NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Air Quality
RULE TYPE: Legislative
RULE NAME: Control of Ozone Season Nitrogen Oxides Emissions
CITE STATUTORY AUTHORITY: W. Va. Code § 22-5-4
COMMENTS LIMITED TO: Oral and Written

DATE OF PUBLIC HEARING: 07/05/2022 6:00 PM
LOCATION OF PUBLIC HEARING:
Virtual. Register by 5:00pm 7/5/22 at https://forms.gle/DKdxExuwnr1cQ53v6 or by calling Sandie Adkins or Stephanie Hammonds at (304)926-0475.

DATE WRITTEN COMMENT PERIOD ENDS: 07/05/2022 5:00 PM
COMMENTS MAY BE MAILED OR EMAILED TO:
NAME: Sandra Adkins
ADDRESS: WV Department of Environmental Protection, DAQ
601 57th Street, SE  Charleston WV 25304
EMAIL: laura.m.jennings@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:
RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes
(If yes, please upload in the Supporting Documents Field)
INCORPORATED BY REFERENCE: No
(If yes, please upload in the Supporting Documents Field)
PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule establishes: (a) ozone season nitrogen oxides (NOX) emissions limitations, monitoring, recordkeeping, reporting, excess emissions, and NOX budget demonstration requirements for large industrial boilers and combustion turbines that have a maximum design heat input greater than 250 mmBTU/hr, in accordance with 40 CFR §51.121; (b) ozone season NOX reduction, compliance plan, monitoring, recordkeeping and reporting requirements for affected stationary internal combustion engines; and (c) ozone season NOX control standards, ozone season NOX compliance plan, monitoring, recordkeeping, and reporting requirements for applicable cement manufacturing kilns.

W. Va. State Code §22-5-4(4) prohibits Air Quality rules to be more stringent than any federal rule or program except under limited circumstances. This rule is not more stringent than any federal rule or program.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Summary of changes in the rule:

Section 4.1 of the rule was revised to update the characterization of units that are not subject to this rule because they are subject to a federal NOx ozone season trading program.

9.2.1 - replaced certified mail with in writing.

Statement of circumstances requiring the rule:

This rule is exempt from the Regulatory Moratorium of Executive Order 2-18 under condition 3(g), updating state rules to comply with federal law requirements.

The federal trading program that is referenced to define applicability to this rule was revised and therefore the reference to it requires revision.

Consultation with the Environmental Protection Advisory Council:

The Environmental Protection Advisory Council received a copy of this proposed rule in advance of the scheduled June 9, 2022 meeting.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

The proposed revisions to this rule is not expected to impact revenues of state government.
B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

The proposed revisions to this rule is not expected to impact special revenue accounts.

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

The proposed revision to this rule should not have any additional impact on the cost of state government beyond that resulting from currently applicable federal requirements, nor should it have an economic impact on the state or its residents.

D. FISCAL NOTE DETAIL:

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<tr>
<th>Effect of Proposal</th>
<th>Fiscal Year</th>
<th>Fiscal Year (Upon Full Implementation)</th>
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<td>2. Estimated Total Revenues</td>
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E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

The revision to this rule is not expected to impact costs and revenues of state government.

In accordance with W. Va. Code §22-1A 3(c), the Secretary has determined that this rule will not result in a taking of private property within the meaning of the Constitutions of West Virginia and the
United States of America.

BY CHOOSING ‘YES’, I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes
Jason E Wandling -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.
§45-40-1. General.

1.1. Scope. -- This rule establishes:

1.1.a. Ozone season NO\textsubscript{X} emission limitation, monitoring, recordkeeping, reporting, excess emissions, and NO\textsubscript{X} budget demonstration requirements for large industrial boilers and combustion turbines that have a maximum design heat input greater than 250 mmBTU/hr, in accordance with 40 CFR §51.121;

1.1.b Ozone season NO\textsubscript{X} reduction, compliance plan, monitoring, recordkeeping and reporting requirements for affected stationary internal combustion engines; and

1.1.c. Ozone season NO\textsubscript{X} control standards, ozone season NO\textsubscript{X} compliance plan, reporting, monitoring and recordkeeping requirements for applicable cement manufacturing kilns.


1.3. Filing Date. -- June 1, 2020.

1.4. Effective Date. -- June 1, 2020.

1.5. Sunset Provision. -- Exempt.


2.1. “Administrator” means the Administrator of the United States Environmental Protection Agency (U.S. EPA) or the Administrator’s duly authorized representative.

2.2. “Boiler” means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

2.3. “Clean Air Act” or “CAA” means the Clean Air Act, 42 U.S.C. 7401, et seq., as amended.

2.4. “Clinker” means the product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.

2.5. “Combustion turbine” means:

2.5.a. An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

2.5.b. If the enclosed device under subdivision 2.6.a is combined cycle, any associated duct burner, heat recovery steam generator, and steam turbine.

2.6. “Continuous emission monitoring system” or “CEMS” means, except for purposes of subsections
2.15 and 6.2, the total equipment required for the determination of NO\textsubscript{X} emission rate, expressed in pounds per million British thermal units (lb/mmBtu). For the purposes of this rule, CEMS is used for continuous compliance determinations. The sample interface, pollutant analyzer, diluent analyzer, and data recorder are the major subsystems of the CEMS. The principal type of continuous emission monitoring system is:

2.6.a. A nitrogen oxides emission rate (or NO\textsubscript{X}-diluent) monitoring system, consisting of a NO\textsubscript{X} pollutant concentration monitor, a diluent gas (CO\textsubscript{2} or O\textsubscript{2}) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO\textsubscript{X} concentration, in parts per million (ppm), diluent gas concentration, in percent CO\textsubscript{2} or O\textsubscript{2}; and NO\textsubscript{X} emission rate, in pounds per million British thermal units (lb/mmBtu);

2.7. "Excess emissions" means nitrogen oxides emitted by an applicable unit under subsection 4.1 during an ozone season that exceeds the ozone season NO\textsubscript{X} emissions limitation for the unit set forth in section 5.

2.8. "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

2.9. "Fossil fuel-fired" means, with regard to a unit, and solely for purposes of applying the applicability provisions in subsection 4.1:

2.9.a. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a Btu basis during any year, or

2.9.b. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is projected to comprise more than 50 percent of the annual heat input on a Btu basis during any year, provided that the unit shall be "fossil fuel-fired" as of the date, during such year, on which the unit begins combusting fossil fuel.

2.10. "Large NO\textsubscript{X} SIP call engine" means a stationary internal combustion engine identified and designated as “large" in the NO\textsubscript{X} SIP Call Engine Inventory as emitting more than one ton of NO\textsubscript{X} per average ozone season day in 1995.

2.11. "Long dry kiln" means a kiln 14 feet or larger in diameter, 400 feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is dry.

2.12. "Long wet kiln" means a kiln 14 feet or larger in diameter, 400 feet or greater in length, which employs no preheating of the feed. The inlet feed to the kiln is a slurry.

2.13. "Low-NO\textsubscript{X} burners" means combustion equipment designed to reduce flame turbulence, delay fuel/air mixing and establish fuel-rich zones for initial combustion.

2.14. "Mid-kiln firing" means the secondary firing in kilns by injecting solid fuel at an intermediate point in the kiln using a specially designed feed injection mechanism for the purpose of decreasing NO\textsubscript{X} emissions through:

2.14.a. Burning part of the fuel at a lower temperature; and

2.14.b. Reducing conditions at the solid waste injection point that may destroy some of the NO\textsubscript{X} formed upstream in the kiln burning zone.

2.15. "Monitoring system” means, for purposes of subsection 6.2, a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR part 75 as defined in 40 CFR §72.2.
2.16. "Nitrogen oxides" or "NO\textsubscript{X}" means all oxides of nitrogen except nitrous oxide (N\textsubscript{2}O), reported on an equivalent molecular weight basis as nitrogen dioxide (NO\textsubscript{2}).

2.17. "NO\textsubscript{X} SIP Call Engine Inventory" means the inventory of internal combustion engines compiled by U.S. EPA as part of the NO\textsubscript{X} SIP Call Rule, including the technical amendments, announced in the March 2, 2000 Federal Register, page 11222, and the adjustment of the 2007 Budget NO\textsubscript{X} Control Efficiency to 82 percent for large gas-fired engines, announced in the April 21, 2004 Federal Register notice, page 21604 for the Phase II NO\textsubscript{X} SIP Call Rule.

2.18. "Ozone season" means the period beginning May 1 of a calendar year, and ending on September 30 of the same year, inclusive.

2.19. "Performance Specification 2" or "PS 2" means the Specifications and Test Procedures for SO\textsubscript{2} and NO\textsubscript{X} Continuous Emission Monitoring Systems in Stationary Sources provided in Appendix B to 40 CFR part 60. For purposes of subsections 6.3 and 6.5, these procedures are used for measuring CEMS relative accuracy and calibration drift and include CEMS installation and measurement location specifications, equipment specifications, performance specifications, and data reduction.

2.20. "Performance Specification 16" or "PS 16" means the Specifications and Test Procedures for Predictive Emission Monitoring Systems (PEMS) in Stationary Sources provided in Appendix B to 40 CFR part 60. For purposes of subsection 6.4, these procedures are used to determine whether the PEMS is acceptable for use in demonstrating compliance with the NO\textsubscript{X} emission limit and to certify the PEMS initially. They are also used periodically thereafter to ensure the PEMS is operating properly. These specifications apply to PEMS that are installed on or after April 24, 2009.

2.21. "Predictive Emission Monitoring System" or "PEMS" means all of the equipment required to predict an emission concentration or emission rate. The system may consist of any of the following major subsystems: sensors and sensor interfaces, emission model, algorithm, or equation that uses process data to generate an output that is proportional to the emission concentration or emission rate, diluent emission model, data recorder, and sensor evaluation system. Systems that use fewer than three (3) variables do not qualify as PEMS unless the system has been specifically approved by the Administrator for use as a PEMS. A PEMS may predict emissions data that are corrected for diluent if the relative accuracy and relevant QA tests are passed in the emission units corrected for diluent. Parametric monitoring systems that serve as indicators of compliance and have parametric limits but do not predict emissions to comply with an emissions limit are not included in this definition.

2.22. "Portland cement" means a hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one or more of the forms of calcium sulfate as an interground addition.

2.23. "Portland cement kiln" means a system, including any solid, gaseous or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.

2.24. "Precaliner kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers and utilizes a second burner to calcine material in a separate vessel attached to the preheater prior to the final fusion in a kiln which forms clinker.

2.25. "Preheater kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers prior to the final fusion in a kiln which forms clinker.

2.26. "Secretary" means the Secretary of the Department of Environmental Protection or such other person to whom the Secretary has delegated authority or duties pursuant to W.Va. Code §§22-1-6 or 22-1-
8.

2.27. "Source" means all buildings, structures, or installations located in one or more contiguous or adjacent properties under common control of the same person or persons.

2.28. "Stationary internal combustion engine" or "engine" means any internal combustion engine of the reciprocating type that is either attached to a foundation at a facility or is designed to be capable of being carried or moved from one location to another and remains at a single site at a building, structure, facility, or installation for more than 12 consecutive months. Any engine (or engines) that replaces an engine at a site that is intended to perform the same or similar function as the engine replaced is included in calculating the consecutive time period.

