

Efficiency Innovations; and two special awards categories: (1) Outstanding Individual Achievement Award. (2) Cross-Category Award. Awards are given on an annual basis and are for recognition only.

**Entry Requirements:** All applicants are asked to submit their entry on a CAEAP entry form, contained in the CAEAP Entry Package, which may be obtained from the Clean Air Act Advisory Committee (CAAAC) Web site at <http://www.epa.gov/oar/caaac> by clicking on Awards Program or by contacting Mr. Pat Childers, U.S. EPA at 202-564-1082 or 202-564-1352 (Fax), mailing address: Office of Air and Radiation (6102A), 1200 Pennsylvania Avenue, NW., Washington, DC 20004. The entry form is a simple, three-part form asking for general information on the applicant and the proposed entry; asking for a description of why the entry is deserving of an award; and requiring information from three (3) independent references for the proposed entry. Applicants should also submit additional supporting documentation as necessary. Specific directions and information on filing an entry form are included in the Entry Package.

**Judging and Award Criteria:** Judging will be accomplished through a screening process conducted by EPA staff, with input from outside subject experts, as needed. Members of the CAAAC will provide advice to EPA on the entries. The final award decisions will be made by the EPA Assistant Administrator for Air and Radiation. Entries will be judged using both general criteria and criteria specific to each individual category. There are four (4) general criteria: (1) The entry directly or indirectly (*i.e.*, by encouraging actions) reduces emissions of criteria pollutants or hazardous/toxic air pollutants; (2) The entry demonstrates innovation and uniqueness; (3) The entry provides a model for others to follow (*i.e.*, it is replicable); and (4) The positive outcomes from the entry are continuing/sustainable. Although not required to win an award, the following general criteria will also be considered in the judging process: (1) The entry has positive effects on other environmental media in addition to air; (2) The entry demonstrates effective collaboration and partnerships; and (3) The individual or organization submitting the entry has effectively measured/evaluated the outcomes of the project, program, technology, *etc.* As previously mentioned, additional criteria will be used for each individual award category. These criteria are listed in the 2006 Entry Package.

**Inspection of Committee Documents:** The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket OAR-2004-0075. The Docket office can be reached by telephoning 202-260-7548; FAX 202-260-4400.

Dated: August 2, 2006.

**Patrick Childers,**

*Designated Federal Official for Clean Air Act Advisory Committee.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2004-0076; FRL-8205-6]

### Notice of Data Availability for EGU NO<sub>x</sub> Annual and NO<sub>x</sub> Ozone Season Allocations for the Clean Air Interstate Rule Federal Implementation Plan Trading Programs

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

**ACTION:** Notice of data availability (NODA).

**SUMMARY:** On March 15, 2006, EPA promulgated Federal Implementation Plans (FIPs) for all States covered by the Clean Air Interstate Rule (CAIR). The FIPs will regulate electric generating units (EGUs) in the affected States and achieve the emission reductions required by CAIR until each affected State has an approved CAIR State Implementation Plan (SIP) to achieve the reductions. The Agency promulgated FIPs to provide a federal backstop for CAIR. EPA will withdraw a State's FIP in coordination with approval of a SIP implementing the requirements of CAIR.

Today's action relates to the CAIR FIP regulatory text, which indicates that the Administrator will determine by order the CAIR NO<sub>x</sub> allowance allocations. In the CAIR FIP preamble, EPA also indicated its intention to publish a NODA with NO<sub>x</sub> allowance allocations for 2009 through 2014, provide the public with the opportunity to object to the data, and then publish a final NODA (adjusted if necessary).

In today's NODA, the EPA is making available to the public data relating to NO<sub>x</sub> annual and NO<sub>x</sub> ozone season allocations under the CAIR FIP that EPA will allocate to individual existing units covered by the CAIR FIP NO<sub>x</sub> annual

and NO<sub>x</sub> ozone season trading programs for 2009-2014. These allocations use data from the U.S. Environmental Protection Agency's Clean Air Markets Division's (CAMD) database (which contains data reported under the Acid Rain Program), U.S. Energy Information Administration (EIA) database, and data previously provided to EPA by sources. The NODA references, or presents in tables, all these data and the NO<sub>x</sub> annual and NO<sub>x</sub> ozone season allowance allocations calculated using the data and the allocation formulas finalized in the CAIR FIP, for existing units for 2009 through 2014.

**DATES:** Objections must be received on or before September 5, 2006.

**ADDRESSES:** Submit your objections, identified by Docket Number OAR-2004-0076 by one of the following methods:

A. *Federal Rulemaking Portal:* <http://www.regulations.gov>. Today's action is not a rulemaking, but you may use the Federal Rulemaking Portal to submit objections to the NODA. To submit objections, follow the online instructions for submitting comments.

B. *Mail:* Air Docket, ATTN: Docket Number OAR-2004-0076, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

C. *E-mail:* A-AND-R-Docket@epa.gov.

D. *Hand Delivery:* EPA Docket Center, 1301 Constitution Avenue, NW., Room B102, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Note:** The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at <http://www.epa.gov/epahome/dockets.htm> for current information on docket operations, locations and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to [www.regulations.gov](http://www.regulations.gov) are not affected by the flooding and will remain the same.

**Instructions:** Direct your objections to Docket ID No. OAR-2004-0076. The EPA's policy is that all objections received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the objection includes information

claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your objection. If you send an e-mail objection directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the objection that is placed in the public docket and made available on the Internet. If you submit an electronic objection, EPA recommends that you include your name and other contact information in the body of your objection and with any disk or CD-ROM you submit. If EPA is unable to read your objection and contact you for clarification due to technical difficulties, EPA may not be able to consider your objection. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index,

some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:**

General questions concerning today's action and technical questions concerning heat input or fuel data should be addressed to Brian Fisher, USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Ave., Mail Code 6204 J, Washington, DC 20460. Telephone at (202) 343-9633, e-mail at [fisher.brian@epa.gov](mailto:fisher.brian@epa.gov). If mailing by courier, address package to Brian Fisher, 1310 L St., NW, RM #713G, Washington, DC 20005.

**SUPPLEMENTARY INFORMATION:**

**Outline**

1. General Information.
2. What Is Today's Action?
3. How Are the Data in This NODA Related to the CAIR FIP NO<sub>x</sub> Allowance Allocations?
4. What Are the Sources of the EPA's Data?
5. How Do I Interpret the Data Tables Presented in Today's NODA?
6. Why Is the EPA Providing Opportunity To Object to These Data and the Calculations Using the Data in the Allocation Formula?
7. What Data Are EPA Making Available for Review and Objection?
8. Where Can I Get the Data?
9. On What Topics Is EPA Not Requesting Objections?
10. What Supporting Documentation Do I Need To Provide With My Objection?

