

EPA Finalizes Revised Cross-State Air Pollution Rule Update: Emissions Reductions Required at Certain Power Plants Beginning in May

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On March 15, 2021, EPA finalized the Revised Cross-State Air Pollution Rule (“CSAPR”) Update for the 2008 ozone National Ambient Air Quality Standards (“NAAQS”). This final rule is issued pursuant to the “good neighbor provision” of the Clean Air Act and in response to the D.C. Circuit’s remand of the previous version of the CSAPR Update in *Wisconsin v. EPA* on September 13, 2019. The previous version of the CSAPR Update was issued in October 2016, and was found to be unlawful because it allowed certain states to continue their significant contributions to downwind ozone problems beyond the statutory dates by which the downwind states were required to be in compliance with the NAAQS. The Revised CSAPR Update attempts to address the deficiencies identified by the D.C. Circuit.

Beginning in the 2021 ozone season (the ozone season is May 1 through September 30), the Revised CSAPR Update will require additional emissions reductions of nitrogen oxides (“NO_x”) from power plants in 12 states: Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia. EPA determined that additional emissions reductions were necessary in these 12 states because projected 2021 ozone season NO_x emissions from these states were found to significantly contribute to downwind states’ nonattainment and/or maintenance problems for the 2008 ozone NAAQS. NO_x is an ozone precursor, which can react with other ozone precursors in the atmosphere to create ground-level ozone pollution (a/k/a smog). These pollutants can travel great distances, often crossing state lines and making it difficult for downwind states to meet or maintain the ozone NAAQS.

As part of the Revised CSAPR Update, EPA is issuing new or amended Federal Implementation Plans (“FIPs”) for these 12 states that will replace those states’ existing CSAPR emissions budgets for power plants. The revised emission budgets will take effect with the 2021 ozone season and will adjust through 2024. The 2021 emission budgets will require power plants in these states to take advantage of existing, already-installed selective catalytic reduction (“SCR”) and selective non-catalytic reduction (“SNCR”) controls. Emissions reductions in the 2022 budgets will require

installation or upgrade of state-of-the-art NO_x combustion controls at power plants. Emission budgets will continue to be adjusted, through 2024, until air quality projections demonstrate that the upwind states are no longer significantly contributing to downwind states' nonattainment of the 2008 ozone NAAQS.

EPA projects that the Revised CSAPR Update will provide significant public health benefits. According to EPA:

Due to this rule and other changes already underway in the power sector, ozone season NO_x emissions will be nearly 25,000 tons lower in 2021 than in 2019, a reduction of 19 percent. The reduction in emissions is estimated to prevent about 290,000 asthma events, 560 hospital and emergency room visits, 110,000 days of missed work and school, and up to 230 premature deaths in 2025. The public health and climate benefits are valued, on average, at up to \$2.8 billion each year over the period 2021 to 2040.

This is compared to the annualized costs of the rule, which EPA estimates to be, on average, \$25 million each year over the same period from 2021 to 2040.

The Revised CSAPR Update will be effective 60 days after it is published in the Federal Register, which should happen in the next week or two. More information about the CSAPR Update can be found on [EPA's Website](#).

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