

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 97

[FRL-9952-26-OAR]

**Allocations of Cross-State Air Pollution Rule Allowances from
New Unit Set-Asides for 2016 Control Periods**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability (NODA).

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of the availability of preliminary lists of units eligible for allocations of emission allowances under the Cross-State Air Pollution Rule (CSAPR). Under the CSAPR federal implementation plans (FIPs), portions of each covered state's annual emissions budgets for each of the four CSAPR emissions trading programs are reserved for allocation to electricity generating units that commenced commercial operation on or after January 1, 2010 (new units) and certain other units not otherwise obtaining allowance allocations under the FIPs. The quantities of allowances allocated to eligible units from each new unit set-aside (NUSA) under the FIPs are calculated in an annual one- or two-round allocation process. EPA previously

completed the first round of NUSA allowance allocations for the 2016 control periods for all four CSAPR trading programs and is now making available preliminary lists of units eligible for allocations in the second round of the NUSA allocation process for the CSAPR NO_x Ozone Season Trading Program. EPA has posted a spreadsheet containing the preliminary lists on EPA's website. EPA will consider timely objections to the lists of eligible units contained in the spreadsheet and will promulgate a notice responding to any such objections no later than November 15, 2016, the deadline for recording the second-round allocations of CSAPR NO_x Ozone Season allowances in sources' Allowance Management System accounts. This notice may concern CSAPR-affected units in the following states: Alabama, Arkansas, Florida, Georgia, 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.

DATES: Objections to the information referenced in this notice must be received on or before [insert date 30 days after the publication date of this notice in the Federal Register].

ADDRESSES: Submit your objections via email to CSAPR_NUSA@epa.gov. Include "2016 NUSA allocations" in the email

subject line and include your name, title, affiliation, address, phone number, and email address in the body of the email.

FOR FURTHER INFORMATION CONTACT: Questions concerning this action should be addressed to Robert Miller at (202) 343-9077 or miller.robert1@epa.gov or Kenon Smith at (202) 343-9164 or smith.kenon@epa.gov.

SUPPLEMENTARY INFORMATION: Under the CSAPR FIPs, the mechanisms by which initial allocations of emission allowances are determined differ for "existing" and "new" units. For "existing" units - that is, units commencing commercial operation before January 1, 2010 - the specific amounts of CSAPR FIP allowance allocations for all control periods have been established through rulemaking. EPA has announced the availability of spreadsheets showing the CSAPR FIP allowance allocations to existing units in previous notices.¹

"New" units - that is, units commencing commercial operation on or after January 1, 2010 - as well as certain older units that would not otherwise obtain FIP allowance allocations

¹ The latest spreadsheet of CSAPR FIP allowance allocations to existing units, updated in 2014 to reflect changes to CSAPR's implementation schedule but with allocation amounts unchanged since June 2012, is available at <http://www.epa.gov/crossstaterule/actions.html>. See Availability of Data on Allocations of Cross-State Air Pollution Rule Allowances to Existing Electricity Generating Units, 79 FR 71674 (December 3, 2014).

do not have pre-established allowance allocations. Instead, the CSAPR FIPs reserve a portion of each state's total annual emissions budget for each CSAPR emissions trading program as a new unit set-aside (NUSA)² and establish an annual process for allocating NUSA allowances to eligible units. States with Indian country within their borders have separate Indian country NUSAs. The annual process for allocating allowances from the NUSAs and Indian country NUSAs to eligible units is set forth in the CSAPR regulations at 40 CFR 97.411(b) and 97.412 (NO_x Annual Trading Program), 97.511(b) and 97.512 (NO_x Ozone Season Trading Program), 97.611(b) and 97.612 (SO₂ Group 1 Trading Program), and 97.711(b) and 97.712 (SO₂ Group 2 Trading Program). Each NUSA allowance allocation process involves up to two rounds of allocations to new units followed by the allocation to existing units of any allowances not allocated to new units. EPA provides public notice at certain points in the process.

EPA has already completed the first round of allocations of 2016 NUSA allowances for all four CSAPR trading programs, as announced in notices previously published in the *Federal*

² The NUSA amounts range from two percent to eight percent of the respective state budgets. The variation in percentages reflects differences among states in the quantities of emission allowances projected to be required by known new units at the time the budgets were set or amended.

Register.³ The first-round NUSA allocation process was discussed in those previous notices.