2.29. "Ton" means 2,000 pounds.

2.30. "Unit" means a stationary fossil fuel-fired boiler, combustion turbine, or combined cycle system.

2.31. Other words and phrases used in this rule, unless otherwise indicated, will have the meaning ascribed to them in W.Va. Code §22-5-1 et seq. and 40 CFR §72.2.

§45-40.3. Measurements, abbreviations and acronyms.

3.1. Measurements, abbreviations and acronyms used in this rule are defined as follows:

3.1.a. Btu -- British thermal unit.

3.1.b. CEMS -- Continuous Emissions Monitoring System.

3.1.c. CO₂ -- carbon dioxide.

3.1.d. CSAPR -- Cross-State Air Pollution Rule.

3.1.e. g/bhp-hr -- grams per brake horsepower hour.

3.1.f. Hr -- hour.

3.1.g. MmBtu -- million Btu.

3.1.h. NOₓ -- nitrogen oxides.

3.1.i. O₂ -- oxygen.


3.1.k. SO₂ -- sulfur dioxide.

3.1.l. Tph -- tons per hour.

3.1.m. Yr -- year.

§45-40.4. Applicability.

4.1. The owner or operator of a unit that has a maximum design heat input greater than 250 mmBtu/hr, except for any unit subject to the federal Cross-State Air Pollution Rule (CSAPR) NOₓ Ozone Season group 2 -- a seasonal NOₓ trading program established under 40 CFR part 97, subpart EEE, or an
equivalent trading program established under 45CSR41 and approved as a state implementation plan revision pursuant to 40 CFR §52.28(b)(9), in accordance with a federal implementation plan set forth in 40 CFR §52.28(b) or subject to a seasonal NOX trading program established under a SIP revision approved by the U.S. EPA as meeting the requirements of 40 CFR §52.28(b), shall comply with the ozone season NOX emission limitation, and monitoring, recordkeeping and reporting requirements for ozone season emissions of NOX set forth in sections 5 and 6 below.

4.2. Effective May 1, 2009, the owner or operator of a large NOX SIP Call engine shall comply with the ozone season NOX reduction, compliance plan, monitoring, recordkeeping and reporting requirements set forth in section 9 below.

4.3. Effective May 1, 2009, the owner or operator of a kiln that meets the following applicability requirements shall comply with the ozone season NOX control standards, ozone season NOX compliance plan, reporting, monitoring and recordkeeping requirements set forth in section 10 below:

4.3.a. Long dry kilns ≥ 12 TPH process rate;

4.3.b. Long wet kilns ≥ 10 TPH process rate;

4.3.c. Preheater kilns ≥ 16 TPH process rate; and

4.3.d. Precalciner and preheater/precalciner kilns ≥ 22 TPH process rate.

§45-40-5. Ozone season NOX emission limitation.

5.1. Ozone season NOX limitation. -- Beginning May 1, 2016, the owner or operator of a unit that meets the applicability requirements set forth in subsection 4.1 shall limit emissions of NOX during an ozone season pursuant to a NOX emission rate for each unit contained in a permit issued under 45CSR13, 45CSR14, 45CSR19 or via consent order issued by the Secretary in accordance with W.Va. Code §22-5-4(a)(5). Such ozone season NOX limitation may also include a limitation on operating time for a unit during the ozone season.

§45-40-6. Monitoring, recordkeeping and reporting requirements.

6.1. The owner or operator of an applicable unit under subsection 4.1 shall comply with the provisions of 40 CFR part 75, subpart H (including use of any of the emissions monitoring methodologies which the unit qualifies to use under 40 CFR part 75) or shall install and operate a certified continuous emission monitoring system (CEMS) or a certified predictive emission monitoring system (PEMS) as necessary to attribute ozone season mass emissions of NOX to each unit in accordance with subsection 6.2, 6.3, 6.4 or 6.5 below. Nitrogen oxides mass emissions measurements recorded and reported in accordance with subsection 6.2, 6.3, 6.4 or 6.5 shall be used to determine a unit’s compliance with the ozone season NOX emission limitation set forth in section 5.

6.2. An owner or operator that elects to demonstrate compliance in accordance with 40 CFR part 75, subpart H, shall meet the following requirements:

6.2.a. Install, calibrate, certify, maintain, monitor, and operate all required monitoring systems in accordance with 40 CFR part 75, subpart H;

6.2.b. Maintain records in accordance with 40 CFR part 75, subpart H; and

6.2.c. Submit reports in accordance with 40 CFR part 75, subpart H.

6.3. An owner or operator that elects to demonstrate compliance using a CEMS in accordance with
40 CFR part 60, subpart Db and 45CSR16 shall meet the following requirements:

6.3.a. Install and certify the CEMS in accordance with Performance Specification 2 in Appendix B to 40 CFR part 60;

6.3.b. Operate and maintain the CEMS in accordance with 40 CFR §60.46b on a continuous basis;

6.3.c. Install, calibrate, maintain and operate the CEMS in accordance with the continuous monitoring requirements of:

6.3.c.1. 40 CFR §§60.48b and 60.13; or

6.3.c.2. 40 CFR §§60.47b(c) and 60.13;

6.3.d. For each month of the ozone season:

6.3.d.1. Determine total monthly heat input (in mmBtu) using fuel flowmeters and records or records of fuel gross calorific value, or in instances where fuel flow is not metered determine total monthly heat input (in mmBtu) from other measurements and records; and

6.3.d.2. Calculate total monthly NOX mass emissions (in tons) by multiplying the total monthly heat input by the 30-day rolling average NOX emission rate (in lb/mmBtu) determined under subdivisions 6.3.b and 6.3.c for the last day of the month on which the unit operated and divide by 2000;

6.3.e. Determine the total NOX mass emissions for the ozone season (in tons) by summing the amounts of total monthly NOX mass emissions calculated under subdivision 6.3.d for each month of the ozone season; and

6.3.f. Comply with the following reporting and recordkeeping requirements:

6.3.f.1. Maintain records in accordance with 40 CFR §60.49b and all additional records necessary to support the heat input data, 30-day rolling average NOX emission rate data, and NOX mass emissions computations described in subdivisions 6.3.d and 6.3.e; and

6.3.f.2. Submit to the Secretary reports in accordance with 40 CFR §60.49b and include the total monthly heat input data, 30-day rolling average NOX emission rate data, and monthly and ozone season NOX mass emissions computations described in subdivisions 6.3.d and 6.3.e.

6.4. An owner or operator not otherwise required to use a CEMS to demonstrate compliance with 40 CFR part 60 may elect to demonstrate compliance using a PEMS and shall meet the following requirements:

6.4.a. Install and certify the PEMS in accordance with Performance Specification 16 in Appendix B to 40 CFR part 60 and the Quality Assurance Procedures for compliance PEMS in Appendix F to 40 CFR part 60;

6.4.b. Submit to the Secretary for approval a plan that identifies the operating conditions to be monitored and the records to be maintained in accordance with 40 CFR §60.49b(c). The request for plan approval shall be contained in the permit application or consent order required under subsection 6.6;

6.4.c. Operate and maintain the compliance PEMS on a continuous basis in accordance with 40 CFR §60.46b and the compliance PEMS requirements provided in Performance Specification 16 in Appendix B to 40 CFR part 60;

6.4.d. Comply with the continuous monitoring requirements of 40 CFR §§60.48b and 60.13;
6.4.e. For each month of the ozone season:

6.4.e.1. Determine total monthly heat input (in mmBtu) using fuel flowmeters and measurements or records of fuel gross calorific value, or in instances where fuel flow is not metered determine total monthly heat input (in mmBtu) from other measurements and records; and

6.4.e.2. Calculate total monthly NO\textsubscript{X} mass emissions (in tons) by multiplying the total monthly heat input by the 30-day rolling average NO\textsubscript{X} emission rate (in lb/mmBtu) determined under subdivisions 6.4.c and 6.4.d for the last day of the month on which the unit operated and divide by 2000;

6.4.f. Determine the total NO\textsubscript{X} mass emissions for the ozone season (in tons) by summing the amounts of total monthly NO\textsubscript{X} mass emissions calculated under subdivision 6.4.e for each month of the ozone season; and

6.4.g. Comply with the following reporting and recordkeeping requirements:

6.4.g.1. Maintain records in accordance with 40 CFR §60.49b and all additional records necessary to support the heat input data, 30-day rolling average NO\textsubscript{X} emission rate data, and NO\textsubscript{X} mass emissions computations described in subdivisions 6.4.e and 6.4.f; and

6.4.g.2. Submit to the Secretary reports in accordance with 40 CFR §60.49b and include the total monthly heat input data, 30-day rolling average NO\textsubscript{X} emission rate data, and monthly and ozone season NO\textsubscript{X} mass emissions computations described in subdivisions 6.4.e and 6.4.f.

6.5. An owner or operator of a combustion turbine unit that elects to demonstrate compliance using a CEMS shall meet the following requirements:

6.5.a. Install and certify the CEMS in accordance with Performance Specification 2 in Appendix B to 40 CFR part 60 and 45CSR16;

6.5.b. Conduct the performance tests in accordance with 40 CFR §60.4400;

6.5.c. Operate and maintain the CEMS in accordance with 40 CFR §60.4345 on a continuous basis;

6.5.d. Collect all CEMS data in accordance with 40 CFR §60.4350;

6.5.e. For each month of the ozone season:

6.5.e.1. Determine total monthly heat input (in mmBtu) using fuel flowmeters and measurements or records of fuel gross calorific value, or in instances where fuel flow is not metered determine total monthly heat input (in mmBtu) from other measurements and records; and

6.5.e.2. Calculate total monthly NO\textsubscript{X} mass emissions (in tons) by multiplying the total monthly heat input by the 30-day rolling average NO\textsubscript{X} emission rate (in lb/mmBtu) determined under subdivisions 6.5.c and 6.5.d for the last day of the month on which the unit operated and divide by 2000;

6.5.f. Determine the total NO\textsubscript{X} mass emissions for the ozone season (in tons) by summing the amounts of total monthly NO\textsubscript{X} mass emissions calculated under subdivision 6.5.e for each month of the ozone season; and

6.5.g. Comply with the following reporting and recordkeeping requirements:
6.5.g.1. Maintain records in accordance with 40 CFR §60.49b and all additional records necessary to support the heat input data, 30-day rolling average NO\textsubscript{X} emission rate data, and NO\textsubscript{X} mass emissions computations described in subdivisions 6.5.e and 6.5.f, and

6.4.g.2. Submit to the Secretary reports in accordance with 40 CFR §60.49b and include the total monthly heat input data, 30-day rolling average NO\textsubscript{X} emission rate data, and monthly and ozone season NO\textsubscript{X} mass emissions computations described in subdivisions 6.5.e and 6.5.f.

6.6. An owner or operator that elects an alternative monitoring scenario that is not currently contained in a permit issued pursuant to 45CSR13, 45CSR14 or 45CSR19 or via a consent order shall:

6.6.a. Submit a request for the alternative monitoring scenario in a permit application in accordance with 45CSR13, 45CSR14 or 45CSR19. For compliance options provided in 6.3, 6.4 or 6.5, the permit application should identify how NO\textsubscript{X} emissions (in tons) will be determined using the CEMS or PEMS data; and,

6.6.b. Obtain approval from the Secretary via a permit issued under 45CSR13, 45CSR14 or 45CSR19 or via a consent order, effective prior to the start of the ozone season.