**1. General Information**

This action relates to §§ 97.141 and 97.341 of the CAIR FIP. These sections indicate that the Administrator will determine by order the CAIR NO<sub>x</sub> allowance allocations. In the CAIR FIP preamble, EPA stated its intention to publish a NODA with NO<sub>x</sub> allowance allocations for 2009 through 2014 (71 FR 25352).

*Does This Action Apply to Me?*

Categories and entities potentially regulated by this action include the following:

Category	NAICS code	Examples of potentially regulated entities
Industry .....	221112	Fossil fuel-fired electric utility steam generating units.
Federal Government .....	221122	Fossil fuel-fired electric utility steam generating units.
State/local/Tribal government .....	221122	Fossil fuel-fired electric utility steam generating units owned by municipalities.
	921150	Fossil fuel-fired electric utility steam generating units in Indian Country.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section under **FOR FURTHER INFORMATION CONTACT**.

The NO<sub>x</sub> allowance allocations in today's NODA are for existing units. Existing units are units that commenced operation before January 1, 2001. New units, which commence operation on or after January 1, 2001, will initially receive allowances through the new unit set aside. Once new units have established a five year baseline, they will be incorporated into the calculation for allowances for existing units.

The CAIR FIP rule states units will be subject to the CAIR FIP trading programs (*i.e.*, to the CAIR FIP SO<sub>2</sub>, NO<sub>x</sub>

annual, or NO<sub>x</sub> ozone season programs, as appropriate) if they are a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time on or after November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale. Certain cogeneration units or solid waste incineration units are exempt from the CAIR FIP and are described below.

*Cogeneration Unit Exemption*

Certain cogeneration units are exempt from the CAIR FIP trading programs. Cogeneration units are units having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through sequential use of energy and meeting certain operating

and efficiency standards. The program has different applicability provisions for non-cogeneration units and cogeneration units. Any cogeneration unit serving (since the later of November 15, 1990 or the start-up of the unit) a generator with a nameplate capacity greater than 25 MWe, supplying more than 1/3 potential electric output capacity, and more than 219,000 Mw-hrs, annually to any utility power distribution system for sale will be subject to the requirements of the CAIR FIP trading rules. Otherwise, a cogeneration unit will qualify for an exemption.

*Solid Waste Incinerator Exemption*

A solid waste incineration unit commencing operation before January 1, 1985, for which the average annual fuel consumption of non-fossil fuels during 1985-1987 exceeded 80 percent and the

average annual fuel consumption of non-fossil fuels during any 3 consecutive calendar years after 1990 exceeds 80 percent, is not subject to the CAIR FIP cap-and-trade program. Further, a solid waste incineration unit commencing operation on or after January 1, 1985, for which the average annual fuel consumption of non-fossil fuels for the first 3 calendar years of operation exceeds 80 percent and the average annual fuel consumption of non-fossil fuels during any 3 consecutive calendar years after 1990 exceeds 80%, is not subject to the CAIR FIP cap- and trade program.

*What Should I Consider as I Prepare My Objections for EPA?*

To expedite review of your objections by Agency staff, you are encouraged to send a separate copy of your objections, in addition to the copy you submit to the official docket, to Brian Fisher U.S. EPA, Ariel Rios Building, Mail Code 6204J, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Telephone (202) 343-9633, e-mail [fisher.brian@epa.gov](mailto:fisher.brian@epa.gov). If you e-mail the copy of your objections to Mr. Fisher, put "objection for Docket Number OAR-2004-0076" in the subject line to alert Mr. Fisher that an objection is included. If mailing by courier, address package to Brian Fisher, 1310 L St., NW., RM #713G, Washington, DC 20005.

Do not submit CBI to EPA through <http://www.regulations.gov> or e-mail. Clearly mark any portion of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the objection that includes information claimed as CBI, a copy of the objection that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Brian Fisher, U.S. EPA, Office of Air and Radiation, Mail Code 6204J, 1200 Pennsylvania Avenue, NW, Washington DC 20460.

When submitting objections, remember to:

- (1) Identify the NODA by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- (2) Follow directions—The Agency may ask you to respond to specific

questions or organize objections in a specific manner.

- (3) Make sure to submit your objections by the deadline identified.

## 2. What is Today's Action?

In the March 15, 2006 final action on the CAIR FIP, the EPA finalized NO<sub>x</sub> annual and ozone season trading programs for EGUs as the federal implementation remedy for CAIR. The EPA decided to adopt, as the FIP for each State in the CAIR region, the model cap-and-trade programs in the final CAIR, modified slightly to allow for federal instead of State implementation (as revised March 15, 2006).

These programs include a NO<sub>x</sub> annual trading program and NO<sub>x</sub> ozone season trading program. As explained in the CAIR FIP Notice of Final Rulemaking (NFR), the FIP NO<sub>x</sub> annual and NO<sub>x</sub> ozone season trading programs require CAIR sources to hold allowances sufficient to cover their emissions for each control period. A NO<sub>x</sub> annual allowance will authorize the emission of a ton of NO<sub>x</sub> during a calendar year, and a NO<sub>x</sub> ozone season allowance will authorize the emission of a ton of NO<sub>x</sub> during an ozone season (May 1 through September 30).

In the CAIR FIP NFR, EPA adopted the State NO<sub>x</sub> annual and NO<sub>x</sub> ozone season emission budgets for each State covered by a CAIR FIP (see Tables V-1 and V-2 in the CAIR FIP NFR); these are the same State emission budgets as finalized in the CAIR. For each State covered by the CAIR FIP NO<sub>x</sub> trading programs, the State NO<sub>x</sub> budgets are the total amount of allowances that EPA will allocate to sources in that State for use in the FIP NO<sub>x</sub> trading programs.

EPA determined the method for allocating NO<sub>x</sub> annual and NO<sub>x</sub> ozone season allowances under the FIP through a process that included extensive public participation. Today's action does not reopen for public comment the CAIR FIP NO<sub>x</sub> allocation method, the state budgets, or any other aspects of the CAIR or CAIR FIP rulemakings.

