



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 97

[EPA-HQ-OAR-2025-0190; FRL-12724-01-OAR]

RIN 2060-AW78

Emissions Budget and Allowance Allocations for Indiana Under the Revised Cross-State Air Pollution Rule Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule; request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is taking interim final action to adjust the Revised Cross-State Air Pollution Rule (CSAPR) Update “budget” for nitrogen oxides (NO_x) emissions from Indiana electricity generating units (EGUs) during the May-September “ozone season” for 2024 and subsequent years. Relatedly, EPA is also adjusting the default unit-level allocations of emission allowances to Indiana EGUs for 2024 and subsequent years in accordance with the adjustments to the state emissions budget. When originally establishing state emissions budgets and default unit-level allocations for 2024 and subsequent years in the Revised CSAPR Update rulemaking, EPA relied in part on announcements from EGU owners regarding their plans to retire certain EGUs before the 2024 ozone season. The purpose of the adjustments being made in this action is to account for the subsequent decisions by some EGU owners to defer or cancel the previously announced retirement plans.

DATES: This interim final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comments on this rule must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Docket ID No. EPA-HQ-OAR-2025-0190, at www.regulations.gov. Comments received may be posted without change to www.regulations.gov, including any personal information provided. For detailed instructions on sending comments, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Morgan Riedel, Clean Air and Power Division, Office of Atmospheric Protection, Office of Air and Radiation, U.S. Environmental Protection Agency, Mail Code 6204A, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 564-1144; email address: riedel.morgan@epa.gov.

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I. General

A. Public Participation

Submit your written comments, identified by Docket ID No. EPA-HQ-OAR-2025-0190, at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its

public docket. Do not submit to www.regulations.gov any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). Please visit www.epa.gov/dockets/commenting-epa-dockets for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

B. Potentially Affected Entities

This action may affect any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine located in Indiana and serving at any time on or after January 1, 2005, a generator with nameplate capacity of more than 25 MWe (megawatt-electric) producing electricity for sale. The North American Industry Classification System (NAICS) industry group for most affected entities is NAICS code 221112, Fossil Fuel Electric Power Generation.

This information on potentially affected entities is not intended to be exhaustive. To determine whether your entity is affected by this action, you should carefully examine the applicability criteria for the CSAPR NO_x Ozone Season Group 2 Trading Program found in 40 CFR 97.804. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

C. Statutory Authority

Statutory authority to issue the amendments finalized in this action is provided by the same Clean Air Act (CAA) provisions that provided authority to issue the regulations being amended: CAA section 110(a) and (c), 42 U.S.C. 7410(a) and (c) (state implementation plan (SIP) and federal implementation plan (FIP) requirements, including requirements for mitigation of interstate air pollution), and CAA section 301, 42 U.S.C. 7601 (general rulemaking authority). Statutory authority for

the rulemaking procedures followed in this action is provided by Administrative Procedure Act (APA) section 553, 5 U.S.C. 553.

II. Background and Overview

A. The Revised CSAPR Update

CAA section 110(a)(2)(D)(i)(I), also known as the “good neighbor” provision, requires each state’s SIP to include provisions sufficient to “prohibit[], consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will ... contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any [national ambient air quality standard (NAAQS)].” EPA often refers to the emissions reduction requirements under this provision as “good neighbor obligations” and submissions addressing these requirements as “good neighbor SIPs.” CAA section 110(c)(1) requires the EPA Administrator to promulgate a FIP at any time within 2 years after the Administrator: (i) finds that a state has failed to make a required SIP submission; (ii) finds a SIP submission to be incomplete pursuant to CAA section 110(k)(1)(C); or (iii) disapproves a SIP submission. This obligation applies unless the state corrects the deficiency through a SIP revision that the Administrator approves before the FIP is promulgated.

In March 2021, acting pursuant to CAA sections 110(a)(2)(D)(i)(I) and 110(c)(1), EPA promulgated the Revised CSAPR Update.¹ The rule determined the good neighbor obligations of 12 states, including Indiana, with respect to the 2008 ozone NAAQS and established FIP requirements for EGUs in those states to address the states’ obligations by reducing ozone-season emissions of NO_x, an ozone precursor, starting in 2021. The NO_x emissions reduction requirements were implemented through the mechanism of an emission allowance trading program.

In March 2023, again acting pursuant to CAA sections 110(a)(2)(D)(i)(I) and 110(c)(1), EPA promulgated the Good Neighbor Plan.² The rule determined the good neighbor obligations of 23 states,

¹ Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 86 FR 23054 (April 30, 2021).

² Federal “Good Neighbor Plan” for the 2015 Ozone National Ambient Air Quality Standards, 88 FR 36654 (June 5, 2023).

including Indiana, with respect to the 2015 ozone NAAQS and established FIP requirements for EGUs and certain other types of emissions sources in those states to address the states' obligations by reducing ozone-season NO_x emissions starting in 2023. The NO_x emissions reduction requirements for EGUs again were implemented through the mechanism of an emission allowance trading program, and EPA coordinated compliance obligations by providing that participation of a state's EGUs in the Good Neighbor Plan's trading program would also be deemed to satisfy the EGUs' obligations under the Revised CSAPR Update (and in some cases, other interstate ozone transport rules as well).³ Later in 2023, in response to judicial orders partially staying a separate EPA action as to several states, EPA promulgated two interim final rules staying Good Neighbor Plan implementation for emissions sources in those states pending further EPA rulemaking.⁴ As implemented for the 2023 ozone season, the Good Neighbor Plan therefore applied in 11 states, including Indiana.

On June 27, 2024, the Supreme Court issued a decision staying enforcement of the Good Neighbor Plan against the stay applicants.⁵ In response, later in 2024 EPA promulgated a third interim final rule administratively staying Good Neighbor Plan implementation starting with the 2024 ozone season for all sources in all states where implementation had not already been stayed under the two 2023 interim final rules, pending further EPA rulemaking.⁶

In addition to staying Good Neighbor Plan implementation, the three interim final rules also restored status quo requirements for EGUs in states covered under earlier interstate ozone transport rules that had been superseded by the Good Neighbor Plan, including the Revised CSAPR Update. Thus, as of the 2024 ozone season, and for future ozone seasons pending further EPA rulemaking, EGUs in Indiana are once again participating in an emission allowance trading program where the amounts of the state emissions budget for Indiana and the unit-level allowance allocations for Indiana EGUs are the

³ *See id.* at 36844.

⁴ Federal "Good Neighbor Plan" for the 2015 Ozone National Ambient Air Quality Standards; Response to Judicial Stays of SIP Disapproval Action for Certain States, 88 FR 49295 (July 31, 2023); Federal "Good Neighbor Plan" for the 2015 Ozone National Ambient Air Quality Standards; Response to Additional Judicial Stays of SIP Disapproval Action for Certain States, 88 FR 67102 (September 29, 2023).

⁵ *Ohio v. EPA*, 603 U.S. 279 (2024).