6.7. An owner or operator electing to demonstrate compliance with 40 CFR part 75, subpart H shall not use any alternative monitoring system, alternative reference method, or any other alternative for the requirements under 40 CFR part 75, subpart H prior to obtaining written approval by the Administrator in accordance with 40 CFR §75.70(h).

6.8. An owner or operator required to demonstrate compliance with a NO\textsubscript{X} emissions limit under 40 CFR part 60, subpart Db shall not use an alternative monitoring system, reference method, or other CEMS requirements alternative under 40 CFR part 60, subpart Db prior to obtaining written approval by the Administrator.

6.9. The owner or operator of an applicable unit under subsection 4.1 may demonstrate compliance with the NO\textsubscript{X} ozone season emission limitation set forth in section 5 in accordance with an alternative monitoring system under 40 CFR part 60, subpart Db without obtaining approval of the Secretary, provided the owner or operator obtained written approval from the Administrator prior to the effective date of this rule.

§45-40-7. Violation.

7.1. The owner or operator of an applicable unit under subsection 4.1 shall be subject to enforcement pursuant to W.Va. Code §22-5-1 et seq. or the CAA for excess emissions of NO\textsubscript{X} during an ozone season if the unit emitted nitrogen oxides in excess of its ozone season NO\textsubscript{X} emission limitation set forth in section 5.

§45-40-8. Ozone season NO\textsubscript{X} budget demonstration.

8.1. Ozone season NO\textsubscript{X} budget. -- The ozone season NO\textsubscript{X} budget for all units that meet the applicability requirements set forth in subsection 4.1 is 2,184 tons.

8.2. Ozone season NO\textsubscript{X} budget demonstration. -- Through the imposition of ozone season NO\textsubscript{X} limitations under section 5, and assumption of maximum operating capacity or use of a limitation on operating time for a unit during the ozone season, the Secretary shall demonstrate to the Administrator that the ozone season NO\textsubscript{X} emissions from all applicable units under subsection 4.1 meets the ozone season NO\textsubscript{X} budget for these units set forth in subsection 8.1.

8.3. New units. -- The Secretary shall revise the ozone season NO\textsubscript{X} budget demonstration under
subsection 8.2 to accommodate the ozone season NO\textsubscript{X} emissions of any new unit that meets the applicability requirements set forth in subsection 4.1. The ozone season NO\textsubscript{X} emissions from any such new unit shall not cause the ozone season NO\textsubscript{X} budget set forth in subsection 8.1 to be exceeded.

§45-40-9. Ozone season NO\textsubscript{X} reduction requirements for stationary internal combustion engines.

9.1. Ozone season NO\textsubscript{X} reduction. -- Effective May 1, 2009, the following owners or operators must reduce ozone season NO\textsubscript{X} emissions by an amount equal to or greater than the applicable ozone season NO\textsubscript{X} reduction listed in the table below. The applicable ozone season NO\textsubscript{X} reduction is binding on the listed owners or operators, their successors and assigns:

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<tr>
<th>Company</th>
<th>Ozone Season NO\textsubscript{X} Reduction</th>
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<tr>
<td>Dominion</td>
<td>668 tons</td>
</tr>
<tr>
<td>Columbia Gas Transmission</td>
<td>235 tons</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>903 tons</strong></td>
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</tbody>
</table>

9.2. Compliance plan. -- Effective May 1, 2009, an owner or operator of a large stationary internal combustion engine under subsection 4.2 must not operate such engine in the period May 1 through September 30 of 2009 and any subsequent year unless the owner or operator demonstrates the applicable ozone season NO\textsubscript{X} reduction under subsection 9.1 through the requirements of an approved compliance plan. The compliance plan shall meet the following provisions:

9.2.a. Reserved;

9.2.b. Reserved;

9.2.c. The compliance plan must demonstrate quantifiable and enforceable NO\textsubscript{X} emission reductions equal to or greater than the applicable ozone season NO\textsubscript{X} reduction set forth in subsection 9.1, taking into account any creditable reduction in NO\textsubscript{X} emissions under subdivisions 9.2.e, 9.2.f, 9.2.g, 9.2.h or 9.2.i;

9.2.d. The compliance plan may include and affect some or all stationary internal combustion engines or other significant NO\textsubscript{X} emitting equipment at an individual facility, at several facilities, or at all facilities in West Virginia that are controlled by the same owner or operator;

9.2.e. The compliance plan may include credit for reductions in NO\textsubscript{X} emissions due to the installation and operation of NO\textsubscript{X} control equipment on large stationary internal combustion engines under subsection 9.1. The owner or operator will demonstrate to the satisfaction of the Secretary any creditable reductions in NO\textsubscript{X} emissions from the installation and operation of such NO\textsubscript{X} control equipment. The credit for reductions in NO\textsubscript{X} emissions must be quantified based on the difference between uncontrolled and controlled NO\textsubscript{X} emission rates, and ozone season operating hours;

9.2.f. The compliance plan may include credit for reductions in NO\textsubscript{X} emissions due to the installation and operation of NO\textsubscript{X} control equipment on uncontrolled stationary internal combustion engines not under subsection 4.2. The owner or operator will demonstrate to the satisfaction of the Secretary any creditable reductions in NO\textsubscript{X} emissions from the installation and operation of such NO\textsubscript{X} control equipment. Creditable reductions must be limited to reductions achieved after 1995 and from controls that were not part of the NO\textsubscript{X} SIP Call engine inventory. The credit for reductions in NO\textsubscript{X} emissions must be quantified based on the difference between uncontrolled and controlled NO\textsubscript{X} emission rates, and ozone season operating hours;

9.2.g. The compliance plan may include credit for reductions in NO\textsubscript{X} emissions due to
replacement of any stationary internal combustion engines or other significant NOX emitting equipment. The owner or operator will demonstrate to the satisfaction of the Secretary that the historic ozone season load capacity of any stationary internal combustion engine or other significant NOX emitting equipment no longer in operation has been or would be replaced by one or more new stationary internal combustion engines, electric motors or turbines during each ozone season. The credit for reductions in NOX emissions must be quantified based on the replaced engine’s or other significant NOX emitting equipment’s ozone season NOX emission rate and ozone season operating hours, and the projected emission rate and ozone season operating hours of any new replacement stationary internal combustion engines, electric motors or turbines;

9.2.h. The compliance plan may include credit for reductions in NOX emissions due to reductions from shifting historic load capacity from an uncontrolled engine to a controlled engine, electric motor or turbine. The owner or operator will demonstrate to the satisfaction of the Secretary that a quantifiable net reduction in NOX emissions has occurred or will occur due to a direct shift of ozone season load capacity from an uncontrolled engine to a controlled engine, electric motor or turbine. The credit for reductions in NOX emissions must be quantified based on the uncontrolled engine’s historic ozone season load capacity, NOX emission rate (in g/bhp-hr), ozone season operating hours (in hr/ozone season), and the shifted ozone season load capacity, NOX emission rate (in g/bhp-hr) and ozone season operating hours (in hr/ozone season) of the controlled stationary internal combustion engine, electric motor or turbine;

9.2.i. The compliance plan may include credit for reductions in NOX emissions due to the installation and operation of NOX controls on significant NOX emitting equipment other than stationary internal combustion engines. The owner or operator will demonstrate to the satisfaction of the Secretary any creditable reductions in NOX emissions from such NOX emitting equipment. Creditable reductions must be limited to reductions achieved after 1995 and from controls that were not part of the NOX SIP Call inventory. The credit for reductions in NOX emissions must be quantified based on the difference between NOX emission rates prior to installation of controls and controlled NOX emission rates, and ozone season operating hours;

9.2.j. The compliance plan must include the following:

9.2.j.1. A list of affected engines or affected NOX emitting equipment subject to the plan, including the manufacturer, model number, facility location and facility identification number;

9.2.j.2. The projected ozone season hours of operation for each affected engine or affected NOX emitting equipment and supporting documentation;

9.2.j.3. A description of the NOX emission controls installed, or to be installed, on each affected engine or affected NOX emitting equipment, date or proposed date of installation, and documentation to support the controlled NOX emission rates;

9.2.j.4. The uncontrolled and controlled NOX emission rates in lb/hr and tons per ozone season for each affected engine or affected NOX emitting equipment, as applicable;

9.2.j.5. A numerical demonstration that the sum of creditable NOX emission reductions (in tons) obtained from all affected engines or affected NOX emitting equipment included under a compliance plan will be equivalent to or greater than the owner or operator’s applicable ozone season NOX reduction under subsection 9.1, taking into account any creditable reductions in NOX emissions under subdivisions 9.2.e, 9.2.f, 9.2.g, 9.2.h or 9.2.i; and

9.2.j.6. Performance test protocol and provisions for periodic monitoring, reporting and recordkeeping for each affected engine or affected NOX emitting equipment.

9.2.k. Any creditable reductions in NOX emissions under subdivisions 9.2.e, 9.2.f, 9.2.g, 9.2.h or
9.2. i must be quantifiable and enforceable through limitations included in a federally enforceable permit or compliance order; and

9.2.1. Any owner or operator with an approved compliance plan under subsection 9.2 may amend the plan with the written approval of the Secretary. Any NOx emission rate or limitation included in such an amendment must be reflected in a federally enforceable permit or compliance order. The Secretary will either approve by order or disapprove by certified mail in writing the amended compliance plan within 90 days of submission, and notify the Administrator of the compliance plan amendment approval upon issuance of order.

9.3. Monitoring requirements. -- Any owner or operator of an affected engine or affected NOx emitting equipment subject to a compliance plan under subsection 9.2 must comply with the following monitoring requirements for each affected engine or affected NOx emitting equipment:

9.3.a. The owner or operator must complete an initial performance test consistent with the requirements of 40 CFR part 60, Appendix A and 45CSR16, following installation of NOx emission controls required to achieve the NOx emission rate limit specified in subdivision 9.2.k; and

9.3.b. For the ozone season beginning in 2009, and each ozone season thereafter, the owner or operator will perform periodic monitoring sufficient to yield reliable data which demonstrate compliance with the limitations specified in subdivision 9.2.k. Such periodic monitoring must include:

9.3.b.1. A continuous emission monitoring system that complies with 40 CFR part 75 or 40 CFR part 60 and 45CSR16 and the quality assurance procedures specified in 40 CFR part 60, Appendix F and 45CSR16; or

9.3.b.2. Performance tests consistent with the requirements of 40 CFR part 60, Appendix A and 45CSR16, or portable monitors using ASTM D6522-00; and

9.3.b.2.A. A parametric monitoring program that specifies operating parameters, and their ranges, that will provide reasonable assurance that each affected engine or affected NOx emitting equipment's emissions are consistent with the requirements of a compliance plan under subsection 9.2. Any such parametric monitoring program must be approved by the Secretary; or

9.3.b.2.B. A predictive emissions measurement system that relies on automated data collection from instruments. Any such predictive emissions measurement system must be approved by the Secretary.