Today, we are making available the inventory of existing units that currently are potential CAIR units, the data on which the inventory is based, the data used to calculate the allocation of NO<sub>x</sub> allowances to individual existing potential CAIR units under the CAIR FIP, and the resulting allowance allocations themselves. Today's action explains what the data are, where they came from, and what issues are open to objection. The purpose of making the data available for objection is to ensure that we base the NO<sub>x</sub> FIP allocations on the best available data. Under the CAIR

FIP trading rules (40 CFR 97.142(a)(3) and 97.342(a)(3)), we will determine what data are the best available by "weighing the likelihood that data are accurate and reliable and giving greater weight to data submitted to a governmental entity in compliance with legal requirements or substantiated by an independent entity." EPA is providing unit owners, unit operators, and the public an opportunity to make objections to any of the data made available in this NODA and used to develop the above-described inventory and allocations. Any person objecting to any of the data should explain the basis for his or her objection and should provide alternative data and explain why they comprise the best available data. EPA intends to publish a NODA with the final FIP NO<sub>x</sub> allocations for 2009 through 2014 (adjusted if necessary in light of any objections) by fall of 2006.

The Agency's preference is for States to make decisions about NO<sub>x</sub> allocations for their sources. Although in today's action EPA is determining NO<sub>x</sub> allocations for the CAIR FIP trading programs, we intend to record EPA-determined allocations in allowance accounts only for sources located in a State without a timely, approved CAIR SIP revision or a timely, approved abbreviated CAIR SIP revision providing for State-determined allocations.

Deadlines for States to submit CAIR SIP revisions and associated NO<sub>x</sub> allocations and for EPA to record NO<sub>x</sub> allocations in source accounts are as finalized in the CAIR (see 70 FR 25162, 25323 and 25326) and CAIR FIP (see 71 FR 25328, 25352-55). EPA discusses these deadlines herein for information only; EPA is not reopening for public comment those final deadlines. As finalized in the CAIR and CAIR FIP NFRs, SIP submission deadlines are as follows:

- Full CAIR SIP revision: submit SIP revision by September 11, 2006 and initial set of NO<sub>x</sub> allocations (covering at least 2009 through 2011) by October 31, 2006;
- Abbreviated SIP revision:<sup>1</sup> submit SIP revision by March 31, 2007 and initial set of NO<sub>x</sub> allocations (covering at least 2009 through 2011) by April 30, 2007.

In today's action EPA determines CAIR NO<sub>x</sub> allocations covering 2009 through 2014 under the FIP. As finalized in the CAIR FIP NFR, the Agency will record EPA-determined CAIR NO<sub>x</sub> allocations in source

<sup>1</sup> See CAIR FIP NFR (71 FR 25352) for further discussion of abbreviated CAIR SIP revisions.

accounts one year at a time for 2009 and 2010 in order to provide flexibility to States to determine allocations for their sources. The final schedule for recording CAIR NO<sub>x</sub> allocations under the FIP in source accounts is shown in Table VI-2 in the CAIR FIP NFR preamble and reproduced here for informational purposes:

TABLE I.—RECORDATION DEADLINES FOR CAIR FIP NO<sub>x</sub> ALLOCATIONS

CAIR control period	Deadline by which FIP NO <sub>x</sub> allocations are recorded (EPA-determined allocations or State-determined allocations using abbreviated SIP revision)
2009 .....	September 30, 2007.
2010 .....	September 30, 2008.
2011 .....	September 30, 2009.
2012 .....	September 30, 2009.
2013 .....	September 30, 2009.
2014 .....	December 1, 2010.
2015 .....	December 1, 2011.
2016 .....	December 1, 2012.

### 3. How Are the Data in This NODA Related to the CAIR FIP NO<sub>x</sub> Allowance Allocations?

In the CAIR FIP NFR, EPA finalized the schedule for determining and recording NO<sub>x</sub> allocations. EPA also finalized a methodology for calculating unit level NO<sub>x</sub> allowances. Today's NODA provides the unit level NO<sub>x</sub> allocations for existing potential CAIR units for 2009–2014 calculated using this methodology, as well as the data used in determining the inventory of existing potential CAIR units and in making the allowance calculations.

As provided in the CAIR FIP NO<sub>x</sub> annual and ozone season trading rules (see 40 CFR 97.141 and 97.341), EPA is publishing this NODA with CAIR FIP NO<sub>x</sub> allocations for existing potential CAIR units for 2009–2014 and providing the public with the opportunity to submit objections addressing whether any individual unit is treated as an existing potential CAIR unit eligible for allowance allocations in accordance with the applicability provisions in these trading rules (see 40 CFR 97.104 and 97.305) and whether any unit allocation is determined in accordance with the allocation provisions in these trading rules (see 40 CFR 97.142 and 97.342). For example, objections may be submitted concerning any of the data used in developing the inventory or in calculating any of the allocations. EPA intends to publish a subsequent NODA with final NO<sub>x</sub> allocations for 2009 through 2014 (adjusted if necessary in response to objections) in the fall of 2006.

In the CAIR FIP NFR, EPA finalized an allocation approach for NO<sub>x</sub> annual and ozone season allowances for existing units (i.e., units commencing operation before January 1, 2001) and new units (i.e., units commencing operation on or after January 1, 2001) that is consistent with the example methodology in the CAIR SIP model trading rules. EPA used the NO<sub>x</sub> allocation method finalized in the FIP NFR to calculate the existing unit NO<sub>x</sub> allocations in today's NODA. Today's action does not address new unit allocations. New unit allocation provisions under the CAIR FIP may be found in §§ 97.141, 97.341, 97.153 and 97.353. See 71 FR 25356–58 for detailed description of the allocation method.

The NO<sub>x</sub> allocation method in the CAIR FIP NFR was finalized through a process that involved significant public participation. EPA is not reopening the allocation method for public comment. EPA provides a summary of the NO<sub>x</sub> allocation method herein for informational purposes only.

Allocations in today's NODA are for existing units for the first 6 control periods (2009 through 2014) of the CAIR NO<sub>x</sub> annual and NO<sub>x</sub> ozone season trading programs. The NO<sub>x</sub> allocation method finalized in the CAIR FIP NFR allocates by using annual heat input data from the years 2000 through 2004 to develop baseline heat inputs. These heat input values are adjusted using fuel adjustment factors (1.0 for coal-fired units, 0.6 for oil-fired units, and 0.4 for units fired with all other fuels (e.g., natural gas)). The 3 highest annual heat input values for the unit are averaged to determine the unit's adjusted baseline heat input. Finally, the total amount of allowances available for allocation each year to existing units in a given state (i.e., 95% of the state trading budget) is allocated to each individual unit in proportion to the unit's share of the total adjusted baseline heat input for all existing units in the State. The same methodology applies for ozone season allowances, only ozone season heat input is used in place of annual heat input.