⁶ Federal "Good Neighbor Plan" for the 2015 Ozone National Ambient Air Quality Standards; Response to Judicial Stay, 89 FR 87960 (November 6, 2024).

budget and allocation amounts established specifically to address the requirements of the Revised CSAPR Update.⁷

B. Adjustments to Address Superseded EGU Retirement Plans

In the Revised CSAPR Update rulemaking, when determining state emissions budgets and default unit-level allowance allocations, EPA addressed future EGU retirements through one of two distinct approaches. The first approach was used for EGUs whose owners had announced planned retirement dates for the units in 2024 or later or had not announced any planned retirement dates. For these units without planned retirement dates before 2024, which constituted the large majority of the EGU fleet, the eventual future retirements of the units would have no effect on state emissions budgets. The units also would remain eligible to receive initial allocations of allowances as existing units for as long as the operating data for the units reported to EPA for successive ozone seasons showed continued operation. At such future point as one of these units might become ineligible to receive initial allocations as an existing unit, the allowances that otherwise would have been allocated to the unit would instead be allocated to other units in the state. The second approach was used for EGUs whose owners had announced planned retirement dates for the units before 2024 (provided that EPA's confirmatory research did not identify any reason to question the announcements). For these units, EPA took the planned retirement dates into account when determining the amounts of the state emissions budgets for each year after the planned retirement dates, resulting in lower budgets than would have been the case without the retirement announcements. These units were also treated as ineligible to receive initial allocations of allowances as existing units in any year after their planned retirement dates.

⁷ As originally promulgated, the Revised CSAPR Update required covered EGUs to participate in the CSAPR NO_x Ozone Season Group 3 Trading Program at subpart GGGGG of 40 CFR part 97. This trading program was later modified to serve as the compliance mechanism for EGUs in states covered by the Good Neighbor Plan. Consequently, to stay implementation of the Good Neighbor Plan's requirements and restore the Revised CSAPR Update's requirements under the three interim final rules, EPA required EGUs in states subject to the Revised CSAPR Update to instead participate in the CSAPR NO_x Ozone Season Group 2 Trading Program at subpart EEEEE of 40 CFR part 97 with the state emissions budgets and unit-level allowance allocations established in the Revised CSAPR Update, using CSAPR NO_x Ozone Season Expanded Group 2 allowances for compliance. For further details of the approach taken under the three interim final rules to restore status quo requirements established under the Revised CSAPR Update, see 88 FR 49296-97, 88 FR 67103-04, and 89 FR 87963-64.

The EGUs whose future retirements were addressed through the second approach included several coal-fired EGUs in Indiana, including units 17 and 18 at the R.M. Schahfer power plant (plant ID 6085) and units 1SG1 and 2SG1 at the Merom power plant (plant ID 6213). Before the Revised CSAPR Update rulemaking, the owners of these four units announced plans to retire the units in 2023,⁸ and EPA found no reason at the time of the rulemaking to question the announced retirement plans. Accordingly, EPA relied on these units' planned retirement dates in the rulemaking, which caused the Indiana state emissions budget for the ozone seasons in 2024 and subsequent years to be lower than would otherwise have been the case (by reducing the emissions baseline used as a starting point for development of the emissions budget) and also made the four units ineligible to receive initial allowance allocations as existing units for those ozone seasons. After finalization of the Revised CSAPR Update, these EGUs' owners (including a new owner for the Merom power plant) deferred or canceled the units' planned retirements,⁹ and in accordance with the owners' updated plans, in the Good Neighbor Plan rulemaking EPA treated the four units as operating in 2024 and 2025 for purposes of the Indiana state emissions budgets and the initial allowance allocations to existing units.¹⁰ However, the stay of Good Neighbor Plan implementation necessitated a return to the status quo, i.e., the Revised CSAPR Update's state emissions budgets and unit-level allowance allocations, which continued to reflect the superseded retirement plans.

In this action, EPA is adjusting the Revised CSAPR Update state emissions budget for Indiana and the unit-level allowance allocations to Indiana EGUs for the ozone seasons in 2024 and subsequent years to end the reliance on the superseded retirement plans for Schahfer units 17-18 and Merom units 1SG1-2SG1 and recognize the units' continued operation. These four units are the only EGUs in any of the

⁸ See, e.g., the planned retirement dates reported for the four units in U.S. Energy Information Administration Form EIA-860M for December 2020, available in the docket for this action.

⁹ See, e.g., the planned retirement dates (or lack thereof) reported for the four units in U.S. Energy Information Administration Form EIA-860M for December 2022, available in the docket for this action.

¹⁰ Under the Good Neighbor Plan, evaluations of all units' operating status for ozone seasons after 2025 would be administered on a rolling basis for each successive ozone season by applying the procedures finalized in the rulemaking to the units' most recently reported operating data. For example, if a unit reported operation during the 2024 ozone season, the unit would be treated as an operating unit for purposes of the budget-setting and allowance allocation processes administered in mid-2025 for the 2026 ozone season.

states covered by the Revised CSAPR Update that were treated in the original rulemaking as retiring before the 2024 ozone season but that actually operated in that ozone season. The adjustments eliminate an inconsistency between how these four units and all other pre-2020 units that operated during the 2024 ozone season are being treated for purposes of the state emissions budgets and unit-level allowance allocations that apply under the Revised CSAPR Update.

The amounts of the adjustments in this action have been determined by applying the budget-setting and allowance allocation methodologies that were finalized in the Revised CSAPR Update rulemaking to an updated dataset that no longer includes the superseded retirement plans for Schahfer units 17-18 and Merom units 1SG1-2SG1. The adjusted state emissions budget for Indiana for the ozone seasons in 2024 and subsequent years is 11,245 tons, an increase of 1,681 tons over Indiana's budget of 9,564 tons for these ozone seasons as originally established in the Revised CSAPR Update rulemaking. EPA expects that the increased emissions budget will reduce compliance costs for Indiana EGUs, especially Schahfer units 17-18 and Merom units 1SG1-2SG1, to which most of the additional allowances will be allocated. However, in the broader context of the multi-state trading program, EPA expects that the additional allowances will not have a material impact on emissions or air quality, because the total amount of allowances issued under the trading program for each ozone season already exceeds the total emissions of all participating EGUs and there is also a sizeable bank of allowances carried over from previous ozone seasons. While the additional allowances that will be issued under this action for each ozone season represent an increase of about 17.6 percent over the allowances that would otherwise have been issued to EGUs in Indiana, the additional allowances represent an increase of only about 1.1 percent of the total amount of allowances available for all participating EGUs across the set of 12 covered states to use in meeting their 2024 compliance obligations.¹¹

¹¹ Absent this action, the total amount of allowances available for 2024 compliance would be approximately 153,844 allowances, consisting of 96,975 allowances from the 2024 emissions budgets for the twelve covered states and 56,869 unused allowances carried over from previous ozone seasons. With this action, the total amount of allowances available for 2024 compliance will be approximately 155,525 allowances. The total amount of NO_x emissions reported for the 2024 ozone season for all participating EGUs in the 12 states covered by the Revised CSAPR Update is 84,189 tons.