9.4. Recordkeeping requirements. -- Any owner or operator of an affected engine or affected NOx emitting equipment subject to a compliance plan under subsection 9.2 must comply with the following recordkeeping requirements:

9.4.a. Maintain all records necessary to demonstrate compliance with the requirements of the compliance plan and subsection 9.4 for a period of five calendar years at the facility where an affected engine or affected NOx emitting equipment is located. Such records will be made available to the Secretary or Administrator upon request; and

9.4.b. For each affected engine or affected NOx emitting equipment subject to a compliance plan under subsection 9.2, the owner or operator will maintain records of:

9.4.b.1. Identification and location of each affected engine or affected NOx emitting equipment;

9.4.b.2. Calendar date of record;
9.4.b.3. The number of hours the affected engine or affected NO\textsubscript{X} emitting equipment is operated during each ozone season compared to projected operating hours;

9.4.b.4. Type and quantity of fuel combusted; and

9.4.b.5. The results of all compliance tests.

9.5. Reporting requirements. -- Any owner or operator of an affected engine or affected NO\textsubscript{X} emitting equipment subject to a compliance plan under subsection 9.2 must:

9.5.a. Notify the Secretary of any performance test under paragraph 9.3.b.2 at least 15 days in advance of such test;

9.5.b. Submit results of all performance tests to the Secretary within 30 days of completion of such tests; and

9.5.c. Submit a report which documents the total ozone season NO\textsubscript{X} emissions and certifies compliance with the compliance plan for each affected engine or affected NO\textsubscript{X} emitting equipment to the Secretary by October 31 of each year, beginning in 2009. The report must demonstrate and certify compliance with the applicable ozone season NO\textsubscript{X} reduction set forth in subsection 9.1.

§45-40-10. Ozone season NO\textsubscript{X} reduction requirements for emissions of NO\textsubscript{X} from cement manufacturing kilns.

10.1. Standard requirements. -- Effective May 1, 2009, an owner or operator of any Portland cement kiln subject to this section must not operate the kiln during May 1 through September 30 unless the kiln has installed and operates during May 1 to September 30 with low-NO\textsubscript{X} burners, mid-kiln firing or alternative control techniques, subject to approval by the Administrator, that achieve at least the same emissions decreases as low-NO\textsubscript{X} burners or mid-kiln firing.

10.2. NO\textsubscript{X} compliance plan. -- Any owner or operator of a source subject to the standard requirements of subsection 10.1 may elect to use NO\textsubscript{X} reductions from any non-affected kiln at a source with a Portland cement kiln under subsection 4.3. If the owner or operator so elects, he or she must submit for approval to the Administrator by May 1, 2009, a NO\textsubscript{X} compliance plan which demonstrates the method(s) by which the operator will achieve NO\textsubscript{X} reductions from non-affected kilns which achieve at least the same emissions decreases set forth in the standard requirements of subsection 10.1.

10.3. Reporting requirements. -- Any owner or operator subject to the standard requirements of subsection 10.1 must comply with the following reporting requirements:

10.3.a. By May 1, 2009, submit to the Secretary and Administrator the identification number and type of each kiln subject to this section, the name and address of the plant where the kiln is located and the name and telephone number of the person responsible for demonstrating compliance with this section; and

10.3.b. Submit a report documenting for that kiln the total NO\textsubscript{X} emissions from May 1 through September 30 of each year to the Secretary and Administrator by October 31 of each year, beginning in 2009.

10.4. Monitoring requirements.

10.4.a. Any owner or operator of a kiln subject to this section must complete an initial performance test and subsequent annual testing consistent with the requirements of 40 CFR part 60, Appendix A, Method 7, 7A, 7C, 7D or 7E; and 45CSR16; and
10.4.b. The operator may use the results of continuous emission monitoring system (CEMS) to replace the annual testing requirements set forth in subdivision 10.4.a. Such equipment must be installed and operated consistent with 40 CFR part 75.

10.5. Recordkeeping requirements. Any owner or operator of a kiln subject to this section must produce and maintain records which include, but are not limited to:

10.5.a. The emissions, in pounds of NOX per ton of clinker produced from each affected Portland cement kiln;

10.5.b. The type of control used for each affected Portland cement kiln;

10.5.c. The date, time and duration of any startup, shutdown or malfunction in the operation of any of the cement kilns or the emissions monitoring equipment;

10.5.d. The results of any performance testing;

10.5.e. Daily cement kiln production records; and

10.5.f. All records required to be produced or maintained will be retained on site for a minimum of 5 years and be made available to the Secretary or Administrator upon request.


11.1. In the event of any inconsistency between this rule and any other rule of the Division of Air Quality, the inconsistency will be resolved by the determination of the Secretary and the determination will be based upon the application of the more stringent provision, term, condition, method or rule.
40 CFR § 52.38 What are the requirements of the Federal Implementation Plans (FIPs) for the Cross-State Air Pollution Rule (CSAPR) relating to emissions of nitrogen oxides?

(b) NOx ozone season emissions -

(1) General requirements. The CSAPR NOx Ozone Season Group 1 Trading Program provisions, the CSAPR NOx Ozone Season Group 2 Trading Program provisions, and the CSAPR NOx Ozone Season Group 3 Trading Program provisions set forth respectively in subparts BBBBB, EEEEE, and GGGGG of part 97 of this chapter constitute the CSAPR Federal Implementation Plan provisions that relate to emissions of NOx during the ozone season (defined as May 1 through September 30 of a calendar year), except as otherwise provided in this section.

(2) Applicability of CSAPR NOx Ozone Season Group 1, Group 2, and Group 3 Trading Program provisions.

(i) The provisions of subpart BBBBB of part 97 of this chapter apply to sources in each of the following States and Indian country located within the borders of such States with regard to emissions occurring in 2015 and each subsequent year: Georgia.

(ii) The provisions of subpart BBBBB of part 97 of this chapter apply to sources in each of the following States and Indian country located within the borders of such States with regard to emissions occurring in 2015 and 2016 only, except as provided in paragraph (b)(14)(iii) of this section: Alabama, Arkansas, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

(iii) The provisions of subpart EEEEE of part 97 of this chapter apply to sources in each of the following States and Indian country located within the borders of such States with regard to emissions occurring in 2017 and each subsequent year: Alabama, Arkansas, Iowa, Kansas, Mississippi, Missouri, Oklahoma, Tennessee, Texas, and Wisconsin.

(iv) The provisions of subpart EEEEE of part 97 of this chapter apply to sources in each of the following States and Indian country located within the borders of such States with regard to emissions occurring in 2017 through 2020 only, except as provided in paragraph (b)(14)(iii) of this section: Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

(v) The provisions of subpart GGGGG of part 97 of this chapter apply to sources in each of the following States and Indian country located within the borders of such States with regard to emissions occurring in 2021 and each subsequent year: Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia.
(3) **State-determined allocations of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances for 2016.** A State listed in paragraph (b)(2)(i) or (ii) of this section may adopt and include in a SIP revision, and the Administrator will approve, as CSAPR NO\textsubscript{X} Ozone Season Group 1 allowance allocation provisions replacing the provisions in § 97.511(a) of this chapter with regard to the State and the control period in 2016, a list of CSAPR NO\textsubscript{X} Ozone Season Group 1 units and the amount of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances allocated to each unit on such list, provided that the list of units and allocations meets the following requirements:

(i) All of the units on the list must be units that are in the State and commenced commercial operation before January 1, 2010;

(ii) The total amount of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowance allocations on the list must not exceed the amount, under § 97.510(a) of this chapter for the State and the control period in 2016, of the CSAPR NO\textsubscript{X} Ozone Season Group 1 trading budget minus the sum of the new unit set-aside and Indian country new unit set-aside;

(iii) The list must be submitted electronically in a format specified by the Administrator; and

(iv) The SIP revision must not provide for any change in the units and allocations on the list after approval of the SIP revision by the Administrator and must not provide for any change in any allocation determined and recorded by the Administrator under subpart BBBBBB of part 97 of this chapter;

(v) Provided that:

(A) By October 17, 2011 or, for Iowa, Michigan, Missouri, Oklahoma, and Wisconsin, March 6, 2015, the State must notify the Administrator electronically in a format specified by the Administrator of the State's intent to submit to the Administrator a complete SIP revision meeting the requirements of paragraphs (b)(3)(i) through (iv) of this section by April 1, 2015 or, for Iowa, Michigan, Missouri, Oklahoma, and Wisconsin, October 1, 2015; and

(B) The State must submit to the Administrator a complete SIP revision described in paragraph (b)(3)(v)(A) of this section by April 1, 2015 or, for Iowa, Michigan, Missouri, Oklahoma, and Wisconsin, October 1, 2015.

(4) **Abbreviated SIP revisions replacing certain provisions of the federal CSAPR NO\textsubscript{X} Ozone Season Group 1 Trading Program.** A State listed in paragraph (b)(2)(i) of this section may adopt and include in a SIP revision, and the Administrator will approve, regulations replacing specified provisions of subpart BBBBBB of part 97 of this chapter for the State's sources, and not substantively replacing any other provisions, as follows:

(i) The State may adopt, as applicability provisions replacing the provisions in § 97.504(a)(1) and (2) of this chapter with regard to the State, provisions substantively
identical to those provisions, except that the words “more than 25 MWe” are replaced, wherever such words appear, by words specifying a uniform lower limit on the amount of megawatts that is not greater than the amount specified by the words “more than 25 MWe” and is not less than the amount specified by the words “15 MWe or more”; and

(ii) The State may adopt, as CSAPR NO\textsubscript{X} Ozone Season Group 1 allowance allocation or auction provisions replacing the provisions in §§ 97.511(a) and (b)(1) and 97.512(a) of this chapter with regard to the State and the control period in 2017 or any subsequent year, any methodology under which the State or the permitting authority allocates or auctions CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances, and may adopt, in addition to the definitions in § 97.502 of this chapter, one or more definitions that shall apply only to terms as used in the adopted CSAPR NO\textsubscript{X} Ozone Season Group 1 allowance allocation or auction provisions, if such methodology -

(A) Requires the State or the permitting authority to allocate and, if applicable, auction a total amount of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances for any such control period not exceeding the amount, under §§ 97.510(a) and 97.521 of this chapter for the State and such control period, of the CSAPR NO\textsubscript{X} Ozone Season Group 1 trading budget minus the sum of the Indian country new unit set-aside and the amount of any CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances already allocated and recorded by the Administrator;

(B) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances for any such control period to any CSAPR NO\textsubscript{X} Ozone Season Group 1 units covered by § 97.511(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions for such control period (except allocations or results of auctions to such units of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator no later than the dates in Table 3 to this paragraph;

Table 3 to Paragraph (b)(4)(ii)(B)

<table>
<thead>
<tr>
<th>Year of the control period for which CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances are allocated or auctioned</th>
<th>Deadline for submission of allocations or auction results to the Administrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>June 1, 2016.</td>
</tr>
<tr>
<td>2018</td>
<td>June 1, 2016.</td>
</tr>
<tr>
<td>2019</td>
<td>June 1, 2017.</td>
</tr>
<tr>
<td>2020</td>
<td>June 1, 2017.</td>
</tr>
<tr>
<td>2021</td>
<td>June 1, 2018.</td>
</tr>
<tr>
<td>2022</td>
<td>June 1, 2018.</td>
</tr>
<tr>
<td>2023 and 2024</td>
<td>June 1 of the fourth year before the year of the control period.</td>
</tr>
</tbody>
</table>
(C) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances for any such control period to any CSAPR NO\textsubscript{X} Ozone Season Group 1 units covered by §§ 97.511(b)(1) and 97.512(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions (except allocations or results of auctions to such units of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator by July 1 of the year of such control period, for a control period before 2021, or by April 1 of the year following the control period, for a control period in 2021 or thereafter; and

(D) Does not provide for any change, after the submission deadlines in paragraphs (b)(4)(ii)(B) and (C) of this section, in the allocations submitted to the Administrator by such deadlines and does not provide for any change in any allocation determined and recorded by the Administrator under subpart BBBBB of part 97 of this chapter;

(iii) Provided that the State must submit a complete SIP revision meeting the requirements of paragraph (b)(4)(i) or (ii) of this section by December 1 of the year before the year of the deadlines for submission of allocations or auction results under paragraphs (b)(4)(ii)(B) and (C) of this section applicable to the first control period for which the State wants to replace the applicability provisions, make allocations, or hold an auction under paragraph (b)(4)(i) or (ii) of this section.

