



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9542-05-OAR]

Information Regarding Allowances Used in Cross-State Air Pollution Rule (CSAPR)

Trading Programs

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 preliminary calculations for the allocations of allowances from the new unit set-asides (NUSAs) for the 2023 control periods and has posted spreadsheets containing the calculations on EPA's website. EPA will consider timely objections to the preliminary calculations (including objections concerning the identification of units eligible for allocations) before determining the final amounts of the allocations.

Additionally, EPA is making available an estimate of the data and calculations to be used in the allowance bank recalibration process for the 2024 control period under the CSAPR NO_x Ozone Season Group 3 Trading Program.

DATES: Objections to the information referenced in this notice concerning NUSA allocations must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Submit your objections via email to CSAPR@epa.gov. Include "2023 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 Garrett Powers at (202) 564-2300 or powers.jamesg@epa.gov or Morgan Riedel at (202) 564-1144 or riedel.morgan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Allocations from New Unit Set-Asides

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, under most of the trading programs, 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_x Annual), 97.511(b) and 97.512 (NO_x Ozone Season Group 1), 97.611(b) and 97.612 (SO₂ Group 1), 97.711(b) and 97.712 (SO₂ Group 2), 97.811(b) and 97.812 (NO_x Ozone Season Group 2), and 97.1012 (NO_x Ozone Season Group 3). Each NUSA allowance allocation process involves allocations to eligible units, termed "new" units, followed by the allocation to "existing" units of any allowances not allocated to new units.¹

This notice concerns preliminary calculations for the NUSA allowance allocations for the 2023 control periods. Generally, the allocation procedures call for each eligible "new" unit to receive a 2023 NUSA allocation equal to its 2023 control period emissions as reported under 40

¹ The CSAPR NO_x Ozone Season Group 3 Trading Program serves as the compliance mechanism for electricity generating units under the Good Neighbor Plan (88 FR 36654, June 5, 2023). As of the date of signature of this notice, applications for a stay of the Good Neighbor Plan are pending before the Supreme Court of the United States. If a stay order is issued and depending on its nature, it could affect EPA's ability to implement the regulatory provisions of the CSAPR NO_x Ozone Season Group 3 Trading Program that are described in this notice.

CFR part 75 unless the total of such allocations to all such eligible units would exceed the amount of allowances in the NUSA, in which case the allocations are reduced on a pro-rata basis. (EPA notes that, under 40 CFR 97.406(c)(3), 97.506(c)(3), 97.606(c)(3), 97.706(c)(3), 97.806(c)(3), and 97.1006(c)(3), a unit's emissions occurring before its monitor certification deadline are not considered to have occurred during a control period and consequently are not included in the emission amounts used to determine NUSA allocations.) Any allowances not allocated to eligible "new" units are allocated to the state's "existing" units in proportion to such existing units' previous allocations from the portion of the respective state's emissions budget for the control period that was not reserved in a NUSA (or Indian country NUSA).

The detailed unit-by-unit data and preliminary allowance allocation calculations for "new" units are set forth in Excel spreadsheets titled "CSAPR_NUSA_2023_NOx_Annual_Prelim_Data_New_Units", "CSAPR_NUSA_2023_NOx_OS_Prelim_Data_New_Units", and "CSAPR_NUSA_2023_SO2_Prelim_Data_New_Units", available on EPA's website at www.epa.gov/csapr/csapr-allowance-allocations#nusa. Each of the spreadsheets contains a separate worksheet for each state covered by that program showing, for each unit identified as eligible for a NUSA allocation, (1) the unit's emissions in the 2023 control period (annual or ozone season as applicable), (2) the maximum 2023 NUSA allowance allocation for which the unit is eligible (typically the unit's emissions in the 2023 control period), (3) various adjustments to the unit's maximum allocation if the NUSA pool is oversubscribed, and (4) the preliminary calculation of the unit's 2023 NUSA allowance allocation.

