



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL- 9981-31-OAR]

### **Allocations of Cross-State Air Pollution Rule Allowances from New Unit Set-Asides for 2018 Control Periods**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of data availability.

**SUMMARY:** The Environmental Protection Agency (EPA) is providing notice of the availability of data on emission allowance allocations to certain units under the Cross-State Air Pollution Rule (CSAPR) trading programs. EPA has completed final calculations for the first round of allocations of allowances from the CSAPR new unit set-asides (NUSAs) for the 2018 control periods and has posted spreadsheets containing the calculations on EPA's website. Several changes were made to the preliminary allocation spreadsheets to eliminate allocations to existing units that had been incorrectly identified as new units eligible to receive NUSA allocations. No changes were made to the calculations of the amounts of allocations to any units correctly identified as new units, and no additional units were identified as new units.

**DATES:** [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Questions concerning this action should be addressed to Kenon Smith at (202) 343-9164 or [smith.kenon@epa.gov](mailto:smith.kenon@epa.gov) or Jason Kuhns at (202) 564-3236 or [kuhns.jason@epa.gov](mailto:kuhns.jason@epa.gov).

**SUPPLEMENTARY INFORMATION:** Under each CSAPR trading program where EPA is responsible for determining emission allowance allocations, a portion of each state's emissions budget for the program for each control period is reserved in a NUSA (and in an additional Indian country NUSA in the case of states with Indian country within their borders) for allocation to certain units that would not otherwise receive allowance allocations. The procedures for identifying the eligible units for each control period and for allocating allowances from the NUSAs and Indian country NUSAs to these units are set forth in the CSAPR trading program regulations at 40 CFR 97.411(b) and 97.412 (NO<sub>x</sub> Annual), 97.511(b) and 97.512 (NO<sub>x</sub> Ozone Season Group 1), 97.611(b) and 97.612 (SO<sub>2</sub> Group 1), 97.711(b) and 97.712 (SO<sub>2</sub> Group 2), and 97.811(b) and 97.812 (NO<sub>x</sub> Ozone Season Group 2). Each NUSA allowance allocation process involves up to two rounds of allocations to eligible units, termed "new" units, followed by the allocation to "existing" units of any allowances not allocated to new units. In a NODA published in the **Federal Register** on May 10, 2018 (83 FR 21772), we provided notice of preliminary calculations for the first-round 2018 NUSA allowance allocations. We also described the process for submitting any objections to the preliminary calculations. This NODA concerns the final calculations for the first round of 2018 NUSA allocations.

EPA received three sets of written objections in response to the May 10, 2018 NODA. For the reasons discussed below, we have concluded that none of the written objections provides a valid basis for altering the preliminary calculations of NUSA allowance allocations.

The first two sets of objections, from Madison Gas & Electric Company (MG&E) and the Wisconsin Department of Natural Resources, are substantively identical and raise two issues concerning units U1 and U2 at the West Campus Cogeneration Facility (WCCF) in Madison, Wisconsin. The first objection asserts that January 1, 2017 is the date as of which units U1 and

U2 “commenced commercial operation” for CSAPR purposes. EPA has already addressed this specific issue with respect to the WCCF units in response to an objection submitted regarding the 2017 NUSA allocations. Our earlier response, which we are not revising, was published in the **Federal Register** on February 16, 2018 (83 FR 7034). Briefly, we agree that, according to the information provided by MG&E, January 1, 2017 is the date as of which units U1 and U2 should be considered to have “commenced commercial operation” for CSAPR purposes. Further, we have in fact been using this date for purposes of determining the units’ eligibility to receive 2018 NUSA allocations, and that is why units U1 and U2 appear in the preliminary first-round 2018 NUSA allocation spreadsheets. However, we acknowledge that our use of the January 1, 2017 date for this purpose is not clear from the preliminary NUSA allocation spreadsheets which, instead of displaying the January 1, 2017 date, display the 2005 date on which the units commenced commercial operation for other purposes before becoming subject to CSAPR. The final first-round 2018 NUSA allocation spreadsheets display the January 1, 2017 date.

The second objection raised with respect to WCCF units U1 and U2 asserts that EPA’s exclusion of reported emissions occurring before July 2017 in calculating the units’ NUSA allocations is incorrect. We disagree. For purposes of the NUSA allocation calculations, we have properly used the units’ reported emissions occurring on and after their monitor certification deadline of June 30, 2017. We explained the regulatory basis for this approach in a NODA published on July 28, 2015 (80 FR 44882) regarding 2015 NUSA allocations. Briefly, under the CSAPR regulations, only emissions that occur during a “control period” for a unit are used in calculating the amounts of any NUSA allocations to that unit. Because a unit’s first control period excludes any period before the unit’s monitor certification deadline, any reported emissions occurring before the monitor certification deadline are excluded from the NUSA

allocation calculations. A unit's monitor certification deadline is generally 180 days after the date on which the unit commences commercial operation for CSAPR purposes,<sup>1</sup> making the monitor certification deadline for WCCF units U1 and U2 June 30, 2017. For further explanation, see the July 28, 2015 **Federal Register** notice referenced above.