(5) **Full SIP revisions adopting State CSAPR NO\textsubscript{X} Ozone Season Group 1 Trading Programs.** A State listed in paragraph (b)(2)(i) of this section may adopt and include in a SIP revision, and the Administrator will approve, as correcting the deficiency in the SIP that is the basis for the CSAPR Federal Implementation Plan set forth in paragraphs (b)(1), (b)(2)(i), and (b)(3) and (4) of this section with regard to sources in the State (but not sources in any Indian country within the borders of the State), regulations that are substantively identical to the provisions of the CSAPR NO\textsubscript{X} Ozone Season Group 1 Trading Program set forth in §§ 97.502 through 97.535 of this chapter, except that the SIP revision:

(i) May adopt, as applicability provisions replacing the provisions in § 97.504(a)(1) and (2) of this chapter with regard to the State, provisions substantively identical to those provisions, except that the words “more than 25 MWe” are replaced, wherever such words appear, by words specifying a uniform lower limit on the amount of megawatts that is not greater than the amount specified by the words “more than 25 MWe” and is not less than the amount specified by the words “15 MWe or more”; and

(ii) May adopt, as CSAPR NO\textsubscript{X} Ozone Season Group 1 allowance allocation provisions replacing the provisions in §§ 97.511(a) and (b)(1) and 97.512(a) of this chapter with
regard to the State and the control period in 2017 or any subsequent year, any methodology under which the State or the permitting authority allocates or auctions CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances and that -

(A) Requires the State or the permitting authority to allocate and, if applicable, auction a total amount of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances for any such control period not exceeding the amount, under §§ 97.510(a) and 97.521 of this chapter for the State and such control period, of the CSAPR NO\textsubscript{X} Ozone Season Group 1 trading budget minus the sum of the Indian country new unit set-aside and the amount of any CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances already allocated and recorded by the Administrator;

(B) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances for any such control period to any CSAPR NO\textsubscript{X} Ozone Season Group 1 units covered by § 97.511(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions for such control period (except allocations or results of auctions to such units of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator no later than the dates in Table 4 to this paragraph;

Table 4 to Paragraph (b)(5)(ii)(B)

<table>
<thead>
<tr>
<th>Year of the control period for which CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances are allocated or auctioned</th>
<th>Deadline for submission of allocations or auction results to the Administrator</th>
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<tbody>
<tr>
<td>2017</td>
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<tr>
<td>2023 and 2024</td>
<td>June 1 of the fourth year before the year of the control period.</td>
</tr>
<tr>
<td>2025 and any year thereafter</td>
<td>June 1 of the third year before the year of the control period.</td>
</tr>
</tbody>
</table>

(C) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances for any such control period to any CSAPR NO\textsubscript{X} Ozone Season Group 1 units covered by §§ 97.511(b)(1) and 97.512(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions (except allocations or results of auctions to such units of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator by July 1
(D) Does not provide for any change, after the submission deadlines in paragraphs (b)(5)(ii)(B) and (C) of this section, in the allocations submitted to the Administrator by such deadlines and does not provide for any change in any allocation determined and recorded by the Administrator under subpart BBBBB of part 97 of this chapter;

(iii) May adopt, in addition to the definitions in § 97.502 of this chapter, one or more definitions that shall apply only to terms as used in the CSAPR NO\textsubscript{X} Ozone Season Group 1 allowance allocation or auction provisions adopted under paragraph (b)(5)(ii) of this section;

(iv) May substitute the name of the State for the term “State” as used in subpart BBBBB of part 97 of this chapter, to the extent the Administrator determines that such substitutions do not make substantive changes in the provisions in §§ 97.502 through 97.535 of this chapter; and

(v) Must not include any of the requirements imposed on any unit in Indian country within the borders of the State in the provisions in §§ 97.502 through 97.535 of this chapter and must not include the provisions in §§ 97.511(b)(2) and (c)(5)(iii), 97.512(b), and 97.521(h) and (j) of this chapter, all of which provisions will continue to apply under any portion of the CSAPR Federal Implementation Plan that is not replaced by the SIP revision;

(vi) Provided that, if and when any covered unit is located in Indian country within the borders of the State, the Administrator may modify his or her approval of the SIP revision to exclude the provisions in §§ 97.502 (definitions of “common designated representative”, “common designated representative's assurance level”, and “common designated representative's share”), 97.506(c)(2), and 97.525 of this chapter and the portions of other provisions of subpart BBBBB of part 97 of this chapter referencing these sections and may modify any portion of the CSAPR Federal Implementation Plan that is not replaced by the SIP revision to include these provisions; and

(vii) Provided that the State must submit a complete SIP revision meeting the requirements of paragraphs (b)(5)(i) through (v) of this section by December 1 of the year before the year of the deadlines for submission of allocations or auction results under paragraphs (b)(5)(ii)(B) and (C) of this section applicable to the first control period for which the State wants to replace the applicability provisions, make allocations, or hold an auction under paragraph (b)(5)(i) or (ii) of this section.

(6) [Reserved]

(7) State-determined allocations of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances for 2018. A State listed in paragraph (b)(2)(iii) or (iv) of this section may adopt and include in a SIP revision, and the Administrator will approve, as CSAPR NO\textsubscript{X} Ozone Season Group 2 allowance allocation provisions replacing the provisions in § 97.811(a) of this chapter with
regard to the State and the control period in 2018, a list of CSAPR NO\textsubscript{X} Ozone Season Group 2 units and the amount of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances allocated to each unit on such list, provided that the list of units and allocations meets the following requirements:

(i) All of the units on the list must be units that are in the State and commenced commercial operation before January 1, 2015;

(ii) The total amount of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowance allocations on the list must not exceed the amount, under \S\ 97.810(a) of this chapter for the State and the control period in 2018, of the CSAPR NO\textsubscript{X} Ozone Season Group 2 trading budget minus the sum of the new unit set-aside and Indian country new unit set-aside;

(iii) The list must be submitted electronically in a format specified by the Administrator; and

(iv) The SIP revision must not provide for any change in the units and allocations on the list after approval of the SIP revision by the Administrator and must not provide for any change in any allocation determined and recorded by the Administrator under subpart EEEEEE of part 97 of this chapter;

(v) Provided that:

(A) By December 27, 2016, the State must notify the Administrator electronically in a format specified by the Administrator of the State's intent to submit to the Administrator a complete SIP revision meeting the requirements of paragraphs (b)(7)(i) through (iv) of this section by April 1, 2017; and

(B) The State must submit to the Administrator a complete SIP revision described in paragraph (b)(7)(v)(A) of this section by April 1, 2017.

(8) \textit{Abbreviated SIP revisions replacing certain provisions of the federal CSAPR NO\textsubscript{X} Ozone Season Group 2 Trading Program.} A State listed in paragraph (b)(2)(iii) or (iv) of this section may adopt and include in a SIP revision, and the Administrator will approve, regulations replacing specified provisions of subpart EEEEEE of part 97 of this chapter for the State's sources, and not substantively replacing any other provisions, as follows:

(i) The State may adopt, as applicability provisions replacing the provisions in \S\ 97.804(a)(1) and (2) of this chapter with regard to the State, provisions substantively identical to those provisions, except that the words “more than 25 MWe” are replaced, wherever such words appear, by words specifying a uniform lower limit on the amount of megawatts that is not greater than the amount specified by the words “more than 25 MWe” and is not less than the amount specified by the words “15 MWe or more”;

(ii) The State may adopt, as applicability provisions replacing the provisions in \S\ 97.804(a) and (b) of this chapter with regard to the State, provisions substantively identical to those
provisions, except that applicability is expanded to include all other units (beyond any units to which applicability could be expanded under paragraph (b)(8)(i) of this section) that would have been subject to any emissions trading program regulations approved as a SIP revision for the State under § 51.121 of this chapter; and

(iii) The State may adopt, as CSAPR NO\textsubscript{X} Ozone Season Group 2 allowance allocation or auction provisions replacing the provisions in §§ 97.811(a) and (b)(1) and 97.812(a) of this chapter with regard to the State and the control period in 2019 or any subsequent year, any methodology under which the State or the permitting authority allocates or auctions CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances and may adopt, in addition to the definitions in § 97.802 of this chapter, one or more definitions that shall apply only to terms as used in the adopted CSAPR NO\textsubscript{X} Ozone Season Group 2 allowance allocation or auction provisions, if such methodology -

(A) Requires the State or the permitting authority to allocate and, if applicable, auction a total amount of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances for any such control period not exceeding the amount, under §§ 97.810(a) and 97.821 of this chapter for the State and such control period, of the CSAPR NO\textsubscript{X} Ozone Season Group 2 trading budget minus the sum of the Indian country new unit set-aside and the amount of any CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances already allocated and recorded by the Administrator, plus, if the State adopts regulations expanding applicability to additional units pursuant to paragraph (b)(8)(ii) of this section, an additional amount of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances not exceeding the lesser of:

(I) The highest of the sum, for all additional units in the State to which applicability is expanded pursuant to paragraph (b)(8)(ii) of this section, of the NO\textsubscript{X} emissions reported in accordance with part 75 of this chapter for the ozone season in the year before the year of the submission deadline for the SIP revision under paragraph (b)(8)(iv) of this section and the corresponding sums of the NO\textsubscript{X} emissions reported in accordance with part 75 of this chapter for each of the two immediately preceding ozone seasons, provided that each such seasonal sum shall exclude the amount of any NO\textsubscript{X} emissions reported by any unit for all hours in any calendar day during which the unit did not have at least one quality-assured monitor operating hour, as defined in § 72.2 of this chapter; or

(2) The portion of the emissions budget under the State's emissions trading program regulations approved as a SIP revision under § 51.121 of this chapter that is attributable to the units to which applicability is expanded pursuant to paragraph (b)(8)(ii) of this section;

(B) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances for any such control period to any CSAPR NO\textsubscript{X} Ozone Season Group 2 units covered by § 97.811(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions for such control period (except allocations or results of auctions to such units of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances remaining in a set-aside after
completion of the allocations or auctions for which the set-aside was created) to the Administrator no later than the dates in Table 5 to this paragraph;

