industry, and other stakeholders during the comment periods for the proposed rule and NODAs. The final CSAPR was finalized on July 6, 2011.

In a separate but related regulatory action, EPA also issued a supplemental notice of proposed rulemaking on July 6, 2011. The supplemental proposal was open for public review and comment until August 22, 2011. No public hearing was requested. EPA finalized the supplemental rule on December 15, 2011 to include five additional states - Iowa, Michigan, Missouri, Oklahoma, and Wisconsin - in the CSAPR ozone season NO_x program. EPA concluded that these five states plus Kansas significantly contribute to nonattainment and/or interference with maintenance of the 1997 ozone NAAQS in other states.

EPA proposed the revisions rule on October 6, 2011. The public comment period ended on November 28, 2011 and a public hearing was held in Washington, DC on October 28, 2011.

The CSAPR was scheduled to replace CAIR starting January 1, 2012. However, on December 30, 2011, the U.S. Court of Appeals for the D.C. Circuit issued a ruling to stay the CSAPR pending judicial review. This was not a decision on the merits of the rule. While this decision delays implementation of the CSAPR and the significant public health benefits associated with the rule, it also leaves CAIR in place while the court considers the merits of the challenges to the CSAPR.

FOR MORE INFORMATION

To see the final rule, including technical supporting documents, go to www.epa.gov/crossstaterule.

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