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# 40 C.F.R. § 97.1004

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## Applicability.

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(a) Except as provided in paragraph (b) of this section:

(1) The following units in a State (and Indian country within the borders of such State) shall be CSAPR NO<sub>x</sub> Ozone Season Group 3 units, and any source that includes one or more such units shall be a CSAPR NO<sub>x</sub> Ozone Season Group 3 source, subject to the requirements of this subpart: Any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, on or after January 1, 2005, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

(2) If a stationary boiler or stationary combustion turbine that, under paragraph (a)(1) of this section, is not a CSAPR NO<sub>x</sub> Ozone Season Group 3 unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a CSAPR NO<sub>x</sub> Ozone Season Group 3 unit as provided in paragraph (a)(1) of this section on the first date on which it both combusts fossil fuel and serves such generator.

(b) Any unit in a State (and Indian country within the borders of such State) that otherwise is a CSAPR NO<sub>x</sub> Ozone Season Group 3 unit under paragraph (a) of this section and that meets the requirements set forth in paragraph (b)(1)(i) or (b)(2)(i) of this section shall not be a CSAPR NO<sub>x</sub> Ozone Season Group 3 unit:

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