Table 5 to Paragraph (b)(8)(iii)(B)

<table>
<thead>
<tr>
<th>Year of the control period for which CSAPR NOx Ozone Season Group 2 allowances are allocated or auctioned</th>
<th>Deadline for submission of allocations or auction results to the Administrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>June 1, 2018.</td>
</tr>
<tr>
<td>2020</td>
<td>June 1, 2018.</td>
</tr>
<tr>
<td>2021</td>
<td>June 1, 2019.</td>
</tr>
<tr>
<td>2022</td>
<td>June 1, 2019.</td>
</tr>
<tr>
<td>2023</td>
<td>June 1, 2020.</td>
</tr>
<tr>
<td>2024</td>
<td>June 1, 2020.</td>
</tr>
<tr>
<td>2025 and any year thereafter</td>
<td>June 1 of the third year before the year of the control period.</td>
</tr>
</tbody>
</table>

(C) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances for any such control period to any CSAPR NO\textsubscript{X} Ozone Season Group 2 units covered by §§ 97.811(b)(1) and 97.812(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions (except allocations or results of auctions to such units of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator by July 1 of the year of such control period, for a control period before 2021, or by April 1 of the year following the control period, for a control period in 2021 or thereafter; and

(D) Does not provide for any change, after the submission deadlines in paragraphs (b)(8)(iii)(B) and (C) of this section, in the allocations submitted to the Administrator by such deadlines and does not provide for any change in any allocation determined and recorded by the Administrator under subpart EEEE of part 97 of this chapter or § 97.526(d) of this chapter;

(iv) Provided that the State must submit a complete SIP revision meeting the requirements of paragraph (b)(8)(i), (ii), or (iii) of this section by December 1 of the year before the year of the deadlines for submission of allocations or auction results under paragraphs (b)(8)(iii)(B) and (C) of this section applicable to the first control period for which the State wants to replace the applicability provisions, make allocations, or hold an auction under paragraph (b)(8)(i), (ii), or (iii) of this section.

(9) **Full SIP revisions adopting State CSAPR NO\textsubscript{X} Ozone Season Group 2 Trading Programs.** A State listed in paragraph (b)(2)(iii) or (iv) of this section may adopt and include in a SIP revision, and the Administrator will approve, as correcting the deficiency in the SIP that is the basis for the CSAPR Federal Implementation Plan set forth in paragraphs (b)(1), (b)(2)(iii) or (iv), and (b)(7) and (8) of this section with regard to sources in the State (but not
sources in any Indian country within the borders of the State), regulations that are substantively identical to the provisions of the CSAPR NO\textsubscript{X} Ozone Season Group 2 Trading Program set forth in §§ 97.802 through 97.835 of this chapter, except that the SIP revision:

(i) May adopt, as applicability provisions replacing the provisions in § 97.804(a)(1) and (2) of this chapter with regard to the State, provisions substantively identical to those provisions, except that the words “more than 25 MWe” are replaced, wherever such words appear, by words specifying a uniform lower limit on the amount of megawatts that is not greater than the amount specified by the words “more than 25 MWe” and is not less than the amount specified by the words “15 MWe or more”;

(ii) May adopt, as applicability provisions replacing the provisions in § 97.804(a) and (b) of this chapter with regard to the State, provisions substantively identical to those provisions, except that applicability is expanded to include all other units (beyond any units to which applicability could be expanded under paragraph (b)(9)(i) of this section) that would have been subject to any emissions trading program regulations approved as a SIP revision for the State under § 51.121 of this chapter;

(iii) May adopt, as CSAPR NO\textsubscript{X} Ozone Season Group 2 allowance allocation provisions replacing the provisions in §§ 97.811(a) and (b)(1) and 97.812(a) of this chapter with regard to the State and the control period in 2019 or any subsequent year, any methodology under which the State or the permitting authority allocates or auctions CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances and that -

(A) Requires the State or the permitting authority to allocate and, if applicable, auction a total amount of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances for any such control period not exceeding the amount, under §§ 97.810(a) and 97.821 of this chapter for the State and such control period, of the CSAPR NO\textsubscript{X} Ozone Season Group 2 trading budget minus the sum of the Indian country new unit set-aside and the amount of any CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances already allocated and recorded by the Administrator, plus, if the State adopts regulations expanding applicability to additional units pursuant to paragraph (b)(9)(ii) of this section, an additional amount of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances not exceeding the lesser of:

(I) The highest of the sum, for all additional units in the State to which applicability is extended pursuant to paragraph (b)(9)(ii) of this section, of the NO\textsubscript{X} emissions reported in accordance with part 75 of this chapter for the ozone season in the year before the year of the submission deadline for the SIP revision under paragraph (b)(9)(viii) of this section and the corresponding sums of the NO\textsubscript{X} emissions reported in accordance with part 75 of this chapter for each of the two immediately preceding ozone seasons, provided that each such seasonal sum shall exclude the amount of any NO\textsubscript{X} emissions reported by any unit for all hours in any calendar day during which the unit did not have at least one quality-assured monitor operating hour, as defined in § 72.2 of this chapter; or
(2) The portion of the emissions budget under the State's emissions trading program regulations approved as a SIP revision under § 51.121 of this chapter that is attributable to the units to which applicability is expanded pursuant to paragraph (b)(9)(ii) of this section;

(B) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NOX Ozone Season Group 2 allowances for any such control period to any CSAPR NOX Ozone Season Group 2 units covered by § 97.811(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions for such control period (except allocations or results of auctions to such units of CSAPR NOX Ozone Season Group 2 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator no later than the dates in Table 6 to this paragraph;

Table 6 to Paragraph (b)(9)(iii)(B)

<table>
<thead>
<tr>
<th>Year of the control period for which CSAPR NOX Ozone Season Group 2 allowances are allocated or auctioned</th>
<th>Deadline for submission of allocations or auction results to the Administrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>June 1, 2018.</td>
</tr>
<tr>
<td>2020</td>
<td>June 1, 2018.</td>
</tr>
<tr>
<td>2021</td>
<td>June 1, 2019.</td>
</tr>
<tr>
<td>2022</td>
<td>June 1, 2019.</td>
</tr>
<tr>
<td>2023</td>
<td>June 1, 2020.</td>
</tr>
<tr>
<td>2024</td>
<td>June 1, 2020.</td>
</tr>
<tr>
<td>2025 and any year thereafter</td>
<td>June 1 of the third year before the year of the control period.</td>
</tr>
</tbody>
</table>

(C) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NOX Ozone Season Group 2 allowances for any such control period to any CSAPR NOX Ozone Season Group 2 units covered by §§ 97.811(b)(1) and 97.812(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions (except allocations or results of auctions to such units of CSAPR NOX Ozone Season Group 2 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator by July 1 of the year of such control period, for a control period before 2021, or by April 1 of the year following the control period, for a control period in 2021 or thereafter; and

(D) Does not provide for any change, after the submission deadlines in paragraphs (b)(9)(iii)(B) and (C) of this section, in the allocations submitted to the Administrator by such deadlines and does not provide for any change in any allocation determined and recorded by the Administrator under subpart EEEEE of part 97 of this chapter or § 97.526(d) of this chapter;
(iv) May adopt, in addition to the definitions in § 97.802 of this chapter, one or more definitions that shall apply only to terms as used in the CSAPR NOx Ozone Season Group 2 allowance allocation or auction provisions adopted under paragraph (b)(9)(iii) of this section;

(v) May substitute the name of the State for the term “State” as used in subpart EEEEE of part 97 of this chapter, to the extent the Administrator determines that such substitutions do not make substantive changes in the provisions in §§ 97.802 through 97.835 of this chapter; and

(vi) Must not include any of the requirements imposed on any unit in Indian country within the borders of the State in the provisions in §§ 97.802 through 97.835 of this chapter and must not include the provisions in §§ 97.811(b)(2) and (c)(5)(iii), 97.812(b), and 97.821(h) and (j) of this chapter, all of which provisions will continue to apply under any portion of the CSAPR Federal Implementation Plan that is not replaced by the SIP revision;

(vii) Provided that, if and when any covered unit is located in Indian country within the borders of the State, the Administrator may modify his or her approval of the SIP revision to exclude the provisions in §§ 97.802 (definitions of “base CSAPR NOx Ozone Season Group 2 source”, “base CSAPR NOx Ozone Season Group 2 unit”, “common designated representative”, “common designated representative’s assurance level”, and “common designated representative’s share”), 97.806(c)(2), and 97.825 of this chapter and the portions of other provisions of subpart EEEEE of part 97 of this chapter referencing these sections and may modify any portion of the CSAPR Federal Implementation Plan that is not replaced by the SIP revision to include these provisions; and

(viii) Provided that the State must submit a complete SIP revision meeting the requirements of paragraphs (b)(9)(i) through (vi) of this section by December 1 of the year before the year of the deadlines for submission of allocations or auction results under paragraphs (b)(9)(iii)(B) and (C) of this section applicable to the first control period for which the State wants to replace the applicability provisions, make allocations, or hold an auction under paragraph (b)(9)(i), (ii), or (iii) of this section.

(10) State-determined allocations of CSAPR NOx Ozone Season Group 3 allowances for 2022. A State listed in paragraph (b)(2)(v) of this section may adopt and include in a SIP revision, and the Administrator will approve, as CSAPR NOx Ozone Season Group 3 allowance allocation provisions replacing the provisions in § 97.1011(a) of this chapter with regard to the State and the control period in 2022, a list of CSAPR NOx Ozone Season Group 3 units and the amount of CSAPR NOx Ozone Season Group 3 allowances allocated to each unit on such list, provided that the list of units and allocations meets the following requirements:

(i) All of the units on the list must be units that are in the State and commenced commercial operation before January 1, 2019;
(ii) The total amount of CSAPR NOx Ozone Season Group 3 allowance allocations on the list must not exceed the amount, under § 97.1010(a) of this chapter for the State and the control period in 2022, of the CSAPR NOx Ozone Season Group 3 trading budget minus the sum of the new unit set-aside and Indian country new unit set-aside;

(iii) The list must be submitted electronically in a format specified by the Administrator;

(iv) The SIP revision must not provide for any change in the units and allocations on the list after approval of the SIP revision by the Administrator and must not provide for any change in any allocation determined and recorded by the Administrator under subpart GGGGGG of part 97 of this chapter;

(v) Provided that:

(A) By June 29, 2021, the State must notify the Administrator electronically in a format specified by the Administrator of the State's intent to submit to the Administrator a complete SIP revision meeting the requirements of paragraphs (b)(10)(i) through (iv) of this section by September 1, 2021; and

(B) The State must submit to the Administrator a complete SIP revision described in paragraph (b)(10)(v)(A) of this section by September 1, 2021.

