

received approximately 95,000 comments on the proposed rule, DEIS, and the draft Regulatory Impact Analysis.

The FEIS for the Stream Protection Rule analyzes the environmental, socioeconomic, and other effects of the preferred alternative—Alternative 8, as revised—and a reasonable range of other alternatives, including a No Action Alternative. The FEIS, including Alternative 8, has been revised, as appropriate, in response to comments and other information received on the DEIS, proposed rule, and draft Regulatory Impact Analysis. It also includes the input of cooperating agencies.

**Authority:** 40 CFR 1506.6, 40 CFR 1506.1

Dated: November 11, 2016.

**Sterling Rideout,**

*Assistant Director, Program Support.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 97**

[FRL-9955-23-OAR]

**Allocations of Cross-State Air Pollution Rule Allowances From New Unit Set-Asides for the 2016 Compliance Year**

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

**ACTION:** Final rule; notice of data availability (NODA).

**SUMMARY:** The Environmental Protection Agency (EPA) is providing notice of emission allowance allocations to certain units under the new unit set-aside (NUSA) provisions of the Cross-State Air Pollution Rule (CSAPR) federal implementation plans (FIPs). EPA has completed final calculations for the second round of NUSA allowance allocations for the 2016 compliance year of the CSAPR NO<sub>x</sub> Ozone Season Trading Program. EPA has posted spreadsheets showing the second-round 2016 NUSA allocations of CSAPR NO<sub>x</sub> Ozone Season allowances to new units as well as the allocations to existing units of the remaining CSAPR NO<sub>x</sub> Ozone Season allowances not allocated to new units in either round of the 2016 NUSA allocation process. EPA will record the allocated CSAPR NO<sub>x</sub> Ozone Season allowances in sources' Allowance Management System (AMS) accounts by November 15, 2016.

**DATES:** November 16, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Questions concerning this action should be addressed to Robert Miller at (202) 343-9077 or [miller.robertl@epa.gov](mailto:miller.robertl@epa.gov) or to Kenon Smith at (202) 343-9164 or [smith.kenon@epa.gov](mailto:smith.kenon@epa.gov).

**SUPPLEMENTARY INFORMATION:** Under the CSAPR FIPs, a portion of each state budget for each of the four CSAPR trading programs<sup>1</sup> is reserved as a NUSA from which allowances are allocated to eligible units through an annual one- or two-round process. EPA has described the CSAPR NUSA allocation process in three NODAs previously published this year in the *Federal Register* (81 FR 33636 May 27, 2016; 81 FR 50630 August 2, 2016; 81 FR 63156 September 14, 2016). In the most recent of these previous NODAs, EPA provided notice of preliminary lists of new units eligible for second-round 2016 NUSA allocations of CSAPR NO<sub>x</sub> Ozone Season allowances and provided an opportunity for the public to submit objections.

EPA received no objections to the preliminary lists of new units eligible for second-round 2016 NUSA allocations of CSAPR NO<sub>x</sub> Ozone Season allowances whose availability was announced in the September 14 NODA. EPA is therefore making second-round 2016 NUSA allocations of CSAPR NO<sub>x</sub> Ozone Season allowances to the new units identified on these lists in accordance with the procedures set forth in 40 CFR 97.512(a)(9) and (12).

As described in the September 14 NODA, any allowances remaining in the CSAPR NO<sub>x</sub> Ozone Season NUSA for a given state and control period after the second round of NUSA allocations to new units are to be allocated to the existing units in the state according to the procedures set forth in 40 CFR 97.512(a)(10) and (12). EPA has determined that CSAPR NO<sub>x</sub> Ozone Season allowances do remain in the

<sup>1</sup> In the recently finalized Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS (CSAPR Update Rule), 81 FR 74504 (October 26, 2016), EPA is establishing new or modified FIP requirements for EGUs in 22 states to address transported pollution with regard to the 2008 ozone NAAQS, including requirements to participate in a new fifth CSAPR trading program—the CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program—for emissions occurring in 2017 and later years. In the same rule, EPA is also withdrawing the FIP provisions requiring EGUs in 24 states to participate in the existing trading program addressing transported pollution with regard to the 1997 ozone NAAQS for emissions occurring after 2016. (When the CSAPR Update rule takes effect in December 2016, the existing program will be renamed the CSAPR NO<sub>x</sub> Ozone Season Group 1 Trading Program.) The 2016 allowance allocations described in this notice concern the existing program and are not affected by the CSAPR Update Rule.

NUSAs for a number of states following completion of second-round 2016 NUSA allocations; accordingly, EPA is allocating these allowances to existing units. The NUSA allowances are generally allocated to the existing units in proportion to the allocations previously made to the existing units under 40 CFR 97.511(a)(1), adjusted for rounding.

Under 40 CFR 97.512(b)(10), any allowances remaining in the CSAPR NO<sub>x</sub> Ozone Season Indian country NUSA for a given state and control period after the second round of Indian country NUSA allocations to new units are added to the NUSA for that state or are made available for allocation by the state pursuant to an approved SIP revision. No new units eligible for allocations of CSAPR NO<sub>x</sub> Ozone Season allowances from any 2016 Indian country NUSA have been identified, and no state has an approved SIP revision governing allocation of 2016 CSAPR NO<sub>x</sub> Ozone Season allowances. The Indian country NUSA allowances are therefore being added to the NUSAs for the respective states and are included in the pools of allowances that are being allocated to existing units under 40 CFR 97.512(10) and (12).

The final unit-by-unit data and allowance allocation calculations are set forth in Excel spreadsheets titled “CSAPR NUSA 2016 NO<sub>x</sub> OS 2nd Round Final Data New Units”, and “CSAPR NUSA 2016 NO<sub>x</sub> OS 2nd Round Final Data Existing Units”, available on EPA’s Web site at <https://www3.epa.gov/airtransport/CSAPR/actions.html>.

Pursuant to CSAPR’s allowance recordation timing requirements, the allocated NUSA allowances will be recorded in sources’ AMS accounts by November 15, 2016. 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 NUSA allocations of CSAPR NO<sub>x</sub> Ozone Season allowances are subject to potential correction if a unit to which NUSA allowances have been allocated for a given compliance year is not actually an affected unit as of May 1 of the compliance year.<sup>2</sup>

**Authority:** 40 CFR 97.511(b).

Dated: November 2, 2016.

**Reid P. Harvey,**

*Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.*

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<sup>2</sup> See 40 CFR 97.511(c).