EPA is not altering or reopening any aspect of the Revised CSAPR Update other than the data concerning the planned retirement dates for Schahfer units 17-18 and Merom units 1SG1-2SG1. EPA notes that because no changes are being made to EPA's determinations in the Revised CSAPR Update regarding the emissions control strategies whose application would address the covered states' good neighbor obligations, this action does not constitute a change in the stringency of the Revised CSAPR Update as finalized in the original rulemaking. Indiana's budget remains at a level that reflects the implementation of the selected emissions control strategies and is simply being adjusted to eliminate the reliance on the superseded retirement plans and recognize the continued operation of these four units.

EPA is finalizing this action's amendments to the Revised CSAPR Update's state emissions budget and unit-level allowance allocations for Indiana on an interim basis. After considering any comments received in response to this document, EPA will evaluate whether further action responding to the comments and affirming or modifying this action's amendments would be appropriate.

III. Adjustments to Indiana State Emissions Budget and Variability Limit

This section III. summarizes the methodology used to determine state emissions budgets and variability limits in the Revised CSAPR Update rulemaking and describes how the determination of Indiana's state emissions budget for the ozone seasons in 2024 and subsequent years and the associated variability limit change when Schahfer units 17-18 and Merom units 1SG1-2SG1 are no longer treated as retiring before the 2024 ozone season.¹²

A. Determination of Adjusted State Emissions Budget

In the Revised CSAPR Update, EPA established four sets of state emissions budgets for successive ozone seasons. The first three sets of budgets applied for the ozone seasons in 2021, 2022, and 2023, respectively, and the fourth set of budgets applies for the ozone seasons in 2024 and all subsequent years. The process for calculating each state emissions budget involved three general steps.

¹² For a more detailed description of the Revised CSAPR Update's methodology for setting budgets and variability limits, see the Revised CSAPR Update final rule preamble at 86 FR 23118-26 or the Revised CSAPR Update final rule Ozone Transport Policy Analysis technical support document (EPA-HQ-OAR-2020-0272-0222, March 2021) at pp. 10-25. Both documents are available in the docket for this action.

First, EPA determined baseline amounts of NO_x emissions and heat input for each of the state’s covered EGUs in the relevant ozone season before any emissions reductions required under the Revised CSAPR Update.¹³ Second, while holding each unit’s heat input constant at its baseline amount, EPA computed the NO_x emissions reductions that could be achieved in the relevant ozone season by applying the Revised CSAPR Update’s selected emissions control strategies at the units where those strategies were identified as available. Finally, EPA computed an incremental adjustment in NO_x emissions that were expected to occur from each state’s EGUs through optimization of operations within the state if operators were incentivized by a NO_x emission allowance price commensurate with the costs of the selected emissions control strategies.¹⁴ The emissions budget for each state for each ozone season was determined as the sum of the baseline emissions amounts for the state’s covered units for that ozone season computed in the first step minus the sum of the changes in emissions for the state’s units for that ozone season computed in the second and third steps.

Table III.A-1 summarizes the calculation of Indiana’s state emissions budget for the ozone seasons in 2024 and subsequent years, both as originally performed and as adjusted in this action. The remainder of this section provides more detail on how this action’s adjustments affect the amounts computed at each of the three steps of the budget-setting process. A spreadsheet showing the complete adjusted calculations of Indiana’s state emissions budget for 2024 and subsequent years is available in the docket for this action.

Table III.A-1: Summary of Adjustments to Indiana’s State Emissions Budget for 2024 and Subsequent Years[†]

	Data item (totals for all covered Indiana EGUs)	Adjusted amount	Original amount	Change
A	Baseline heat input for 2024 ozone season (mmBtu)	329,887,869	297,077,155	32,810,713
B	Baseline NO _x emissions for 2024 ozone season (tons)	13,942	12,232	1,709

¹³ EPA also tracked the corresponding baseline amounts of electricity generation for each ozone season, but these amounts were not used in the calculations of state emissions budgets.

¹⁴ In the Revised CSAPR Update rulemaking, the emissions reductions that were expected to be achieved through optimization of operations within a given state were referred to as emissions reductions from “generation shifting” within the state. In this action, EPA is only adjusting the treatment of superseded retirement plans for four EGUs and is not altering or reopening any other aspect of the Revised CSAPR Update. EPA is not taking any position as to how potential emissions effects of this nature should be addressed in any other rulemaking.

C	NO _x emissions reductions in 2024 ozone season from application of selected emissions controls (tons)	2,404	2,404	0
D	NO _x emissions reductions in 2024 ozone season from optimization of operations within the state (tons) ^{††}	294	264	29
E	2024 state emissions budget (tons) ^{†††}	11,245	9,564	1,681

[†] Unrounded amounts used in the budget calculations have been rounded for purposes of table display.

^{††} Row D = row A × 0.00178 lb/mmBtu (state-specific emission rate factor for Indiana, described later in this section IV.A) ÷ 2,000 lb/ton.

^{†††} Row E = row B – (row C + row D).

In the first step of the budget-setting process, EPA calculates the baseline amounts for the relevant ozone season before any emissions reductions required under the Revised CSAPR Update. In this step of the process for the 2024 ozone season in the original rulemaking, EPA first compiled the NO_x emissions and heat input data reported for the 2019 ozone season for all of the state’s covered units and then adjusted these reported data upward or downward as necessary to account for previously announced changes scheduled for implementation after the 2019 ozone season and before the 2024 ozone season.¹⁵ The types of announced changes taken into account included start-ups of new units, retirements of existing units, installations of new NO_x emissions control equipment, and changes in the type of fuel combusted. With respect to retirements, if the owner of an EGU had announced a planned retirement date in 2024 or later, or if no retirement date had been announced, then the EGU was not treated as retired for purposes of the 2024 ozone season and its 2024 baseline amounts of NO_x emissions and heat input remained at the amounts reported for the unit for the 2019 ozone season (unless an adjustment to the unit’s baseline NO_x emissions was made to reflect an installation of new NO_x emissions control equipment or a change in the type of fuel combusted). In contrast, if the owner of an EGU had announced a planned retirement date before 2024 and if EPA’s confirmatory research did not identify any reason to question the announcement, then the EGU was treated as retired for purposes of the 2024 ozone season and its 2024 baseline amounts of NO_x emissions and heat input were set to zero.

¹⁵ EPA developed the Revised CSAPR Update’s state emissions budgets starting with 2019 data instead of 2020 data in recognition of concerns that 2020 data might be unrepresentative because of the unusual circumstances of the Covid-19 pandemic. See 86 FR at 23120.

In the Revised CSAPR Update rulemaking, based on previous announcements by the owners of Schahfer units 17-18 and Merom units 1SG1-2SG1 that the units would retire in 2023, EPA treated the units as retired for purposes of the 2024 budget-setting process and set their 2024 baseline amounts of NO_x emissions and heat input to zero. In this action, to end reliance on the superseded retirement plans and recognize the continued operation of the four units in 2024, EPA is adjusting the 2024 baseline amounts of NO_x emissions and heat input for these units to the amounts reported for the units for the 2019 ozone season. These adjustments are consistent with how the four units were treated for purposes of determining the baseline amounts for the 2021, 2022, and 2023 ozone seasons and are also consistent with how other units without announced plans to retire before 2024 were treated for purposes of determining baseline amounts for the 2024 ozone season. The adjustments raise the total 2024 baseline heat input for Indiana units by 32,810,713 mmBtu and raise the total 2024 baseline NO_x emissions for Indiana units by 1,709 tons, as shown in rows A and B of Table III.A-1.