In the case of second-round allocations of NUSA allowances, the annual allocations for the CSAPR NO_x Ozone Season Trading Program occur before the annual allocations for the other three CSAPR trading programs because of differences in the emissions reporting and compliance deadlines for the various programs. This notice concerns the second round of NUSA allowance allocations for the CSAPR NO_x Ozone Season Trading Program for the 2016 control period.⁴

The units eligible to receive second-round NUSA allocations for the CSAPR NO_x Ozone Season Trading Program are defined in §§ 97.511(a)(1)(iii) and 97.512(a)(9)(i). Generally, eligible units include any CSAPR-affected unit that commenced commercial operation between May 1 of the year before the control period in question and August 31 of the year of the control period in question. In the case of the 2016 control period, an eligible unit therefore must have commenced commercial operation between May 1, 2015 and August 31, 2016 (inclusive).

³ 81 FR 33636 (May 27, 2016); 81 FR 50630 (August 2, 2016).

⁴ At this time, EPA is not aware of any unit eligible for a second-round allocation from any Indian country NUSA.

The total quantity of allowances to be allocated through the 2016 NUSA allowance allocation process for each state and emissions trading program - in the two rounds of the allocation process combined - is generally the state's 2016 emissions budget less the sum of (1) the total of the 2016 CSAPR FIP allowance allocations to existing units and (2) the amount of the 2016 Indian country NUSA, if any.⁵ The amounts of CSAPR NO_x Ozone Season NUSA allowances may be increased in certain circumstances as set forth in § 97.512(a)(2).

Second-round NUSA allocations for a given state, trading program, and control period are made only if the NUSA contains allowances after completion of the first-round allocations.

The amounts of second-round CSAPR NO_x Ozone Season allowance allocations to eligible new units from each NUSA are calculated according to the procedures set forth in § 97.512(a)(9), (10) and (12). Generally, the procedures call for each eligible unit to receive a second-round 2016 NUSA allocation equal to the positive difference, if any, between its emissions during the 2016 NO_x ozone season (i.e., May 1, 2016 through September 30, 2016) as reported under 40 CFR part 75 and any first-round

⁵ The quantities of allowances to be allocated through the NUSA allowance allocation process may differ slightly from the NUSA amounts set forth in §§ 97.410(a), 97.510(a), 97.610(a), and 97.710(a) because of rounding in the spreadsheet of CSAPR FIP allowance allocations to existing units.

allocation the unit received, unless the total of such allocations to all eligible units would exceed the amount of allowances in the NUSA, in which case the allocations are reduced on a pro-rata basis.

Any allowances remaining in the CSAPR NO_x Ozone Season NUSA for a given state and control period after the second round of NUSA allocations to new units will be allocated to the existing units in the state according to the procedures set forth in § 97.512(a)(10) and (12).

EPA notes that an allocation or lack of allocation of allowances to a given EGU does not constitute a determination that CSAPR does or does not apply to the EGU. EPA also notes that allocations are subject to potential correction if a unit to which NUSA allowances have been allocated for a given control period is not actually an affected unit as of the start of that control period.⁶

The preliminary lists of units eligible for second-round 2016 NUSA allocations of CSAPR NO_x Ozone Season allowances are set forth in an Excel spreadsheet titled "CSAPR_NUSA_2016_NO_x_OS_2nd_Round_Prelim_Data" available on EPA's website at <http://www.epa.gov/crossstaterule/actions.html>. The spreadsheet contains a separate worksheet for each state

⁶ See 40 CFR 97.511(c).

covered by that program showing each unit preliminarily identified as eligible for a second-round NUSA allocation.

Each state worksheet also contains a summary showing (1) the quantity of allowances initially available in that state's 2016 NUSA, (2) the sum of the 2016 NUSA allowance allocations that were made in the first-round to new units in that state (if any), and (3) the quantity of allowances in the 2016 NUSA available for distribution in second-round allocations to new units (or ultimately for allocation to existing units).

Objections should be strictly limited to whether EPA has correctly identified the new units eligible for second-round 2016 NUSA allocations of CSAPR NO_x Ozone Season allowances according to the criteria described above and should be emailed to the address identified in **ADDRESSES**. Objections must include: (1) precise identification of the specific data the commenter believes are inaccurate, (2) new proposed data upon which the commenter believes EPA should rely instead, and (3) the reasons why EPA should rely on the commenter's proposed data and not the data referenced in this notice.

(Authority: 40 CFR 97.511(b).)

Date: September 7, 2016.

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Director, Clean Air Markets Division

Office of Atmospheric Programs

Office of Air and Radiation

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