Today's NODA provides unit NO<sub>x</sub> allocations calculated according to the method finalized in the CAIR FIP NFR. Section 8 of this NODA describes where to locate the allocation tables. The heat input and fuel use data used to determine these allocations are described in section 4 of this NODA.

### 4. What Are The Sources of EPA's Data?

#### A. Development of the Inventory of Existing Potential CAIR Units

Diagram 1 in the Technical Support Document (TSD) provides a general overview of how the inventory of existing potential CAIR units was developed. Any existing unit currently reporting monitoring data under the Acid Rain Program (referred to in this NODA as "Acid Rain units") in a CAIR FIP State, except for an Acid Rain Program opt-in unit, was included as an existing potential CAIR unit. The list of Acid Rain units in the States was generated from EPA's Acid Rain Program database. Units not reporting monitoring data under the Acid Rain Program (referred to in this NODA as "non-Acid Rain units") that are existing potential CAIR units were identified using data reported by owners of generators to the Energy Information Administration (EIA) on forms 860 and 767.

From the EIA form 860 database, we identified, for non-Acid Rain units, all generators with a nameplate capacity greater than 25 MWe served by a boiler or turbine with a fossil fuel energy source. In determining whether a unit has a fossil fuel energy source, we applied the definition of "fossil fuel" in the CAIR FIP (40 CFR 97.102). From that list we then excluded generators as follows:

- We excluded generators which did not sell electricity to a utility based on EIA form 860b data from 1999 and 2000. EIA form 860b sales data were not available after 2000 due to changes in the EIA form 860b. Consequently, our exclusion of generators for purposes of allocating allowances does not necessarily mean that these generators are excluded for purposes of determining whether boilers or turbines serving them are CAIR units. EPA believes that many of these units are likely not subject to CAIR. However, if, on or after November 15, 1990, any of these generators produced electricity that was sold, the units serving that generator are likely subject to CAIR. If, since November 15, 1990, any of these generators produced electricity that was sold, the owners and operators of the units serving the generator should provide EPA, in objections in response to this NODA, information on the amounts and timing of the sales, the purchasing parties, the effect of such sales on appropriate treatment of the units as covered or not covered by CAIR, and (if any of the units should be treated as potential CAIR units) the necessary data for allocation of allowances.

- From EIA form 860, we excluded generators at municipal waste combustors. The CAIR rule provides an exemption for solid waste incineration units similar to the Acid Rain Program exemption in 40 CFR Part 72.

If any of the units serving the excluded generators do not meet the requirements of the CAIR exemption for solid waste incineration units, the owners and operators of the units should provide EPA, in response to this NODA, the information showing that these exemption requirements are not met, and the necessary data for allocation of allowances.

- From EIA form 860b (1999 and 2000), we excluded all generators at facilities that were certified (in accordance with Federal Energy Regulatory Commission (FERC) regulations) as qualifying cogeneration facilities and that had annual, plant-wide sales of one third or less of the potential generating capacity, or had annual sales less than 219,000 MW-hrs, to an electric utility. This information was only available at the plant level. Since electricity sales data were not available at the unit level for other years and a unit must meet these criteria annually to qualify for the cogeneration exemption, exclusion of generators for allocating allowances in this notice does not necessarily mean that boilers and combustion turbines serving the generators are not CAIR units. Moreover, FERC regulations require, as part of the criteria for qualifying cogeneration facilities, that facilities meet certain efficiency requirements to the extent natural gas or oil is combusted. Under CAIR, a unit must meet the efficiency requirements with regard to all fuel types combusted. Consequently, exclusion of generators for allocating allowances in this notice does not necessarily mean that boilers and combustion turbines serving the generators are not CAIR units. If any of the units serving the excluded generators do not meet the requirements of the CAIR exemption for cogeneration units, the owners and operators of the units should provide EPA, in response to this NODA, the information showing that these exemption requirements are not met and the necessary data for allocation of allowances for the units. For example, the owners and operators of a unit that was not included in the list of potential CAIR units based on 1999 and 2000 sales data and cogeneration status, should verify that the criteria for the cogeneration exemption are met (including years after 2000). If the unit served a generator producing electricity for sale, to a utility distribution system, exceeding  $\frac{1}{3}$  of the

unit's potential electrical output capacity and more than 219,000 MW-hrs in any year, or if the unit did not meet the efficiency requirements under CAIR in any year, the unit would not appear to qualify for the cogeneration exemption and the owners and operators of the unit should provide EPA the information showing that these exemption requirements are not met and the necessary allowance allocation data.

From the EIA form 767 database, we identified as potential CAIR units all boilers located at non-Acid Rain plants (commencing operation before January 1, 2001) serving the generators remaining on the generator list after the above-described exclusions. Simple and combined cycle combustion turbines were identified based directly on the generator ID and prime mover type in EIA form 860.

From EIA form 860 we also identified all simple combustion turbines, at Acid Rain plants, with a nameplate capacity greater than 25 MWe, a fossil fuel energy source, and an online date prior to January 1991. These simple combustion turbines are potential CAIR units even though they may be non-Acid Rain units since they have reported to EIA that they sell electricity to a utility based on EIA form 860b data from 1999 and 2000 and serve a generator greater than 25 MWe.

The resulting list of non-Acid Rain units was also checked against EPA's National Electric Energy Data System (NEEDS) database. The NEEDS database contains a list of electric generating units used to construct the "model" plants that represent existing and planned/committed units in EPA modeling applications of the Integrated Planning Model (IPM). The NEEDS check resulted in the addition of a number of non-Acid Rain pre-1991 combined cycle combustion turbines at Acid Rain plants and biomass-fired boilers that burn a small amount of fossil fuel.

EPA also included specific units in the list of existing potential CAIR units based on previous comments and supporting data submitted to the EPA by the owners or operators of the units involved.