In the second step of the budget-setting process, EPA calculates the emissions reductions that could be achieved in the relevant ozone season by applying emissions control strategies at units where the strategies have been identified as available. For the Revised CSAPR Update, the selected emissions control strategies for coal-fired EGUs included performance optimization of post-combustion controls (such as selective catalytic reduction (SCR) controls or selective non-catalytic reduction (SNCR) controls) at units where those controls have already been installed and installation or upgrading of combustion controls (such as low-NO_x burners and overfire air) at units where post-combustion controls have not already been installed or are not being operated. When this step was originally performed in the Revised CSAPR Update rulemaking, none of the selected emissions control strategies were identified as available at Schahfer units 17-18 or Merom units 1SG1-2SG1: the Schahfer units, which do not have post-combustion controls, already achieve NO_x emission rates lower than the rule's target emission rate of 0.199 lb/mmBtu for comparable units with state-of-the-art combustion controls, and the Merom units, which have SCR controls, already achieve NO_x emission rates lower than the rule's target emission rate of 0.08 lb/mmBtu for comparable SCR-equipped units. EPA's conclusion in the original rulemaking that none of the selected emissions control strategies were available at the four units for purposes of the

2021, 2022, or 2023 ozone seasons also applies in this action for purposes of the 2024 ozone season.

Accordingly, the total amount of emissions reductions that could be achieved in 2024 by Indiana units by applying the selected emissions control strategies is unaffected by this action's adjustments, as shown in row C of Table III.A-1.

In the final step of the budget-setting process, EPA calculates the incremental emissions change that is expected from optimization of operations within the state. EPA computes these amounts by multiplying each state's total baseline heat input for the relevant ozone season by a state-specific NO_x emission rate factor derived through an analysis performed using the Integrated Planning Model (IPM).¹⁶ The adjustments in this action do not affect the data used to derive the emission rate factor of 0.00178 lb/mmBtu for Indiana as determined in the Revised CSAPR Update rulemaking.¹⁷ However, the adjustments increase Indiana's total 2024 baseline heat input relative to the total 2024 baseline heat input used in the Revised CSAPR Update rulemaking and therefore cause a slight adjustment in Indiana's budget, as shown in row D of Table III.A-1.

Taking all steps of the budget-setting process together, the adjustments to end reliance on the superseded retirement plans for Schahfer units 17-18 and Merom units 1SG1-2SG1 and recognize the units' continued operation cause a net increase (after rounding adjustments) of 1,681 tons. The adjusted Indiana state emissions budget for 2024 and subsequent years is 11,245 tons. These amounts are shown in row E of Table III.A-1.

¹⁶ For a description of IPM, see the Revised CSAPR Update final rule preamble at 86 FR 23075-76.

¹⁷ See Final Rule State Emission Budget Calculations and Engineering Analytics spreadsheet (Appendix A to the Ozone Transport Policy Analysis final rule technical support document), in the "Generation Shifting" worksheet at the "Indiana" row and the "\$1,600/ton" column, available in the docket for this action. Each state-specific NO_x emission rate factor was calculated as the difference between the state's average NO_x emission rate as reflected in the output of two IPM runs. The inputs to each IPM run included each state's projected 2021 EGU fleet after application of the selected emissions control strategies and were generally the same except as to the assumed price of emission allowances: the base case run used a price of \$0/ton, and the comparison run used a price of \$1,600/ton, commensurate with the cost of the selected emissions control strategies. To ensure that the model did not attempt to reduce NO_x emissions in a given state by reducing the amount of electricity produced in that state, the total amount of electricity produced in each state in the comparison run was not allowed to fall below the total amount of electricity produced in the state in the base case run.

B. Determination of Adjusted Variability Limit

EPA's trading programs addressing interstate pollution transport include "assurance provisions" which are designed to ensure that the emissions reductions necessary to address each state's good neighbor obligations are achieved within that state, as required under CAA section 110(a)(2)(D)(i)(I),¹⁸ while also accommodating inherent year-to-year variability in state-level EGU operations.¹⁹ The assurance provisions require certain EGUs in a state to surrender additional allowances if the total emissions from the state's EGUs exceed an "assurance level" computed as the sum of the state emissions budget plus a "variability limit."²⁰

In the Revised CSAPR Update rulemaking, each variability limit was set at 21 percent of the corresponding state emissions budget.²¹ To preserve the intended relationship between variability limits and state emissions budgets as finalized in the original rulemaking, in this action EPA is establishing an adjusted variability limit for Indiana for the ozone seasons in 2024 and subsequent years. The adjusted variability limit is 2,361 tons, which is 21 percent of the adjusted state emissions budget of 11,245 tons.

IV. Adjustments to Indiana EGUs' Default Unit-Level Allowance Allocations

This section IV. summarizes the methodology used to determine the amounts of allowances allocated to Indiana EGUs from each state emissions budget and describes how the unit-level allocations for the ozone seasons in 2024 and subsequent years change when Schahfer units 17-18 and Merom units 1SG1-2SG1 are no longer treated as retiring before the 2024 ozone season.²² This section also provides public notice of the availability of data on the adjusted allocations to Indiana EGUs.

¹⁸ See *North Carolina v. EPA*, 531 F.3d 896, 906-08 (D.C. Cir. 2008).

¹⁹ For a more detailed description of the Revised CSAPR Update's assurance provisions, see the Revised CSAPR Update final rule preamble at 86 FR 23122-24.

²⁰ See, e.g., 40 CFR 97.806(c)(2) and 97.825.

²¹ See 86 FR at 23123-24.

²² For a more detailed description of the Revised CSAPR Update's allowance allocation methodology, see the Revised CSAPR Update final rule preamble at 86 FR 23126-33 or the Revised CSAPR Update final rule Allowance Allocation technical support document (EPA-HQ-OAR-2020-0272-0199, March 2021). Both documents are available in the docket for this action.

A. Determination of Adjusted Allowance Allocations

EPA's process for calculating default unit-level allowance allocations from each state emissions budget for each ozone season under the Revised CSAPR Update involves four overall steps, parts of which were completed during the Revised CSAPR Update rulemaking and parts of which are completed or updated on a rolling basis for each successive ozone season through ministerial calculations performed according to procedures laid out in the trading program regulations. First, EPA identifies which EGUs in a state are eligible to receive allocations from the state emissions budget for the relevant ozone season as "existing" units. Second, EPA calculates what portion of the state emissions budget for the relevant ozone season will be reserved in a "new unit set-aside" for potential allocation to any of the state's remaining EGUs that operate during that ozone season. For simplicity, these remaining EGUs are referred to as "new" units; however, they may include not only units that have never been eligible to receive allocations as existing units but also units that operate after losing their previous eligibility to receive allocations as existing units. Third, EPA calculates what initial allocations the state's existing units will receive from the unreserved portion of the budget for the relevant ozone season, based on the units' reported heat input and emissions for a defined set of previous ozone seasons. Finally, EPA calculates how the allowances in the new unit set-aside will be allocated for the relevant ozone season, first to the state's new units in proportion to their reported emissions during that ozone season, and then, if all the allowances have not been allocated to new units, to the states' existing units in proportion to their initial allocations from the unreserved portion of the budget.