(11) *Abbreviated SIP revisions replacing certain provisions of the federal CSAPR NOx Ozone Season Group 3 Trading Program.* A State listed in paragraph (b)(2)(v) of this section may adopt and include in a SIP revision, and the Administrator will approve, regulations replacing specified provisions of subpart GGGGGG of part 97 of this chapter for the State's sources, and not substantively replacing any other provisions, as follows:

(i) The State may adopt, as applicability provisions replacing the provisions in § 97.1004(a)(1) and (2) of this chapter with regard to the State, provisions substantively identical to those provisions, except that the words “more than 25 MWe” are replaced, wherever such words appear, by words specifying a uniform lower limit on the amount of megawatts that is not greater than the amount specified by the words “more than 25 MWe” and is not less than the amount specified by the words “15 MWe or more”;

(ii) The State may adopt, as applicability provisions replacing the provisions in § 97.1004(a) and (b) of this chapter with regard to the State, provisions substantively identical to those provisions, except that applicability is expanded to include all other units (beyond any units to which applicability could be expanded under paragraph (b)(11)(i) of this section) that would have been subject to any emissions trading program regulations approved as a SIP revision for the State under § 51.121 of this chapter; and

(iii) The State may adopt, as CSAPR NOx Ozone Season Group 3 allowance allocation or auction provisions replacing the provisions in §§ 97.1011(a) and (b)(1) and 97.1012(a) of this chapter with regard to the State and the control period in 2023 or any subsequent year,
any methodology under which the State or the permitting authority allocates or auctions CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances and may adopt, in addition to the definitions in § 97.1002 of this chapter, one or more definitions that shall apply only to terms as used in the adopted CSAPR NO\textsubscript{X} Ozone Season Group 3 allowance allocation or auction provisions, if such methodology -

(A) Requires the State or the permitting authority to allocate and, if applicable, auction a total amount of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances for any such control period not exceeding the amount, under §§ 97.1010(a) and 97.1021 of this chapter for the State and such control period, of the CSAPR NO\textsubscript{X} Ozone Season Group 3 trading budget minus the sum of the Indian country new unit set-aside and the amount of any CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances already allocated and recorded by the Administrator, plus, if the State adopts regulations expanding applicability to additional units pursuant to paragraph (b)(11)(ii) of this section, an additional amount of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances not exceeding the lesser of:

(1) The highest of the sum, for all additional units in the State to which applicability is expanded pursuant to paragraph (b)(11)(ii) of this section, of the NO\textsubscript{X} emissions reported in accordance with part 75 of this chapter for the ozone season in the year before the year of the submission deadline for the SIP revision under paragraph (b)(11)(iv) of this section and the corresponding sums of the NO\textsubscript{X} emissions reported in accordance with part 75 of this chapter for each of the two immediately preceding ozone seasons, provided that each such seasonal sum shall exclude the amount of any NO\textsubscript{X} emissions reported by any unit for all hours in any calendar day during which the unit did not have at least one quality-assured monitor operating hour, as defined in § 72.2 of this chapter; or

(2) The portion of the emissions budget under the State's emissions trading program regulations approved as a SIP revision under § 51.121 of this chapter that is attributable to the units to which applicability is expanded pursuant to paragraph (b)(11)(ii) of this section;

(B) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances for any such control period to any CSAPR NO\textsubscript{X} Ozone Season Group 3 units covered by § 97.1011(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions for such control period (except allocations or results of auctions to such units of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator no later than the dates in Table 7 to this paragraph;

Table 7 to Paragraph (b)(11)(iii)(B)
<table>
<thead>
<tr>
<th>Year of the control period for which CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances are allocated or auctioned</th>
<th>Deadline for submission of allocations or auction results to the Administrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>2023</td>
<td>June 1, 2022.</td>
</tr>
<tr>
<td>2024</td>
<td>June 1, 2022.</td>
</tr>
<tr>
<td>2025</td>
<td>June 1, 2023.</td>
</tr>
<tr>
<td>2026</td>
<td>June 1, 2023.</td>
</tr>
<tr>
<td>2027 and any year thereafter</td>
<td>June 1 of the third year before the year of the control period.</td>
</tr>
</tbody>
</table>

(C) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances for any such control period to any CSAPR NO\textsubscript{X} Ozone Season Group 3 units covered by §§ 97.1011(b)(1) and 97.1012(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions (except allocations or results of auctions to such units of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator by April 1 of the year following the year of such control period; and

(D) Does not provide for any change, after the submission deadlines in paragraphs (b)(11)(iii)(B) and (C) of this section, in the allocations submitted to the Administrator by such deadlines and does not provide for any change in any allocation determined and recorded by the Administrator under subpart GGGGG of part 97 of this chapter or §§ 97.526(d) or § 97.826(d) of this chapter;

(iv) Provided that the State must submit a complete SIP revision meeting the requirements of paragraph (b)(11)(i), (ii), or (iii) of this section by December 1 of the year before the year of the deadlines for submission of allocations or auction results under paragraphs (b)(11)(iii)(B) and (C) of this section applicable to the first control period for which the State wants to replace the applicability provisions, make allocations, or hold an auction under paragraph (b)(11)(i), (ii), or (iii) of this section.

(12) **Full SIP revisions adopting State CSAPR NO\textsubscript{X} Ozone Season Group 3 Trading Programs.** A State listed in paragraph (b)(2)(v) of this section may adopt and include in a SIP revision, and the Administrator will approve, as correcting the deficiency in the SIP that is the basis for the CSAPR Federal Implementation Plan set forth in paragraphs (b)(1), (b)(2)(v), and (b)(10) and (11) of this section with regard to sources in the State (but not sources in any Indian country within the borders of the State), regulations that are substantively identical to the provisions of the CSAPR NO\textsubscript{X} Ozone Season Group 3 Trading Program set forth in §§ 97.1002 through 97.1035 of this chapter, except that the SIP revision:

(i) May adopt, as applicability provisions replacing the provisions in § 97.1004(a)(1) and (2) of this chapter with regard to the State, provisions substantively identical to those provisions, except that the words “more than 25 MWe” are replaced, wherever such words appear, by words specifying a uniform lower limit on the amount of megawatts that is not
greater than the amount specified by the words “more than 25 MWe” and is not less than
the amount specified by the words “15 MWe or more”;

(ii) May adopt, as applicability provisions replacing the provisions in § 97.1004(a) and (b)
of this chapter with regard to the State, provisions substantively identical to those
provisions, except that applicability is expanded to include all other units (beyond any units
to which applicability could be expanded under paragraph (b)(12)(i) of this section) that
would have been subject to any emissions trading program regulations approved as a SIP
revision for the State under § 51.121 of this chapter;

(iii) May adopt, as CSAPR NO\textsubscript{X} Ozone Season Group 3 allowance allocation provisions
replacing the provisions in §§ 97.1011(a) and (b)(1) and 97.1012(a) of this chapter with
regard to the State and the control period in 2023 or any subsequent year, any methodology
under which the State or the permitting authority allocates or auctions CSAPR NO\textsubscript{X} Ozone
Season Group 3 allowances and that -

(A) Requires the State or the permitting authority to allocate and, if applicable, auction a
total amount of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances for any such control
period not exceeding the amount, under §§ 97.1010(a) and 97.1021 of this chapter for the
State and such control period, of the CSAPR NO\textsubscript{X} Ozone Season Group 3 trading budget
minus the sum of the Indian country new unit set-aside and the amount of any CSAPR
NO\textsubscript{X} Ozone Season Group 3 allowances already allocated and recorded by the
Administrator, plus, if the State adopts regulations expanding applicability to additional
units pursuant to paragraph (b)(12)(ii) of this section, an additional amount of CSAPR
NO\textsubscript{X} Ozone Season Group 3 allowances not exceeding the lesser of:

(1) The highest of the sum, for all additional units in the State to which applicability is
expanded pursuant to paragraph (b)(12)(ii) of this section, of the NO\textsubscript{X} emissions
reported in accordance with part 75 of this chapter for the ozone season in the year
before the year of the submission deadline for the SIP revision under paragraph
(b)(12)(viii) of this section and the corresponding sums of the NO\textsubscript{X} emissions reported
in accordance with part 75 of this chapter for each of the two immediately preceding
ozone seasons, provided that each such seasonal sum shall exclude the amount of any
NO\textsubscript{X} emissions reported by any unit for all hours in any calendar day during which the
unit did not have at least one quality-assured monitor operating hour, as defined in § 72.2 of this chapter; or

(2) The portion of the emissions budget under the State's emissions trading program
regulations approved as a SIP revision under § 51.121 of this chapter that is attributable
to the units to which applicability is expanded pursuant to paragraph (b)(12)(ii) of this
section;

(B) Requires, to the extent the State adopts provisions for allocations or auctions of
CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances for any such control period to any
CSAPR NO\textsubscript{X} Ozone Season Group 3 units covered by § 97.1011(a) of this chapter, that
the State or the permitting authority submit such allocations or the results of such
auctions for such control period (except allocations or results of auctions to such units of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator no later than the dates in Table 8 to this paragraph;

Table 8 to Paragraph (b)(12)(iii)(B)

<table>
<thead>
<tr>
<th>Year of the control period for which CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances are allocated or auctioned</th>
<th>Deadline for submission of allocations or auction results to the Administrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>2023</td>
<td>June 1, 2022.</td>
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<tr>
<td>2024</td>
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<tr>
<td>2025</td>
<td>June 1, 2023.</td>
</tr>
<tr>
<td>2026</td>
<td>June 1, 2023.</td>
</tr>
<tr>
<td>2027 and any year thereafter</td>
<td>June 1 of the third year before the year of the control period.</td>
</tr>
</tbody>
</table>

(C) Requires, to the extent the State adopts provisions for allocations or auctions of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances for any such control period to any CSAPR NO\textsubscript{X} Ozone Season Group 3 units covered by §§ 97.1011(b)(1) and 97.1012(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions (except allocations or results of auctions to such units of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator by April 1 of the year following the year of such control period; and

(D) Does not provide for any change, after the submission deadlines in paragraphs (b)(12)(iii)(B) and (C) of this section, in the allocations submitted to the Administrator by such deadlines and does not provide for any change in any allocation determined and recorded by the Administrator under subpart GGGGG of part 97 of this chapter or § 97.526(d) or § 97.826(d) of this chapter;

(iv) May adopt, in addition to the definitions in § 97.1002 of this chapter, one or more definitions that shall apply only to terms as used in the CSAPR NO\textsubscript{X} Ozone Season Group 3 allowance allocation or auction provisions adopted under paragraph (b)(12)(iii) of this section;

(v) May substitute the name of the State for the term “State” as used in subpart GGGGG of part 97 of this chapter, to the extent the Administrator determines that such substitutions do not make substantive changes in the provisions in §§ 97.1002 through 97.1035 of this chapter; and

(vi) Must not include any of the requirements imposed on any unit in Indian country within the borders of the State in the provisions in §§ 97.1002 through 97.1035 of this chapter and must not include the provisions in §§ 97.1011(b)(2) and (c)(5)(iii), 97.1012(b), and
97.1021(h) of this chapter, all of which provisions will continue to apply under any portion of the CSAPR Federal Implementation Plan that is not replaced by the SIP revision;

(vii) Provided that, if and when any covered unit is located in Indian country within the borders of the State, the Administrator may modify his or her approval of the SIP revision to exclude the provisions in §§ 97.1002 (definitions of “base CSAPR NO\text{X} Ozone Season Group 3 source”, “base CSAPR NO\text{X} Ozone Season Group 3 unit”, “common designated representative”, “common designated representative's assurance level”, and “common designated representative's share”), 97.1006(c)(2), and 97.1025 of this chapter and the portions of other provisions of subpart GGGGG of part 97 of this chapter referencing these sections and may modify any portion of the CSAPR Federal Implementation Plan that is not replaced by the SIP revision to include these provisions; and

(viii) Provided that the State must submit a complete SIP revision meeting the requirements of paragraphs (b)(12)(i) through (vi) of this section by December 1 of the year before the year of the deadlines for submission of allocations or auction results under paragraphs (b)(12)(iii)(B) and (C) of this section applicable to the first control period for which the State wants to replace the applicability provisions, make allocations, or hold an auction under paragraph (b)(12)(i), (ii), or (iii) of this section.