EPA notes that inclusion of a unit in, or exclusion of a unit from, the inventory of existing potential CAIR units reflects only a preliminary application of the applicability of CAIR and does not constitute a final determination concerning the applicability of CAIR to the unit. As discussed above, the inventory is being developed in order to enable EPA to calculate allowance allocations for existing units, and the data that EPA

used in developing the inventory are not complete and have certain limitations. While allocations are to be based on the best available data provided to EPA when allocations are being calculated, applicability must be determined based on the relevant, actual data, whether or not the actual data are provided at the time allocations are made. In fact, because an inventory developed for purposes of allowance allocation may not be entirely consistent with final applicability determinations, §§ 97.142(e) and 97.342(e) establish procedures to be applied when the Administrator determines that a unit that has been allocated allowances turns out not to actually be a CAIR unit. For example, if this determination is made after the allowance allocation is recorded but before deductions for compliance with the allowance-holding requirement are made under §§ 97.154(b) and 97.354(b), the Administrator will deduct the allowances and transfer them to a new unit set-aside for the appropriate State.

Owners and operators of units that should be, but are not, included in the inventory of existing potential CAIR units should submit objections, in response to this NODA, informing EPA that the units should be added to the inventory and allocated allowances, consistent with the applicability criteria in the CAIR FIP (in §§ 97.104 and 97.304). The data necessary for allowance allocations should also be provided. A unit that is not allocated allowances because of its exclusion from the inventory may ultimately be determined to be a CAIR unit. Each CAIR unit is subject to the allowance-holding requirements of CAIR regardless of whether the unit is allocated any allowances.

#### *B. Annual and Ozone Season Fuel Heat Input Data for Acid Rain Units*

EPA used CAMD heat input data reported by units under the Acid Rain Program for 2000 through 2004 in order to develop annual and ozone season baseline heat input. Fuel-adjusted heat input was calculated based on the reported heat input and the primary fuel type (by year) that was reported to EPA in the unit's Acid Rain Program monitoring plan. For units that reported coal as their primary fuel for the year, EPA did not adjust their heat input. For units reporting oil as their primary fuel, EPA multiplied their heat input by 0.6. If the primary fuel was not coal or oil, the heat input for the year was multiplied by 0.4.

For some units, the use of the primary fuel type to identify the appropriate CAIR fuel adjustment factor may not

yield the same result as using the CAIR FIP definition of “coal-fired” or “oil-fired” to identify the appropriate factor. Under the CAIR FIP, a coal-fired unit is a unit which burns any amount of coal in a year, and an oil-fired unit is a unit which had more than 15% of its yearly heat input from oil. The use of primary fuel type will not match the CAIR FIP definition in cases where coal was burned in a year but was not listed as the primary fuel, or when more than 15 percent of a year’s heat input was from oil, but oil was not listed as the primary fuel. EPA used the primary fuel type as a surrogate for the data necessary to apply the terms “coal fired” and “oil fired”, because under the Acid Rain Program, more detailed fuel use data are reported only for units using non-continuous emission monitoring methods. Because of this limitation on the data used by EPA, the fuel-adjusted heat input calculated for some units may be lower than if the calculation were based on more precise data. Owners and operators should provide, in response to this NODA, any available, more precise data on fuel use.

### *C. Annual and Ozone Season Fuel Heat Input Data for Non-Acid Rain Units*

EIA data, as well as Federal Energy Regulatory Commission (FERC) form 423 data, were used to calculate annual and ozone season fuel-adjusted baseline heat input for non-Acid Rain units.<sup>2</sup>

The data sources and calculation methods vary by the type of unit and data year. The EIA and FERC databases that were used were downloaded in October 2005 and are available on EIA’s Web site at <http://www.eia.doe.gov/cneaf/electricity/page/data.html>.

We replaced the calculated ozone season heat input data with data reported to EPA under the OTC NO<sub>x</sub> Budget Program and the NO<sub>x</sub> SIP Call NO<sub>x</sub> Budget Trading Program, if available. The reported heat input was used in conjunction with information regarding the primary fuel for the year (reported in the monitoring plan) to calculate the fuel-adjusted heat input.

In addition, EPA also utilized information provided as part of the CAIR rulemaking process. More specifically, EPA used annual heat input data submitted in response to EPA’s CAIR Notice of Data Availability published in the **Federal Register** on April 6, 2004.

### **Boilers**

For 2000, fuel-adjusted annual and ozone season heat input was calculated for each utility boiler based on EIA form 767 monthly fuel use and heat content data. The fuel-adjusted 2000 annual heat input was calculated at the plant level for non-utility boilers based on EIA form 860b data. The fuel usage and heat content information in EIA form 860b is reported at the plant level, so the fuel-adjusted heat input was first calculated for the plant and then apportioned equally to each boiler (at the plant) that is a potential CAIR unit. The ozone season heat input for non-utility boilers was based on multiplying the annual heat input by the fraction of the five ozone-season months to 12 annual months ( $\frac{5}{12}$ ).<sup>3</sup>

Beginning in 2001, both utility and non-utility boilers reported using EIA form 767, so fuel-adjusted heat input was calculated for each boiler based on monthly fuel usage and heat content data from that EIA form for the 2001 through 2004 period.

Although data for 2000 was developed as described above, EPA decided not to use the 2000 data in certain cases, i.e., where a plant included both existing potential CAIR units and existing units that are not treated as potential CAIR units. Since in those cases the 2000 unit level heat input could not be determined for existing potential CAIR units alone without attributing to them heat input that actually was for units that are not potential CAIR units and this additional heat input could be significant, EPA decided, in those cases, to exclude the 2000 heat input data and use the average of the three highest annual heat input values during 2001–2004 in calculating NO<sub>x</sub> allowance allocations. In any case where the use of unit level data (for 2000 or for any other relevant period) will affect the calculation of the baseline heat input of a unit, the owners and operators of the unit should provide EPA, in response to this NODA, the unit level data.

### **Simple Combustion Turbines and Combined Cycle Units at Non-Acid Rain Plants**

The following procedures were used for simple combustion turbines and combined cycle units at non-Acid Rain plants, which include certain utility and

non-utility plants.<sup>4</sup> For 2000, data from the EIA form 860b was used to calculate simple combustion turbine and combined cycle unit fuel-adjusted heat input for the non-utility plants in a similar manner as the 2000 non-utility boiler calculation. Annual fuel-adjusted heat input was calculated at the plant level. Data from the EIA form 759 and FERC form 423 were used to calculate simple combustion turbine and combined cycle heat input for the utility plants. The EIA form 759 provided monthly fuel usage at the prime mover level (simple combustion turbine, combined cycle combustion turbine, and combined cycle steam turbine), and the FERC form 423 provided gaseous and liquid fuel heat content for the plants. The prime mover fuel-adjusted heat input for the plant was apportioned equally to each potential CAIR unit at the plant by prime mover type (with combined cycle combustion turbine and steam turbine heat inputs combined to provide a single combined cycle heat input). To the extent the plant includes both potential CAIR units and units that are not treated as potential CAIR units, this approach may have resulted in calculated heat input values exceeding the actual heat input for the potential CAIR units. Unlike the boiler data, that required apportioning plant level data only for 2000, combustion turbine EIA data are only available at the plant level for all of the years. Therefore the approach taken for boilers, excluding one year of plant level data when that data may be impacted by units not subject to CAIR, was not available. In any case where the use of unit level data (for 2000 or for any other relevant period) will affect calculation of the baseline heat input of a unit, the owners and operators of the unit should provide EPA, in response to this NODA, the unit level data. Ozone-season heat input was calculated based on the  $\frac{5}{12}$  fraction of ozone-season months to annual months.