Table IV.A-1 summarizes the default unit-level allocations from Indiana's state emissions budget to the state's EGUs for the 2024 ozone season, both as calculated in the original rulemaking and as adjusted in this action. The first three columns of the table, which concern the initial allocations to existing units, also apply for the ozone seasons in 2025 and subsequent years. The initial allocations to existing units and the allocations from the new unit set-aside are shown separately because this action's adjustments affect those steps of the overall allocation process differently (also, the allocations from the new unit set-asides for years after 2024 are not yet known). The allocations to the individual EGUs at each power plant where changes in allocations occur are summed to totals for that plant, except that

the totals for Schahfer units 17-18 are shown separately from other units at the Schahfer plant. The remainder of this section provides more detail on the four steps of the overall allocation process and the effects of this action’s adjustments at each step. A spreadsheet showing the complete calculations of the adjusted default unit-level allocations to Indiana EGUs for 2024 is available in the docket for this action.

Table IV.A-1: Summary of Adjustments to Indiana EGUs’ Default Unit-Level Allowance Allocations for 2024 Shown as Plant Totals (tons)

	A	B	C	D	E	F
Plant name (ID)	Adjusted initial allocations to existing units	Original initial allocations to existing units	Change in initial allocations to existing units [†]	Adjusted allocations from 2024 new unit set-aside	Original allocations from 2024 new unit set-aside	Total change for 2024 ^{††}
Merom (6213)	807	0	807	17	81	743
Schahfer (6085), units 17-18	565	0	565	12	109	468
Gibson (6113)	2,169	2,104	65	47	0	112
Rockport (6166)	2,067	2,005	62	45	0	107
Petersburg (994)	858	832	26	18	0	44
Clifty Creek (983)	831	806	25	17	0	42
Cayuga (1001)	791	766	25	16	0	41
Harding Street (990)	527	511	16	11	0	27
Brown (6137)	402	390	12	8	0	20
Edwardsport (1004)	339	329	10	7	0	17
Michigan City (997)	313	304	9	6	0	15
Culley (1012)	300	292	8	6	0	14
Alcoa (6705)	263	256	7	5	0	12
Wabash River Highland (57842)	136	132	4	3	0	7
Henry County (7763)	44	41	3	0	0	3
Lawrenceburg (55502)	179	179	0	4	0	4
St. Joseph (57794)	51	51	0	2	0	2
Sugar Creek (55364)	51	51	0	2	0	2
Whiting (55259)	49	49	0	1	0	1
All other (including other Schahfer units)	276	276	0	0	0	0
Total	11,018	9,374	1,644	227	190	1,681

[†] Column C = column A – column B.

^{††} Column F = column C + (column D – column E).

In the first step of the allowance allocation process, EPA identifies which EGUs in a state are eligible to receive allocations from the state emissions budget for the relevant ozone season as existing units. All eligibility evaluations for the ozone seasons in 2021 through 2024 were completed as part of the Revised CSAPR Update rulemaking. An EGU that had reported data for at least one entire ozone season before 2020 and that had not retired before 2021 was treated as eligible to receive an initial allocation as an existing unit for 2021. Units that were identified as eligible to receive initial allocations as existing units for 2021 generally remained eligible through 2024. The only exception is that any unit treated as retired at the emissions-baseline development step of the budget-setting process starting in a particular year was also treated as ineligible to receive initial allocations as an existing unit starting in that same year. Thus, if the owner of an EGU had announced a planned retirement date before 2024 and if EPA's confirmatory research did not identify any reason to question the announcement, the EGU was treated as ineligible to receive initial allocations as an existing unit for 2024 and subsequent years.

The Revised CSAPR Update does not provide for any changes in eligibility from 2024 to 2025. Starting with the 2026 ozone season, evaluations of each unit's ongoing eligibility to receive initial allocations as an existing unit are made on a rolling basis in advance of each successive ozone season. A unit that was identified as eligible for 2024 generally remains eligible for subsequent years except as otherwise indicated based on the operating data reported for the unit for ozone seasons after 2020. Specifically, if a unit does not report any operation during any two consecutive ozone seasons after 2020, the unit becomes ineligible to receive initial allocations as an existing unit starting in the fifth year after the first year of non-operation – e.g., a unit with no reported operation during the 2021 and 2022 ozone seasons would become ineligible to receive initial allocations as an existing unit starting with the 2026 ozone season. This is how ongoing eligibility to receive initial allocations as an existing unit under the Revised CSAPR Update is evaluated for any unit for which, at the time of the original rulemaking, the unit's owner had announced a retirement date in 2024 or later or had not announced any retirement date.

In the Revised CSAPR Update rulemaking, based on previous announcements by the owners of Schahfer units 17-18 and Merom units 1SG1-2SG1 that the units would retire in 2023, EPA treated the units as ineligible to receive initial allocations as existing units starting in 2024. In this action, to end reliance on the superseded retirement plans and recognize the four units' continued operation in 2024, EPA is adjusting the eligibility status identified for the four units in the Revised CSAPR Update rulemaking so that the units remain eligible to receive initial allocations as existing units for the ozone season in 2024. To reflect this change in status, the four units are designated as "operating" instead of "retired" in the updated version of the spreadsheet used to calculate the initial allocations to Indiana EGUs in the next step of the allowance allocation process. Like other units that are eligible to receive initial allocations as existing units for 2024, the four units will remain eligible for 2025, and starting with the 2026 ozone season, their eligibility will be evaluated in advance of each ozone season based on the operating data reported for the units for ozone seasons after 2020.²³ These adjustments are consistent with how evaluations of eligibility to receive initial allocations as existing units are made under the Revised CSAPR Update for other units without announced plans to retire before the 2024 ozone season.

In the second step of the allowance allocation process, EPA calculates what portion of the state emissions budget will be reserved in a "new unit set-aside" for potential allocation to any of the state's EGUs that are not eligible to receive initial allocations as existing EGUs and that operate during the relevant ozone season. The amounts of the new unit set-asides for 2021 through 2024 were calculated as part of the Revised CSAPR Update rulemaking. Each state's new unit set-aside for these years was computed using a fixed target percentage – in Indiana's case, 2 percent – of the state emissions budget for the year.²⁴ The Revised CSAPR Update does not provide for any changes in the amount of any new

²³ Because Schahfer units 17-18 and Merom units 1SG1-2SG1 have already reported operation during each ozone season from 2021 through 2024, the units will remain eligible to receive initial allocations as existing units under the Revised CSAPR Update through at least 2029.