(13) Withdrawal of CSAPR FIP provisions relating to NO\text{X} ozone season emissions; satisfaction of NO\text{X} SIP Call requirements. Following promulgation of an approval by the Administrator of a State's SIP revision as correcting the SIP's deficiency that is the basis for the CSAPR Federal Implementation Plan set forth in paragraphs (b)(1), (b)(2)(i), and (b)(3) and (4) of this section, paragraphs (b)(1), (b)(2)(iii) or (iv), and (b)(7) and (8) of this section, or paragraphs (b)(1), (b)(2)(v), and (b)(10) and (11) of this section for sources in the State -

(i) Except as provided in paragraph (b)(14) of this section, the provisions of paragraph (b)(2)(i), (iii), (iv), or (v) of this section, as applicable, will no longer apply to sources in the State, unless the Administrator's approval of the SIP revision is partial or conditional, and will continue to apply to sources in any Indian country within the borders of the State, provided that if the CSAPR Federal Implementation Plan was promulgated as a partial rather than full remedy for an obligation of the State to address interstate air pollution, the SIP revision likewise will constitute a partial rather than full remedy for the State's obligation unless provided otherwise in the Administrator's approval of the SIP revision; and

(ii) For a State listed in § 51.121(c) of this chapter, the State's adoption of the regulations included in such approved SIP revision will satisfy with regard to the sources subject to such regulations, including any sources made subject to such regulations pursuant to paragraph (b)(9)(ii) or (b)(12)(ii) of this section, the requirement under § 51.121(r)(2) of this chapter for the State to revise its SIP to adopt control measures with regard to such sources, provided that the Administrator and the State continue to carry out their respective functions under such regulations.
(14) Continued applicability of certain federal trading program provisions for NO\textsubscript{X} ozone season emissions.

(i) Notwithstanding the provisions of paragraph (b)(13)(i) of this section or any State's SIP, when carrying out the functions of the Administrator under any State CSAPR NO\textsubscript{X} Ozone Season Group 1 Trading Program or State CSAPR NO\textsubscript{X} Ozone Season Group 2 Trading Program pursuant to a SIP revision approved under this section, the Administrator will apply the following provisions of this section, as amended, and the following provisions of subpart BBBBB of part 97 of this chapter, as amended, or subpart EEEEE of part 97 of this chapter, as amended, with regard to the State and any source subject to such State trading program:

(A) The definitions in § 97.502 of this chapter or § 97.802 of this chapter;

(B) The provisions in § 97.510(a) of this chapter (concerning in part the amounts of the new unit set-asides);

(C) The provisions in §§ 97.511(b)(1) and 97.512(a) of this chapter or §§ 97.811(b)(1) and 97.812(a) of this chapter (concerning the procedures for administering the new unit set-asides), except where the State allocates or auctions CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances or CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances under an approved SIP revision;

(D) The provisions in § 97.511(c)(5) of this chapter or § 97.811(c)(5) of this chapter (concerning the disposition of incorrectly allocated CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances or CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances);

(E) The provisions in § 97.521(f), (g), and (i) of this chapter or § 97.821(f), (g), and (i) of this chapter (concerning the deadlines for recordation of allocations or auctions of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances or CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances) and the provisions in paragraphs (b)(4)(ii)(B) and (C) and (b)(5)(ii)(B) and (C) of this section or paragraphs (b)(8)(iii)(B) and (C) and (b)(9)(iii)(B) and (C) of this section (concerning the deadlines for submission to the Administrator of State-determined allocations or auction results);

(F) The provisions in § 97.525(b) of this chapter or § 97.825(b) of this chapter (concerning the procedures for administering the assurance provisions); and

(G) The provisions in § 97.526(e) of this chapter or § 97.826(e) of this chapter (concerning the use of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances or CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances to satisfy requirements to hold CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances or the use of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances to satisfy requirements to hold CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances).
(ii) Notwithstanding the provisions of paragraph (b)(13)(i) of this section, if, at the time of any approval of a State's SIP revision under this section, the Administrator has already started recording any allocations of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances under subpart BBBBB of part 97 of this chapter, or allocations of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances under subpart EEEEE of part 97 of this chapter, or allocations of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances under subpart GGGGG of part 97 of this chapter, to units in the State for a control period in any year, the provisions of such subpart authorizing the Administrator to complete the allocation and recordation of such allowances to units in the State for each such control period shall continue to apply, unless provided otherwise by such approval of the State's SIP revision.

(iii) Notwithstanding any discontinuation of the applicability of subpart BBBBB or EEEEE of part 97 of this chapter to the sources in a State with regard to emissions occurring in any control period pursuant to paragraph (b)(2)(ii) or (iv) or (b)(13)(i) of this section, the following provisions shall continue to apply with regard to all CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances and CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances at any time allocated for any control period to any source or other entity in the State and shall apply to all entities, wherever located, that at any time held or hold such allowances:

(A) The provisions of § 97.526(c) of this chapter (concerning the transfer of CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances between certain Allowance Management System accounts under common control);

(B) The provisions of § 97.526(d) of this chapter (concerning the conversion of amounts of unused CSAPR NO\textsubscript{X} Ozone Season Group 1 allowances allocated for control periods before 2017 to different amounts of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances or CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances);

(C) The provisions of § 97.826(c) of this chapter (concerning the transfer of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances between certain Allowance Management System accounts under common control);

(D) The provisions of § 97.826(d) of this chapter (concerning the conversion of amounts of unused CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances allocated for control periods before 2021 to different amounts of CSAPR NO\textsubscript{X} Ozone Season Group 3 allowances); and

(E) The provisions of § 97.811(d) of this chapter (concerning the recall of CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances equivalent in quantity and usability to all CSAPR NO\textsubscript{X} Ozone Season Group 2 allowances allocated for control periods after 2020 and recorded in the compliance accounts of sources in States listed in paragraph (b)(2)(iv) of this section).

(15) **States with approved SIP revisions addressing the CSAPR NO\textsubscript{X} Ozone Season Group 1 Trading Program.** The following States have SIP revisions approved by the Administrator under paragraph (b)(3), (4), or (5) of this section:
(i) For each of the following States, the Administrator has approved a SIP revision under paragraph (b)(3) of this section as replacing the CSAPR NO\textsubscript{X} Ozone Season Group 1 allowance allocation provisions in § 97.511(a) of this chapter with regard to the State and the control period in 2016: Alabama and Missouri.

(ii) For each of the following States, the Administrator has approved a SIP revision under paragraph (b)(4) of this section as replacing the CSAPR NO\textsubscript{X} Ozone Season Group 1 applicability provisions in § 97.504(a)(1) and (2) of this chapter or the CSAPR NO\textsubscript{X} Ozone Season Group 1 allowance allocation provisions in §§ 97.511(a) and (b)(1) and 97.512(a) of this chapter with regard to the State and the control period in 2017 or any subsequent year: [none].

(iii) For each of the following States, the Administrator has approved a SIP revision under paragraph (b)(5) of this section as correcting the SIP's deficiency that is the basis for the CSAPR Federal Implementation Plan set forth in paragraphs (b)(1), (b)(2)(i), and (b)(3) and (4) of this section with regard to sources in the State (but not sources in any Indian country within the borders of the State): Georgia.

(16) States with approved SIP revisions addressing the CSAPR NO\textsubscript{X} Ozone Season Group 2 Trading Program.

(i) The following States have SIP revisions approved by the Administrator under paragraph (b)(7), (8), or (9) of this section:

(A) For each of the following States, the Administrator has approved a SIP revision under paragraph (b)(7) of this section as replacing the CSAPR NO\textsubscript{X} Ozone Season Group 2 allowance allocation provisions in § 97.811(a) of this chapter with regard to the State and the control period in 2018: [none].

(B) For each of the following States, the Administrator has approved a SIP revision under paragraph (b)(8) of this section as replacing the CSAPR NO\textsubscript{X} Ozone Season Group 2 applicability provisions in § 97.804(a) and (b) or § 97.804(a)(1) and (2) of this chapter or the CSAPR NO\textsubscript{X} Ozone Season Group 2 allowance allocation provisions in §§ 97.811(a) and (b)(1) and 97.812(a) of this chapter with regard to the State and the control period in 2019 or any subsequent year: New York.

(C) For each of the following States, the Administrator has approved a SIP revision under paragraph (b)(9) of this section as correcting the SIP's deficiency that is the basis for the CSAPR Federal Implementation Plan set forth in paragraphs (b)(1), (b)(2)(iii) or (iv), and (b)(7) and (8) of this section with regard to sources in the State (but not sources in any Indian country within the borders of the State): Alabama, Indiana, and Missouri.

(ii) Notwithstanding any provision of subpart EEEEE of part 97 of this chapter or any State's SIP, with regard to any State listed in paragraph (b)(2)(iv) of this section and any control period that begins after December 31, 2020, the Administrator will not carry out any of the functions set forth for the Administrator in subpart EEEEE of part 97 of this chapter.
chapter, except §§ 97.811(d) and 97.826(c) and (d) of this chapter, or in any emissions trading program provisions in a State's SIP approved under paragraph (b)(8) or (9) of this section.

(17) States with approved SIP revisions addressing the CSAPR NO\textsubscript{X} Ozone Season Group 3 Trading Program. The following States have SIP revisions approved by the Administrator under paragraph (b)(10), (11), or (12) of this section:

(i) For each of the following States, the Administrator has approved a SIP revision under paragraph (b)(10) of this section as replacing the CSAPR NO\textsubscript{X} Ozone Season Group 3 allowance allocation provisions in § 97.1011(a) of this chapter with regard to the State and the control period in 2022: [none].

(ii) For each of the following States, the Administrator has approved a SIP revision under paragraph (b)(11) of this section as replacing the CSAPR NO\textsubscript{X} Ozone Season Group 3 applicability provisions in § 97.1004(a) and (b) or § 97.1004(a)(1) and (2) of this chapter or the CSAPR NO\textsubscript{X} Ozone Season Group 2 allowance allocation provisions in §§ 97.1011(a) and (b)(1) and 97.1012(a) of this chapter with regard to the State and the control period in 2023 or any subsequent year: [none].

(iii) For each of the following States, the Administrator has approved a SIP revision under paragraph (b)(12) of this section as correcting the SIP's deficiency that is the basis for the CSAPR Federal Implementation Plan set forth in paragraphs (b)(1), (b)(2)(v), and (b)(10) and (11) of this section with regard to sources in the State (but not sources in any Indian country within the borders of the State): [none].