In 2001 the EIA form 759 was renamed as form 906, with separate similar versions for non-utility and utility plant prime mover level fuel usage. Data for the non-utility and utility plants from these forms were combined with the FERC form 423 heat content data to calculate prime mover level fuel-adjusted heat input. This prime mover level annual and ozone season heat input was then apportioned equally to each simple combustion turbine or combined cycle turbine (at the plant) that is a potential CAIR unit by prime mover type as described earlier for the 2000 utility units.

<sup>2</sup> In some cases, heat input information was not available for all or a portion of the baseline period. It was not clear whether this was the result of a unit not operating or a unit failing to report its operations. A zero value was applied for heat input in these cases. This may have resulted in an incorrect baseline heat input for the unit involved.

<sup>3</sup> Plants that were sold in 2000 and changed status from utility to non-utility sometimes reported using both the utility and non-utility forms for that year. To avoid double counting of heat input in these cases, EPA used only the data from utility form or the data from the non-utility form for the plant, whichever set of data resulted in the higher heat input for the plant.

<sup>4</sup> See note 2.

EIA combined the utility and non-utility reporting forms in 2002 and changed the format. The EIA form 906 for 2002 through 2004 provided both fuel usage and fuel heat input on a monthly basis. The annual and ozone season fuel-adjusted heat input was totaled for each of the non-utility and utility plants at the prime mover level and then apportioned equally to each potential CAIR unit at the plant, as described above for the 2000 and 2001 EIA form 759 and 906 data.

#### Non-Acid Rain Simple Combustion Turbines at Acid Rain Plants

The fuel-adjusted heat inputs for non-Acid Rain simple combustion turbines located at Acid Rain plants with no Acid Rain combustion turbines were calculated and apportioned in a similar manner as described above for simple combustion turbines and combined cycle units at non-Acid Rain plants.

Heat inputs, however, for non-Acid Rain combustion turbines located at plants with Acid Rain combustion turbines had to be calculated in a different manner in order to not double count heat input. At these plants the plant or prime mover level heat input, calculated with EIA data as described above, included heat input from both the non-Acid Rain and Acid Rain turbines. Since the baseline heat input for the Acid Rain turbines at the plant was taken from data reported to EPA under the Acid Rain Program, the Acid Rain data was subtracted from the total EIA-based combustion turbine and combined cycle heat input. The remaining fuel-adjusted heat input was then apportioned equally to each of the non-Acid Rain turbines. In some cases the difference between EIA and Acid Rain heat input was zero or even negative resulting in zero heat input for the non-Acid Rain units.

#### 5. How Do I Interpret the Data Tables Presented in Today's NODA?

This section provides a brief description of the types of data included in each table of today's NODA. A more detailed description of the data tables may be found in the TSD titled "Data Field Description for the CAIR FIP NO<sub>x</sub> Annual and NO<sub>x</sub> Ozone-season Allocation Tables" which is available in the docket and on the Web site mentioned in section 8. In general, the CAIR Annual and Ozone Season NO<sub>x</sub> Allocation tables were created primarily using data reported to CAMD (under the Acid Rain Program) and the EIA. For a small number of non-Acid Rain units, annual allocations incorporated heat input information provided by the

sources in response to a previous NODA.

For Acid Rain units, EPA used heat input data reported as required under the program. For non-Acid Rain Program units, the EIA data was used to determine heat input and primary fuel. Tables 1 and 2 contain the annual and ozone season unit NO<sub>x</sub> allowance allocations. Tables 3, 4, and 5 contain the EIA data, CAMD data, and source provided data regarding heat input and primary fuel used to calculate the annual allocations. Tables 6 and 7 contain additional EIA and CAMD data used to calculate ozone season allocations.

Some units (i.e., units not reporting under the Acid Rain Program, OTC NO<sub>x</sub> Budget Program, or NO<sub>x</sub> SIP Call NO<sub>x</sub> Budget Trading Program during a portion of the baseline period) use heat input data available from both EIA and CAMD to compile the baseline heat input. For these units the EIA annual heat input data are used until the first full year of Acid Rain Program data are available. Ozone season heat inputs used for the ozone season allocation are from the data reported under the Acid Rain Program, OTC NO<sub>x</sub> Budget Program, and NO<sub>x</sub> SIP Call NO<sub>x</sub> Budget Trading Program, if available, in Table 7. For a small number of non-Acid Rain Units, source-reported annual heat input data in Table 5 for 2000–2002 data years were used in place of EIA data.

Table 8 contains a list of units that have not received allocations because of their possible exclusion from the CAIR FIP trading program based on sales data, or qualifying cogeneration facility status. The owners and operators of each such unit should review the unit's data to ensure that the unit is not a potential CAIR unit. As discussed above, if the owners or operators determine that the unit should be included in the inventory and allocated allowances, they should submit objections to the exclusion of the unit and provide the relevant data supporting the inclusion of the unit and the necessary data for allocating allowances.

Table 9 contains a list of units that have not received NO<sub>x</sub> allowance allocations because of their possible CAIR exemption due to being a solid waste incinerator. As mentioned in section 4, the units qualifying for this exemption were identified based on EIA form 860 response for plant type and their primary energy source. The owners and operators of each such unit should review the unit's data to ensure that the unit is not a potential CAIR unit. As discussed above, if the owners or operators determine that the unit should

be included in the inventory and allocated allowances, they should submit objections to the exclusion of the unit and provide the relevant data supporting the inclusion of the unit and the necessary data for allocating allowances.

#### 6. Why Is the EPA Providing Opportunity To Object to These Data and the Calculations Using the Data in the Allocation Formula?