The remaining set of written objections, from Grand River Dam Authority (GRDA), also raises two issues. GRDA's first objection concerns the amount of reported 2017 ozone season NO<sub>x</sub> emissions used to calculate the amount of the first-round 2018 NUSA allocation to unit 3 at Grand River Energy Center (GREC) in Chouteau, Oklahoma. Specifically, GRDA asserts that EPA should not have used 0 tons for this purpose. We disagree. The reported date on which GREC unit 3 commenced commercial operation was March 17, 2017, making the unit's monitor certification deadline September 13, 2017. As discussed above with respect to the WCCF facility, only reported emissions occurring after a unit's monitor certification deadline are used in computing NUSA allocations because any earlier emissions did not occur during a control period for the unit. Although GREC unit 3 reported 66 tons of emissions during the entire 2017 ozone season, the unit reported 0 tons during the portion of the 2017 ozone season on and after September 13, so our use of 0 tons for purposes of calculating unit 3's first-round 2018 NUSA allocation is consistent with the regulations. For further explanation, see the July 28, 2015 **Federal Register** notice reference above.

GRDA's second objection consists of a request to revise the total amount of the NUSA for Oklahoma under the CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program. This objection is

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<sup>1</sup> Under the CSAPR programs for ozone season NO<sub>x</sub>, if emissions data for a unit are reported only for the May-September ozone season rather than for the entire year, and if the 180th day after the date on which a unit commences commercial operation for CSAPR purposes falls outside the ozone season, then the unit's monitor certification deadline is the following May 1. *See, e.g.*, 40 CFR 97.830(b)(3).

outside the scope of the May 10, 2018 NODA. EPA's determination regarding the NUSA total amount was made in the CSAPR Update rulemaking, and the NUSA amount is codified in the CSAPR regulations at 40 CFR 97.810(a)(17)(ii). The process of allocating NUSA allowances is strictly an administrative process that implements regulations already in effect. The total amount of the NUSA for Oklahoma can be revised only through another rulemaking, not through this administrative process.

Although no changes were made to the preliminary first-round 2018 NUSA allocations in response to the objections received, based on internal data reviews EPA has determined that several units listed in the preliminary allocation spreadsheets in fact are existing units not eligible to receive 2018 NUSA allocations. Specifically, 14 units in Illinois, Kansas, and Nebraska were incorrectly included in the preliminary first-round NUSA allocation spreadsheet for the SO<sub>2</sub> programs, and the Illinois and Nebraska units were also incorrectly included in the preliminary first-round NUSA allocation spreadsheet for the annual NO<sub>x</sub> program.<sup>2</sup> Generally, these units were misidentified as eligible units because of discrepancies between the identification numbers used for the units in different data sets. In addition, 21 units in Arkansas, Louisiana, Oklahoma, and Texas were incorrectly included in the preliminary first-round NUSA allocation spreadsheet for the ozone season NO<sub>x</sub> programs. Generally, these units were misidentified as eligible units because a screening procedure designed to identify units eligible for NUSA allocations due to relocation between states was executed without setting appropriate limits on the dates of relocation. We have removed all the ineligible units from the final first-round 2018 NUSA allocation spreadsheets.

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<sup>2</sup> Kansas, not EPA, is responsible for determining all 2018 allowance allocations to Kansas units under the annual NO<sub>x</sub> program.

The detailed unit-by-unit data and final allowance allocation calculations are set forth in Excel spreadsheets titled "CSAPR\_NUSA\_2018\_NOx\_Annual\_1st\_Round\_Final\_Data", "CSAPR\_NUSA\_2018\_NOx\_OS\_1st\_Round\_Final\_Data", and "CSAPR\_NUSA\_2018\_SO2\_1st\_Round\_Final\_Data," available on EPA's website at <https://www.epa.gov/csapr/csapr-compliance-year-2018-nusa-nodas>.

EPA notes that an allocation or lack of allocation of allowances to a given unit does not constitute a determination that CSAPR does or does not apply to the unit. EPA also notes that under 40 CFR 97.411(c), 97.511(c), 97.611(c), 97.711(c), and 97.811(c), allocations are subject to potential correction if a unit to which allowances have been allocated for a given control period is not actually an affected unit as of the start of that control period.

(Authority: 40 CFR 97.411(b), 97.511(b), 97.611(b), 97.711(b), and 97.811(b).)

Dated: June 28, 2018.

Reid P. Harvey,  
Director, Clean Air Markets Division,  
Office of Atmospheric Programs,  
Office of Air and Radiation.

[FR Doc. 2018-16000 Filed: 7/25/2018 8:45 am; Publication Date: 7/26/2018]