²⁴ The final amount of the new unit set-aside for a state may be slightly higher or lower than the target amount computed using the fixed target percentage, because if the sum of the target amount plus the final rounded amounts of the initial allocations to the state's existing units differs from the state emissions budget, the final amount of the new unit set-aside is adjusted upward or downward from the target amount as necessary to eliminate the difference. See the Revised CSAPR Update final rule Allowance Allocation technical support document at 10-11.

unit set-aside from 2024 to 2025. Starting with the 2026 ozone season, the amount of each state's new unit set-aside is calculated on a rolling basis in advance of each successive ozone season. The new unit set-aside for each such year continues to include as a minimum the amount set for 2024, but if there are any units in the state that have lost their previous eligibility to receive initial allocations as existing units, the allowances that would have been allocated to those units as existing units if they had not lost their eligibility are added to the new unit set-aside.

This action's adjustments do not include any change to the procedures finalized in the Revised CSAPR Update for calculating the amount of Indiana's new unit set-aside for any year. However, because the amount of the new unit set-aside is computed using a fixed target percentage of the state emissions budget, this action's increase to Indiana's state emissions budget for 2024 and subsequent years causes an increase in the amount of Indiana's new unit set-aside for 2024 and subsequent years. Accordingly, EPA is adjusting the amount of the new unit set-aside for 2024 (and the minimum amount of the new unit set-aside for subsequent years) for Indiana to 227 tons, which leaves 11,018 tons as the adjusted unreserved portion of the 2024 state emissions budget available for initial allocations to existing units. For comparison, as originally calculated in the Revised CSAPR Update rulemaking, the corresponding amounts of the 2024 new unit set-aside and the unreserved portion of the 2024 state emissions budget for Indiana were 190 tons and 9,374 tons, respectively. The adjusted and original amounts of both the new unit set-aside and the unreserved portion of the state emissions budget appear as totals in the final row of Table IV.A-1.

In the third step of the allowance allocation process, EPA calculates what initial allocations the state's existing units will receive from the unreserved portion of the budget for the relevant ozone season (i.e., the portion not reserved in the new unit set-aside). In the Revised CSAPR Update rulemaking, EPA established separate sets of initial allocations for 2021, 2022, 2023, and 2024 corresponding to the state emissions budgets established for each of those years. To calculate the initial allocations from the state emissions budget for a given year, EPA first computed two values for each unit eligible to receive an initial allocation as an existing unit for that year: a value representing the unit's

historical share of total ozone season heat input for the state,²⁵ and a value representing the unit's historical maximum ozone season NO_x emissions.²⁶ EPA then allocated the allowances from the unreserved portion of the state emissions budget for the year among the eligible units in proportion to the units' respective historical shares of total ozone season heat input for the state, except that each unit's allocation was capped at its historical maximum ozone season NO_x emissions.²⁷

The Revised CSAPR Update does not provide for any changes in the amounts of initial allocations to existing units from 2024 to 2025. Starting with the 2026 ozone season, each unit's initial allocation as an existing unit for each successive ozone season remains the amount established for 2024 as long as the unit remains eligible to receive allocations as an existing unit. If a unit becomes ineligible to receive allocations as an existing unit, the allowances that otherwise would have been allocated to the unit for each year as an existing unit are instead added to the new unit set-aside for the year.

In the original Revised CSAPR Update rulemaking, Schahfer units 17-18 and Merom units 1SG1-2SG1 were treated as ineligible to receive initial allocations as existing units in 2024, so the units were excluded from the calculations of initial allocations for that year. This action's adjustments do not include any change to the procedures finalized in the Revised CSAPR Update for calculating the amounts of the initial allocations to Indiana EGUs as existing units, but other changes in this action cause changes in the data used in the calculations, thereby changing the amounts of the initial allocations for 2024 calculated using the previously finalized procedures. Specifically, the calculations are affected both by the shifts in individual eligible units' historical shares of total ozone season heat input for the state that occur when the set of eligible units is expanded to include Schahfer units 17-18 and Merom units 1SG1-

²⁵ For each eligible unit, EPA averaged the three highest non-zero total ozone season heat input amounts reported for the unit over a historical lookback period. Each unit's historical share of total ozone season heat input for the state was computed as the average for that unit divided by the sum of the averages for all of the state's eligible units. In performing this calculation for most Revised CSAPR Update states, EPA used a 5-year lookback period (2015-2019), but for Indiana, EPA used an 8-year lookback period (2012-2019) to more closely replicate the allocation methodology that Indiana had adopted in a SIP revision to replace EPA's default unit-level allocation methodology under an earlier interstate pollution transport rule.

²⁶ EPA identified each eligible unit's historical maximum ozone season NO_x emissions as the maximum total NO_x emissions reported for the unit in any ozone season from 2012 through 2019.

²⁷ The allocation procedure can involve multiple rounds of calculations in which allowances that otherwise would have been allocated to eligible units that have reached their caps are reallocated among the remaining eligible units that have not yet reached their caps. For a more detailed description of this procedure, see the Revised CSAPR Update final rule Allowance Allocation technical support document at 8-10.

2SG1 and also by the increase in the unreserved portion of Indiana's 2024 state emissions budget. The combined changes not only cause initial allocations to be provided to the four previously ineligible units but also cause increases of about 3 percent in the initial allocations to other units in the state whose initial allocations were not already capped by their historical maximum ozone season NO_x emissions. The adjusted and original initial allocations to Indiana EGUs for 2024 are summarized at the plant level in columns A and B of Table IV.A-1. Each unit receiving an adjusted initial allocation as an existing unit for 2024 will receive the same adjusted initial allocation for 2025. Starting in 2026, each such unit will continue to receive the same adjusted initial allocations for successive years as long as the unit retains its eligibility to receive initial allocations as an existing unit.

In the final step of the allowance allocation process, EPA calculates how the allowances in the new unit set-aside will be allocated for the relevant ozone season. EPA carries out this step on a rolling basis for each successive ozone season during the interval between the end of the ozone season and the later compliance deadline when EGUs must hold allowances to cover their emissions for the ozone season. The allowances in each new unit set-aside are allocated through a two-round procedure. In the first round, EPA calculates allowance allocations to the state's units that operated but were not eligible to receive initial allocations as existing units for that ozone season. Each such unit receives an allocation equal to the amount of its reported emissions during that ozone season unless the sum of all such units' reported emissions exceeds the total amount of allowances in the new unit set-aside, in which case the units' allocations are reduced on a pro-rata basis. If any allowances are not allocated in the first round, EPA carries out a second round in which the remaining allowances are allocated among the state's units that were eligible to receive initial allocations for that ozone season in proportion to those units' respective initial allocations.

When the allocations of allowances in the 2024 new unit set-aside for Indiana under the Revised CSAPR Update were calculated before this action, Schahfer units 17-18 and Merom units 1SG1-2SG1 were not considered eligible to receive initial allocations as existing units for the 2024 ozone season, but the units operated during the ozone season, so they were entitled to receive first-round allocations from the new unit set-aside. All the allowances in the new unit set-aside were allocated to the four units in

the first round, because the sum of the four units' reported emissions for the 2024 ozone season exceeded the total amount of allowances in the new unit set-aside and no other Indiana units were entitled to receive first-round allocations.