Through today's NODA, EPA is providing owners, operators, states, and the public the opportunity to object to the data used to determine what units are existing potential CAIR units, which qualify for allowance allocations for 2009–2014, and to calculate NO<sub>x</sub> allocations in order to ensure that we use the best available data in the FIP allocation process. For example, the heat input and primary fuel data used to calculate allocations came from data reported to EPA and EIA, and a source owner or operator (or other member of the public) should submit an objection if he or she sees any discrepancy between the data reported for the source regarding heat input and fuel type and the data used in calculating the NO<sub>x</sub> FIP allocations. Such objection should include the data that the person submitting the objection believes EPA should use. EPA is also providing an opportunity to object to the calculations using the allocation formula and the data in order to ensure the accuracy of the calculations.

Today's NODA is based upon the list of potential CAIR units developed using currently available data. As discussed above, this inventory does not constitute a definitive list of existing CAIR units, but rather reflects EPA's preliminary application of the applicability criteria in the CAIR FIP NFR (i.e., the criteria providing that a unit is subject to CAIR if it is a stationary fossil-fuel-fired boiler or combustion turbine serving at any time on or after November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity more than 25 MWe producing electricity for sale, except for cogeneration units and solid waste incineration units that meet certain requirements). The EPA is providing this opportunity for source owners and operators, states, and the public to (1) Object to the inclusion of units in, or exclusion of units from, the allocation tables in the NODA and the data on which the inclusion or exclusion is based, (2) object to the heat input and fuel data used to calculate the allocations and the resulting calculations themselves reflected in the tables, and (3) submit, as part of the



objection, corrections of the data or supplementary data.

EPA requests that a source owner or operator, State, or other members of the public who believes that a unit has been incorrectly included in or excluded from the allocation tables submit an objection (including supporting data) in order to clarify the unit's status under CAIR, consistent with the CAIR FIP applicability provisions (in §§ 97.104 and 97.304). (Any objections to the applicability provisions themselves will not be considered.) If an existing unit is not allocated allowances for 2009–2014 in today's NODA, nor in the follow up NODA issued in response to objections to today's NODA, and is later found to be subject to CAIR, that unit will not receive allowance allocations for 2009–2014 under the CAIR FIP. However, the unit will be subject to the requirement to hold allowances.

The addition or removal of existing units to or from a State's inventory will not impact the size of the State's emission budget. Revisions, in a follow-up notice issued in response to objections to the inventory provided in today's NODA, may result in the individual units receiving different shares of the applicable State budget.

#### **7. What Data Are the EPA Making Available for Review and Objection?**

EPA has used the best available data to develop an inventory of existing units that currently are potentially covered by the CAIR FIP and to calculate each existing unit's allowance allocations for 2009–2014. However, through the NODA, EPA is giving unit owners, unit operators, and the public the opportunity to offer objections regarding individual units' treatment as potentially covered or not covered by CAIR and, for units treated as potential CAIR units, the data used in the allocation calculations and the allocations resulting from such calculations.

Specifically, this document is a notice of data availability and provides an opportunity for objection regarding the treatment of individual units as existing units potentially covered or not covered by CAIR and the data used as the basis for this treatment (such as sales data obtained from EIA databases for 1999–2000 and qualifying facility status). This document also provides an opportunity for objections regarding the data used in calculating CAIR FIP NO<sub>x</sub> allocations for individual existing units: CAMD heat input and fuel data under the Acid Rain Program for the years 2000–2004, under the NO<sub>x</sub> Budget Program (NBP) for 2000–2002 for Ozone Transport Commission (OTC) units, and under the

NO<sub>x</sub> Budget Trading Program for years 2003–2004 for units under the NO<sub>x</sub> SIP Call; and heat input and fuel data obtained in EIA databases for units that are not under these programs. This document also provides an opportunity for objection regarding EPA's calculations using the data in the CAIR FIP allocation formulas.

In summary, the EPA is providing an opportunity for public objections to—and will consider only objections to—the inclusion of units in or exclusion of units from the inventory of potential existing CAIR units, the data on which such inclusion or exclusion is based, the allocation calculations using the CAIR FIP allocation formulas, and the data used in these calculations. Readers should note that we are not soliciting, and will not consider, objections on other topics (such as the allocation formulas and State budgets).

Today's action makes available for review and objection: NO<sub>x</sub> annual and NO<sub>x</sub> ozone season allocations for individual units in CAIR States for the FIP; the adjusted heat input values for each unit for 2000–2004; the baseline heat input used to calculate the allocations; and the other data used to include units in, or exclude units from, the list of existing potential CAIR units for which allocations are calculated.

In particular, EPA is making the following data available for review:

- EIA Annual Heat Input (EIA data were used to obtain heat input and fuel type data for those units that are subject to the CAIR rule, but are not reporting under the Acid Rain Program).
- EIA Ozone Season Heat Input
- CAMD Acid Rain Program Annual Heat Input
- CAMD Acid Rain Program, OTC NO<sub>x</sub> Budget Program, and NO<sub>x</sub> SIP Call NO<sub>x</sub> Budget Trading Program Ozone Season Heat Input
- Unit NO<sub>x</sub> Annual Allowance Allocation Table
- Unit NO<sub>x</sub> Ozone Season Allocation Table

In addition to accepting objections to the data listed above and the calculations made by EPA in using the data to determine allocations, EPA will also accept objections to the inclusion of a unit in, or exclusion of a unit from, the inventory of existing potential CAIR units for which allocations are determined for the CAIR FIP and the data on which such inclusion or exclusion is based. Any objection should include corrections of the data relevant to the objection or should include relevant, supplementary data.

#### **8. Where Can I Get the Data?**

Tables 1 through 9, which include the allowance allocations, heat input, and fuel data, are available in an excel file titled “Data for EGU NO<sub>x</sub> Annual and NO<sub>x</sub> Ozone Season Allocations for the Clean Air Interstate Rule Federal Implementation Plan Trading Programs” on the CAMD Web site at <http://www.epa.gov/airmarkets/cair/NODA>. The “NODA” link will open a Web page which contains this excel file, along with the NODA and Technical Support Document in PDF format. The NODA is titled “Notice of Data Availability for EGU NO<sub>x</sub> Annual and NO<sub>x</sub> Ozone Season Allocations for the Clean Air Interstate Rule Federal Implementation Plan Trading Program”, and the TSD is titled “Data Field Description for the CAIR FIP NO<sub>x</sub> Annual and NO<sub>x</sub> Ozone Season Allocation Tables”. In addition, these files are in the CAIR FIP Docket (Docket ID No. OAR–2004–0076).