Each state worksheet for "new" units also contains a summary showing (1) the quantity of allowances initially available in that state's 2023 NUSA, (2) the sum of the 2023 NUSA allowance allocations that will be made to new units in that state, assuming there are no corrections to the data, and (3) the quantity of allowances that would remain in the 2023 NUSA for allocation to existing units, again assuming there are no corrections to the data.

The preliminary calculations of allocations of the remaining unallocated allowances to “existing” units are set forth in Excel spreadsheets titled “CSAPR_NUSA_2023_NOx_Annual_Prelim_Data_Existing_Units”, “CSAPR_NUSA_2023_NOx_OS_Prelim_Data_Existing_Units”, and “CSAPR_NUSA_2023_SO2_Prelim_Data_Existing_Units”, available at the same location.

Objections should be strictly limited to the data and calculations upon which the NUSA allowance allocations are based and should be emailed to the address identified in **ADDRESSES**. Objections must include: (1) precise identification of the specific data and/or calculations the commenter believes are inaccurate, (2) new proposed data and/or calculations upon which the commenter believes EPA should rely instead to determine allowance allocations, and (3) the reasons why EPA should rely on the commenter’s proposed data and/or calculations and not the data referenced in this notice.

EPA notes that an allocation or lack of allocation of allowances to a given unit under a given CSAPR trading program does not constitute a determination that the trading program 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), 97.811(c), 97.1011(c), and 97.1012(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.

II. Information for the Allowance Bank Recalibration Procedures

The CSAPR NO_x Ozone Season Group 3 Trading Program includes provisions calling for EPA to annually recalibrate the bank of CSAPR NO_x Ozone Season Group 3 allowances if the total quantity of banked allowances from previous control periods held in all facility and general accounts after compliance deductions for those control periods exceeds an allowance bank ceiling target for the current control period. The allowance bank recalibration procedures are set forth in the trading program regulations at 40 CFR 97.1026(d). Generally, if recalibration

takes place for a given control period, the amount of banked CSAPR NO_x Ozone Season Group 3 allowances from previous control periods held in each facility or general account will be adjusted so that the amount of such banked allowances held in the account after recalibration will equal the amount held in the account immediately before recalibration multiplied by the allowance bank ceiling target, divided by the total amount of such banked allowances held in all facility and general accounts immediately before recalibration, and rounded up to the nearest allowance. Allowance bank recalibration for a given control period applies only to holdings of banked allowances issued for previous control periods; it does not affect any holdings of allowances issued for that control period. The regulations call for EPA to carry out the allowance bank recalibration procedures for the 2024 control period as soon as practicable on or after August 1, 2024.²

For the 2024 control period, the allowance bank ceiling target is expected to be 12,605 tons, computed as 21% the sum of the 2024 state emission budgets for the ten states currently covered by the trading program. Based on the emissions and allowance data available at campd.epa.gov as of the date of signature of this notice, EPA estimates that after allowance deductions for 2023 compliance are completed in June 2024, approximately 38,585 banked vintage 2021-2023 allowances will be held in facility or general accounts (84,378 current allowance holdings + 3,365 upcoming NUSA allocations – 49,158 reported 2023 ozone season emissions = 38,585 estimated remaining allowances). Based on these figures, EPA expects that allowance bank recalibration will take place for the 2024 control period and estimates that the amount of banked vintage 2021-2023 allowances that will be held in each facility or general account after recalibration will be the amount of such banked allowances held in the account immediately before recalibration multiplied by 12,605 and divided by 38,585 (or, equivalently, the amount of such banked allowances held in the account immediately before recalibration

² See note 1, *supra*.

multiplied by approximately 33%). In the actual allowance bank recalibration process, instead of using the estimated figures described in this notice, EPA will use the most current information available as of the recalibration date.

(Authority: 40 CFR 97.411(b), 97.511(b), 97.611(b), 97.711(b), 97.811(b), and 97.1012(a).)

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[FR Doc. 2024-04291 Filed: 2/29/2024 8:45 am; Publication Date: 3/1/2024]