Because in this action EPA is making Schahfer units 17-18 and Merom units 1SG1-2SG1 eligible to receive initial allocations as existing units for 2024, the units are no longer entitled to receive first-round allocations from the 2024 new unit set-aside. Consequently, there are no longer any Indiana units entitled to allocations from 2024 new unit set-aside in the first round, and pursuant to the second-round procedures, the entire amount of the 2024 new unit set-aside is being reallocated among all the state's units that were eligible to receive initial allocations. This action's adjustments also increase the total amount of allowances in the new unit set-aside, as discussed earlier in this section IV.A. The combined changes reduce the allocations from the 2024 new unit set-aside to Schahfer units 17-18 and Merom units 1SG1-2SG1 but also produce 2024 new unit set-aside allocations to other units in the state equal to about 2 percent of the amounts of their initial allocations as existing units. The adjusted and original allocations from the Indiana new unit set-aside for the 2024 ozone season are summarized at the plant level in columns D and E of Table IV.A-1. Allocations from the Indiana new unit set-asides for the ozone seasons in 2025 and subsequent years will be calculated in the future, after the end of each successive ozone season.

Taking all steps of the allowance allocation process together, for the 2024 ozone season this action's adjustments to unit-level allowance allocations represent large net increases in the amounts allocated to Schahfer units 17-18 and Merom units 1SG1-2SG1 and average increases of about 5 percent to the state's other units relative to the previously calculated allocations. The total changes in unit-level allocations for 2024, which include both the changes in the initial allocations to existing units and the changes in the allocations from the 2024 new unit set-aside, are summarized at the plant level in column F of Table IV.A-1. For 2025, the total changes in allocations include only the changes in initial allocations to existing units shown in column C of Table IV.A-1, because the allowances in the 2025 new unit set-aside have not yet been allocated among the state's units.

B. Notice of Availability of Data on Adjusted Allowance Allocations

Although the default unit-level allocations under each of EPA's trading programs addressing interstate transport are calculated entirely using procedures finalized as part of the relevant rulemakings, the actual amounts of the unit-level allocations are not set forth in the trading program regulations.²⁸ Rather, the regulations provide that, in instances where EPA is responsible for determining unit-level allocations of emission allowances,²⁹ the allowances from each state emissions budget are allocated among the state's EGUs as provided in notices of data availability issued by the EPA Administrator.³⁰ Allocations from different portions of a given state emissions budget may be addressed in different notices.

In 2021, EPA published a notice concerning the availability of data on the default initial allocations of allowances to existing units in all states under the Revised CSAPR Update for the ozone seasons in 2021 and subsequent years.³¹ The 2021 notice remains the applicable notice for purposes of (1) the default initial allocations to existing units in states other than Indiana under the Revised CSAPR Update for all years and (2) the default initial allocations to existing units in Indiana under the Revised CSAPR Update for the years 2021, 2022, and 2023.³² This document serves as the notice of the availability of data on the adjusted default initial allocations of allowances to existing units in Indiana under the Revised CSAPR Update for the ozone seasons in 2024 and subsequent years that EPA is establishing in this action. The adjusted initial allocations are shown in an Excel spreadsheet entitled

²⁸ The regulations for the trading program used under the Revised CSAPR Update do include the amounts of the state emissions budgets for each year and the initial portions of each budget reserved in a new unit set-aside (before any incremental amounts added to the new unit set-aside when units in the state lose their eligibility to receive allocations as existing units). *See* 40 CFR 97.810(a).

²⁹ EPA's regulations provide for streamlined approval of multiple types of model SIP revisions through which states may choose to replace EPA's default unit-level allocations with state-determined unit-level allocations. *See, e.g.*, 40 CFR 52.38(b)(8)-(9). At present, no state has an approved SIP revision establishing state-determined unit-level allowance allocations under the Revised CSAPR Update.

³⁰ *See, e.g.*, 40 CFR 97.811(a)(1) and 97.811(b)(1)(ii)(B).

³¹ 86 FR 26719 (May 17, 2021); *see also* 89 FR 87963, n.20 (providing that the 2021 notice would continue to address the amounts of default unit-level allowance allocations to Indiana EGUs under the third interim final rule).

³² For the 2023 ozone season, EGUs in some of the states covered by 2021 notice, including Indiana, were not subject to the trading program requirements established under the Revised CSAPR Update but instead were subject to trading program requirements established under the Good Neighbor Plan before implementation of that rule was stayed. The default unit-level allowance allocations for 2023 under the Good Neighbor Plan were addressed in a different notice of data availability. *See* 88 FR 57952 (August 23, 2023).

“Adjusted Initial Allocations of Allowances to Indiana EGUs under the Revised CSAPR Update for 2024 and Beyond,” which is available in the docket for this action. EPA also plans to post the spreadsheet on the Agency’s website at www.epa.gov/Cross-State-Air-Pollution/csapr-allowance-allocations.

On April 22, 2025, EPA published a notice concerning the availability of data on the allocations of allowances to new and existing units in all states from the 2024 new unit set-asides under the Revised CSAPR Update and other interstate pollution transport rules.³³ The April 22, 2025, notice remains the applicable notice for purposes of (1) the 2024 new unit set-aside allocations to units under rules other than the Revised CSAPR Update in all states and (2) the 2024 new unit set-aside allocations under the Revised CSAPR Update to units in states other than Indiana. This document serves as the notice of the availability of data on the adjusted allocations from the 2024 new unit set-aside under the Revised CSAPR Update to units in Indiana that EPA is establishing in this action. The adjusted allocations are shown in an Excel spreadsheet entitled “Adjusted Allocations of Allowances to Indiana EGUs from the Revised CSAPR Update NUSA for 2024,” which is available in the docket for this action. EPA also plans to post the spreadsheet on the Agency’s website at www.epa.gov/Cross-State-Air-Pollution/csapr-compliance-year-2024-nusa-nodas.

As discussed in Section IV.A. of this document, the adjustments determined in this action affect the unit-level allocations of allowances under the Revised CSAPR Update to not only Schahfer units 17-18 and Merom units 1SG1-2SG1 but also other Indiana EGUs. The initial allocations to existing units for both 2024 and 2025 and the allocations from the 2024 new unit set-aside as calculated before this action have already been recorded in Indiana power plants’ facility accounts. In the case of every unit for which this action causes a change in the total allocations for 2024 (i.e., the sum of the initial allocations to existing units for 2024 and the allocations from the 2024 new unit set-aside) the change is an increase, as suggested by the plant-level totals for 2024 shown in column F of Table IV.A-1. The same is true for the changes in the initial allocations to existing units for 2025, as suggested by the plant-level totals of such allocations shown in column C of Table IV.A-1. EPA plans to record the incremental

³³ 90 FR 16874 (April 22, 2025).

allocations of 2024 and 2025 allowances in the appropriate facility accounts as soon as practicable on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