Other data used in developing the inventory of potential existing CAIR units can be found on the EIA Web site through the link given in section 4 of this NODA.

#### **9. On What Topics Is EPA Not Requesting Objections?**

Consistent with sections 4 through 8 of today's NODA, EPA is soliciting objections only on the matters, data, and calculations discussed or referenced in those sections of the NODA. EPA is not requesting objection on any other matter. For example, the NO<sub>x</sub> allocations for existing CAIR units are determined using the allowance allocation methodology in the CAIR FIP, which takes each unit's three highest control-period adjusted heat input values for 2000 through 2004, averages them, and allocates to each unit based on its proportionate share of the total adjusted heat input for existing CAIR units in the state. This methodology for calculating unit allowance allocations, as well as the CAIR applicability provisions, were finalized in the CAIR FIP rule, and are not open for objection.

#### **10. What Supporting Documentation Do I Need To Provide With my Objections?**

While we will consider all objections we receive within the scope of this NODA, these objections must be supported with appropriate documentation. Supporting documentation can include, but is not limited to, spreadsheets, explanations of why you believe the data on such spreadsheets are more accurate (e.g., the quality assurance of the data), and information on the data source.

In general, we do not anticipate revisions to unit heat input data and



other unit data reported to EPA under the Acid Rain Program since, in submitting the data under the program, a source's Designated Representative has already certified the accuracy of the data. However, we will consider any objections. For example, a source's Designated Representative may provide evidence that we improperly calculated heat input at the unit level, where the heat input was actually measured at another location (such as a common stack). As a further example, a source's Designated Representative may demonstrate that the data provided in today's NODA are not consistent with the data reported to EPA for compliance with the Acid Rain Program. In that case, the objector should explain why the data values in EPA's data files are incorrect and should document and explain the new data values.

Similarly, in general, we do not anticipate revisions to data reported to EIA since such data were submitted to meet regulatory reporting requirements. However, we will consider any objections to the data as reported, as well as any calculation in which we used the data for purposes of today's NODA.

Dated: July 27, 2006.

**Brian McLean,**

*Director, Office of Atmospheric Programs.*

[FR Doc. E6-12628 Filed 8-3-06; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-8205-9]**

### **Proposed CERCLA Administrative Cost Recovery Settlement; Industrial Chrome Plating, Incorporated**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Industrial Chrome Plating Time-Critical Removal Site in Portland, Oregon with the following settling party: Industrial Chrome Plating, Incorporated (ICP). The settlement requires the settling party to pay \$66,000.00 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the

settling party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the U.S. EPA Region 10 offices, located at 1200 Sixth Avenue, Seattle, Washington 98101.

**DATES:** Comments must be submitted on or before September 5, 2006.

**ADDRESSES:** The proposed settlement is available for public inspection at the U.S. EPA Region 10 offices, located at 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed settlement may be obtained from Carol Kennedy, Regional Hearing Clerk, U.S. EPA Region 10, 1200 Sixth Avenue, Mail Stop ORC-158, Seattle, Washington 98101; (206) 553-0242. Comments should reference the Industrial Chrome Plating Time-Critical Removal Site in Portland, Oregon and EPA Docket No. CERCLA-10-2006-0035 and should be addressed to Dean Ingemansen, Assistant Regional Counsel, U.S. EPA Region 10, Mail Stop ORC-158, 1200 Sixth Avenue, Seattle, Washington 98101.

#### **FOR FURTHER INFORMATION CONTACT:**

Dean Ingemansen, Assistant Regional Counsel, U.S. EPA Region 10, Mail Stop ORC-158, 1200 Sixth Avenue, Seattle, Washington 98101; (206) 553-1744.

**SUPPLEMENTARY INFORMATION:** The ICP Site, a former chrome plating facility, is located in a predominantly residential neighborhood on the southeast corner of NE 62nd Avenue and NE Hassalo Street in Portland, Oregon. In July 2001, EPA was requested by the Oregon Department of Environmental Quality (ODEQ) to conduct a time-critical removal action at the Site due to evidence of chrome plating wastes having leaked onto the ground and into the subsurface at the Site. When EPA began the removal action on August 27, 2001, there were chromium and lead-contaminated soils, plating wastes, and other hazardous substances at the Site. In order to get at the subsurface contamination, the buildings at the Site had to be torn down. Removal of the ICP building, liquid wastes, and soils was completed at the end of November 2001. Soils were excavated to a maximum depth of 20 feet below grade. Approximately 4,000 gallons of chromic

acid was pumped from on-site dip tanks and holding tanks to a tanker truck and delivered to Burlington Environmental in Kent, Washington, for proper disposal. Another 100 gallons and 500 pounds of hazardous substances including paint wastes, corrosive liquids, mercury, and PCB wastes were packed and transported to Philip Services, Incorporated, in Washington state. The excavation resulted in 4,718 tons of hazardous wastes shipped to U.S. Ecology in Grand View, Idaho, and 1,098 tons of special waste delivered to the Waste Management Hillsboro, Oregon, landfill. A protective asphalt cap was placed over the entire Site to prevent surface water infiltration. The settlement requires payment of \$66,000.00, an amount equal to the fair market value of the real property owned by ICP, which is the only asset of ICP, a defunct Oregon corporation. ICP has proposed to sell this property in order to pay the settlement amount. In addition, the settlement requires (and ICP has already placed) a deed notice on the title to the Site property. This deed notice notifies all owners of this property of the need to maintain the integrity of the asphalt cap, and of the need to contact the ODEQ if the property owner decides to build on the Site or otherwise puncture or destroy the asphalt cap. ODEQ has issued a conditional "No Further Action" letter for the Site conditioned upon, among other things, the property owner maintaining the integrity of the cap.

Dated: July 28, 2006.

**Ron Kreizenbeck,**

*Acting Regional Administrator, Region 10.*

[FR Doc. E6-12624 Filed 8-3-06; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-8204-7]**

### **Water Pollution Control; State Program Requirements; Program Modification Application by Michigan To Administer a Partial Sewage Sludge Management Program**

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

**ACTION:** Notice of application and public comment period.

**SUMMARY:** Pursuant to 40 CFR 123.62 and 40 CFR part 501, the State of Michigan has submitted a program modification application to EPA, Region 5 to administer and enforce a sewage sludge (biosolids) management program. Specifically, the state is seeking