V. Rulemaking Procedures and Findings of Good Cause

EPA's authority for the rulemaking procedures followed in this action is provided by APA section 553.³⁴ In general, an agency issuing a rule under the procedures in APA section 553 must provide prior notice and an opportunity for public comment, but APA section 553(b)(B) includes an exemption from notice-and-comment requirements "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." This action is being issued as a final rule without prior notice or opportunity for public comment because EPA finds that the APA "good cause" exemption from notice-and-comment requirements applies here. The basis for the finding of good cause is that following notice-and-comment procedures is both unnecessary and impracticable for this action. First, the procedures are unnecessary because this action merely makes mechanical adjustments to certain calculations to end the Revised CSAPR Update's previous reliance on certain information that was later superseded: specifically, the announcements by the owners of four Indiana EGUs that the units would be retired before 2024. The four units' owners subsequently changed the previously announced plans, and the units actually operated in the 2024 ozone season. Second, the procedures are impracticable because under the trading program regulations, the deadline by which Indiana EGUs must hold allowances to cover their emissions for the 2024 ozone season is June 2, 2025. It was not until after EPA published an interim final rule in November 2024 staying Good Neighbor Plan implementation for Indiana sources and restoring the Revised CSAPR Update state emissions budget and unit-level allowance allocations that the sources had certainty they were no longer considered existing units and approached EPA about the lack of allocations. EPA moved expeditiously to review these concerns and quickly determined to address them through this action. If this action was issued in the

³⁴ Under CAA section 307(d)(1)(B), EPA's revision of a FIP under CAA section 110(c) would normally be subject to the rulemaking procedural requirements of CAA section 307(d), including notice-and-comment procedures, but CAA section 307(d) does not apply "in the case of any rule or circumstance referred to in subparagraphs (A) or (B) of [APA section 553(b)]." CAA section 307(d)(1).

form of a proposal subject to notice-and-comment procedures, the comment period and the time needed after the close of the comment period to review any comments, prepare responses, and draft and review a final rule would likely require at least 90 additional days, extending the period before Indiana EGUs would be able to apply the additional allowances provided under this action toward their compliance obligations until after the compliance deadline for the 2024 ozone season.

The regulatory revisions made in this action will take effect immediately upon publication of the action in the **Federal Register**. In general, an agency issuing a rule under APA section 553 must provide for a period of at least 30 days between the rule's dates of publication and effectiveness, but under APA section 553(d)(3), the normal 30-day minimum period between a rule's dates of publication and effectiveness does not apply "as otherwise provided by the agency for good cause found and published with the rule." EPA finds good cause to make the regulatory revisions effective as of the action's publication date for two reasons. First, these regulatory revisions benefit the regulated community by clarifying the amounts of allowances that certain Indiana EGUs will have available to meet their compliance requirements for the 2024 ozone season. Second, making these regulatory revisions effective less than 30 days after this action's publication date does not conflict with the purpose of the normal requirement for a 30-day minimum period, which is "to give affected parties a reasonable time to adjust their behavior before the final rule takes effect."³⁵ The regulatory revisions in this action providing additional allowances to certain Indiana EGUs do not impose more stringent compliance requirements on any entity or require any entity to engage in further activities to achieve compliance beyond the activities that would have been necessary in the absence of this action. Thus, no affected party needs time to adjust its behavior in preparation for these regulatory revisions.

VI. Request for Comment

As explained in section V. of this document, EPA finds good cause to take this interim final action without prior notice or opportunity for public comment. However, EPA is providing an opportunity for comment on the substance of the action and, thus, requests comment on the amendments to the

³⁵ *Omnipoint Corporation v. FCC*, 78 F.3d 620, 630 (D.C. Cir. 1996).

Revised CSAPR Update described in this document. EPA is not reopening for comment any provisions of the Revised CSAPR Update or 40 CFR part 97 other than the specific provisions that are expressly amended in this interim final rule.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at www.epa.gov/laws-regulations/laws-and-executive-orders.

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

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

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is considered an Executive Order 14192 deregulatory action. This final rule provides burden reduction by increasing the amounts of the emissions budget and allowance allocations that apply for one state under the regulations for an existing trading program to reflect decisions by the owners of certain units in the state to defer or cancel previous plans to retire the units.

C. Paperwork Reduction Act

This action does not impose any new information collection burden under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* OMB has previously approved the information collection activities that will apply to the entities affected by this action and has assigned OMB control numbers 2060-0258 and 2060-0667. This action makes no changes to the information collection activities under the previously approved information collection requests.

D. Regulatory Flexibility Act

This action is not subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under APA section 553, 5 U.S.C. 553, or any other statute. This rule is not subject to notice-and-comment requirements because the Agency has invoked the APA “good cause” exemption under 5 U.S.C. 553(b)(B).

E. Unfunded Mandates Reform Act

This action does not contain an unfunded mandate as described in the Unfunded Mandates Reform Act, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local, or tribal governments or the private sector. This action simply increases the amounts of the emissions budget and allowance allocations that apply for one state under the regulations for an existing trading program to reflect decisions by the owners of certain units in the state to defer or cancel previous plans to retire the units.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This action simply increases the amounts of the emissions budget and allowance allocations that apply for one state under the regulations for an existing trading program to reflect decisions by the owners of certain units in the state to defer or cancel previous plans to retire the units.

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

This action does not have tribal implications as specified in Executive Order 13175. This action simply increases the amounts of the emissions budget and allowance allocations that apply for one state under the regulations for an existing trading program to reflect decisions by the owners of certain units in the state to defer or cancel previous plans to retire the units. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it implements a previously promulgated health or safety-based federal standard. For the same reason, EPA’s Policy on Children’s Health does not apply to this action.

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

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

J. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

K. Congressional Review Act

This action is subject to the Congressional Review Act (CRA), 5 U.S.C. 801-808, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

L. Judicial Review

Under CAA section 307(b)(1), petitions for judicial review of this final action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date the action is published in the **Federal Register**. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of the action for the purposes of judicial review or extend the time within which a petition for judicial review must be filed and shall not postpone the effectiveness of the action.

List of Subjects

40 CFR Part 97

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

Lee Zeldin,
Administrator.

For the reasons stated in the preamble, the EPA amends part 97 of title 40 of the Code of Federal Regulations as follows:

PART 97—FEDERAL NO_x BUDGET TRADING PROGRAM, CAIR NO_x AND SO₂ TRADING PROGRAMS, CSAPR NO_x AND SO₂ TRADING PROGRAMS, AND TEXAS SO₂ TRADING PROGRAM

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

Authority: 42 U.S.C. 7401, 7403, 7410, 7426, 7491, 7601, and 7651, *et seq.*

Subpart EEEEE—CSAPR NO_x Ozone Season Group 2 Trading Program

2. Amend § 97.810 by revising paragraphs (a)(5)(iv) and (v) and (b)(5)(ii) to read as follows:

§ 97.810 State NO_x Ozone Season Group 2 trading budgets, new unit set-asides, Indian country new unit set-asides, and variability limits.

(a) * * *

(5) * * *

(iv) The NO_x Ozone Season Group 2 trading budget for 2024 and thereafter is 11,245 tons.

(v) The new unit set-aside for 2024 and thereafter is 227 tons.

* * * * *

(b) * * *

(5) * * *

(ii) The variability limit for Indiana for 2024 and thereafter is 2,361 tons.

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